

Annual Report



1996





Mission

*The CEC facilitates cooperation
and public participation to foster conservation,
protection and enhancement of the North American
environment for the benefit of present and future
generations, in the context of increasing economic,
trade and social links among Canada, Mexico
and the United States.*



Profile

In North America, we share vital natural resources including air, oceans and rivers, mountains and forests. Together, these natural resources are the basis of a rich network of ecosystems which sustain our livelihoods and well-being. If they are to continue being a source of future life and prosperity, these resources must be protected. Protecting the North American environment is a responsibility shared by Canada, Mexico and the United States.

The Commission for Environmental Cooperation (CEC) is an international organization whose members include Canada, Mexico and the United States. The CEC was created under the North American Agreement on Environmental Cooperation (NAAEC) to address regional environmental concerns, help prevent potential trade and environmental conflicts and to promote the effective enforcement of environmental law. The Agreement complements the environmental provisions established in the North American Free Trade Agreement (NAFTA).

The CEC accomplishes its work through the combined efforts of its three principal components: the Council, the Secretariat and the Joint Public Advisory Committee (JPAC). The Council is the governing body of the CEC and is composed of cabinet-level representatives from each of the three countries.

The Secretariat implements the annual work program and provides administrative, technical and operational support to the Council. The Joint Public Advisory Committee is composed of fifteen citizens, five from each of the three countries, and advises the Council on any matter within the scope of the agreement.

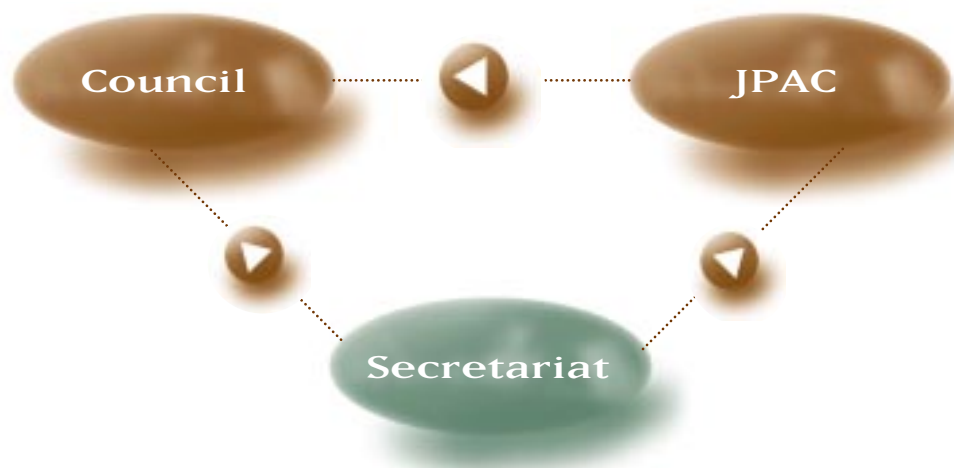


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cooperative achievements

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The CEC's accomplishments in 1996 represent significant progress on a North American environmental agenda. As such, in some cases they also represent historic "firsts"—the first time the three countries of North America have made concrete commitments, reflecting continent-wide priorities and building upon ongoing efforts in each country, to cooperate on specific issues affecting human health and slow down degradation of North America's shared ecosystems.

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country reports

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Canada, Mexico and the United States created the North American Agreement on Environmental Cooperation alongside the NAFTA because we were committed to ensuring that the economic benefits we believe come from free trade are environmentally sustainable. Achieving this objective will require a long-term commitment to improvement, innovation and environmental excellence by all North Americans.

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1996 financial Review

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*More than half of the CEC's 1996 budget was dedicated to direct program costs.
Each country contributed equally to the budget.*

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Looking Ahead

The 1997 annual program and budget is approved by the Parties to NAEEC and takes into account the recommendations made by the Joint Public Advisory Committee (JPAC) and the general public as expressed through the public consultations held throughout 1996. In broad terms, the work program reflects an effort to ensure that all CEC activities complement existing efforts, both governmental and nongovernmental, in North America and internationally.

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With the aim of achieving high levels of environmental protection and compliance, Article 5 of the North American Agreement on Environmental Cooperation imposes the obligation on each Party to effectively enforce its environmental laws and regulations through appropriate government actions in its territory, such as monitoring compliance, promoting environmental audits, using permits, initiating proceedings to seek sanctions or remedies, and other appropriate actions.

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message from

the north american environmental ministers

Dear citizens of Canada, Mexico and the United States:

In accordance with the obligations under the North American Agreement on Environmental Cooperation (NAAEC), it is our privilege to submit the 1996 Annual Report of the Commission for Environmental Cooperation.

The results of our efforts in 1996 reflect our collective commitment to fulfill the promise of the North American Agreement on Environmental Cooperation through concrete measures to conserve and protect our shared environment. It was a year of significant accomplishment and planning for the future.

As agreed at the Second Regular Session of the Council, we took action to reduce the risk to human health and the environment from persistent bioaccumulative toxic substances through the development of North American Regional Action Plans for PCBs, DDT, chlordane and mercury. We will be reviewing these plans in 1997 for approval, as well as a criteria document intended to assist us in choosing two additional substances for regional action. Through our North American Pollutants Release Inventory and our North American Air Monitoring and Modeling initiative, we strengthened our collective capacity to monitor the release and dispersion of pollutants across North America. Finally, we acted to address climate change through support for four joint implementation pilot projects.

The Commission continued to aggressively support regional environmental conservation. At the Third Regular Session of Council in Toronto, we initiated the development of a recommended strategy for the conservation of North American birds and supported the development of a North American Network of Important Bird Areas. We also initiated a conservation program for another of our shared migratory species, the Monarch butterfly. For the marine environment, the NAFTA parties are cooperating to protect our shared marine ecosystems through implementation of the Global Program of Action for the Protection of the Marine Environment from Land-based Activities in two border pilot areas. As follow-through on the Secretariat's report concerning the Silva Reservoir, we have come to agreement on how to implement the results of the report.

Under the North American Agreement on Environmental Cooperation, we have a unique opportunity to ensure that a mutually compatible relationship between environment and trade develops in North America. In 1996, the Secretariat continued work on a methodology to help assess the environmental effects of the NAFTA. We agreed to seek a joint meeting with our colleagues, the NAFTA trade Ministers, to review the North American experience in integrating environment and trade and to discuss next steps to ensure further progress.

One of the objectives of the NAAEC is to enhance compliance with, and enforcement of, environmental laws and regulations. We undertook a broad range of actions in 1996 to support this objective. In Toronto, we created the North American Working Group on Environmental Enforcement and



Compliance Cooperation. This group is cooperating to increase our efforts to combat CFC smuggling, trafficking in endangered species and illegal transborder shipment of hazardous wastes. It also promotes joint enforcement training as well as capacity building. In addition to ensuring the effective enforcement of existing laws, we agreed to develop, with the support of public and industry stakeholders, principles to guide a new generation of environmental regulatory and other management systems.

The NAAEC provides that citizens can help the Parties strengthen their enforcement regimes through submissions on enforcement matters asserting cases where a Party may be failing to effectively enforce its environmental laws. We view these provisions as an important catalyst for improving our environmental enforcement. In 1996, there were submissions that addressed the enforcement of laws in all three countries and all three governments have been asked by the Secretariat to respond to the submission which concerned their environmental law.

Involvement of the public in the activities of the Commission and the implementation and further elaboration of the Agreement is of great importance. In 1996, we were once again assisted in this task by the excellent work of the Joint Public Advisory Committee. Looking to the future, we have asked their advice in 1997 on how to better promote environmental networking among communities in North America, on approaches for voluntary compliance with environmental laws, and on the long-range transport of air pollutants. In 1996, we also awarded the first series of grants from the North American Fund for Environmental Cooperation, which we created in 1995 to promote community-based actions in support of the goals of the North American Agreement on Environmental Cooperation.

Canada, Mexico and the United States created the North American Agreement on Environmental Cooperation alongside the NAFTA because we were committed to ensuring that the economic benefits we believe come from free trade, are environmentally sustainable. Achieving this objective will require a long-term commitment to improvement, innovation and environmental excellence by all North Americans. The Commission for Environmental Cooperation has a critical role to play in providing leadership and inspiration. We are extremely pleased with the progress and the quality of initiatives that the Commission has delivered in 1996. We look ahead to 1997 as a year of evaluation, challenge and new opportunities.



Canada

Sergio Marchi
Minister of the Environment



Mexico

Julia Carabias
Secretary of Environment,
Natural Resources and Fisheries



United States

Carol M. Browner
Environmental Protection
Agency Administrator

Report from the joint public advisory committee

The Joint Public Advisory Committee (JPAC) is one of the three branches that constitutes the Commission for Environmental Cooperation formed in 1994 under the North American Agreement on Environmental Cooperation. The other branches include the Council and the Secretariat.

Laying Foundations

During its first two years of existence, the JPAC has been cognizant that, though young, its first steps should be bold ones. Indeed, its first steps are those that may set precedents for how an independent JPAC functions in years to come. Thus the JPAC noted in its vision statement that it should “provide firm leadership and constructive contributions to build a trinational model of collaboration, consensus building and consensus-based results.”

This year, the JPAC devoted itself to articulating the mechanisms by which it will achieve this role, as well as advising the Council, working with the Secretariat and encouraging the emerging North America constituency for the NAAEC.

As a group of fifteen volunteer citizens—five from each country appointed by their respective governments—the JPAC recognizes its functions in one respect as a microcosm of the public: independent individuals who bring diverse institutional experience, cultural perspectives and their personal opinions to the table.

In a larger sense, the JPAC sees itself as representative of the North American Community; thus, its obligation includes canvassing its “constituents” to ensure public concerns are taken into account when formulating advice to Council. In fact, public meetings became a central operative mechanism by which the JPAC determined it would formulate its advice to Council. Near year end, JPAC adopted *Guidelines for Public Consultations*.

1996 JPAC Meetings

The JPAC held five regular meetings in 1996, during the months of March, June, July, August and November.

All JPAC meetings are open to the public, who attend as observers. Agendas may be obtained from the JPAC coordinator and are posted on the CEC Web Site, as are the summary records of past meetings.

At the request of Council, the JPAC organized three public meetings on topics pertaining to priority programs of the Commission, in preparation for the Council’s Third Regular Session. More than 600 North Americans attended and many registered their views at the meetings, held in Montreal, San Diego and Toronto, the last in conjunction with the Council session. The diverse views presented at the meetings are summarized in a JPAC report that was discussed with, and formally presented to, Council. Copies were also provided to participants. As well, JPAC took the views expressed at the meetings into consideration in formulating its advice to Council on the Commission 1997 program and budget.

In addition, the JPAC chair participates in meetings of other organizations of the Alternate Representatives of the Council to relay its perspective on policy matters and Commission programs. JPAC members also attend stakeholder meetings sponsored by the Secretariat on specific programs or projects.

JPAC also, on occasion, sends representatives to meetings or suggests joint meetings when merited by the CEC agenda. This spring, the JPAC held an informal joint session with the executive and advisory councils of the Border Environmental Cooperation Commission (BECC) to share views on environmental issues in general and US-Mexican transboundary issues in particular and to exchange information on a continuing basis.

JPAC Advice

The JPAC may provide advice to the Council on any matters within the scope of the Agreement, including the proposed annual program and budget, the draft annual report and any Secretariat report prepared under Article 13. As well, the JPAC provides relevant technical, scientific or other information to the Secretariat, which then forwards this information to the Council. In addition to responding to direct requests from Council and commenting on projects already on the CEC agenda, the JPAC has the discretion to advise Council on new directions.

In 1996, the JPAC adopted eight resolutions of advice to Council, dealing with organization of the 1996 public meetings, the Commission's 1997 program and budget, the North American Fund for Environmental Cooperation, JPAC Terms of Office, Guidelines on Enforcement Matters under NAAEC Articles 14 & 15, and Best Practices.

Future Challenges

During its 1996 meetings, the JPAC was pleased to encourage the emergence of a North American community of citizens actively monitoring and participating in environmental issues. The JPAC recognizes the importance of fostering this community and of working to see that its citizens are afforded continuing and increasing opportunities to voice their concerns and to participate in shaping the activities that affect their environment.

To this end, a central consideration in 1997 and beyond will be JPAC's facilitation of transparency in Commission activities. As well, JPAC will continue to seek ways to expand and build on public consultation networks, including linkages to the three National Advisory Committees formed by the governments, ENGO's, local governments, industry, academia and individual citizens.



A handwritten signature in green ink that reads "Jon Plaut".

Jon Plaut
Chair 1996



Message from the Executive Director of the CEC Secretariat



A handwritten signature in dark ink, reading "Victor Lichtinger", located to the right of the portrait.

Victor Lichtinger
CEC Executive Director

New and dynamic economic relationships are changing not only the way we do business in North America, but also how we view the environment. The Commission

for Environmental Cooperation (CEC) is working to keep pace with economic globalization and increased trade. By strengthening cooperation between Canada, Mexico and the United States, we are building the basic structure to ensure that our trade goals will permit long-term sustainable development in the North American region.

Environmental cooperation is envisioned at the CEC as a process of building consensus while at the same time respecting each country's sovereignty and priorities. In the unusual arrangement underlying this process, two industrialized countries have begun cooperating on shared environmental matters with a developing country. The good news is that the relationship works. Canada, Mexico and the United States are slowly but steadily building bridges of understanding and trust. But cultivating such a relationship requires time and patience. The three countries are learning each other's problems and priorities, as well as each other's limits.

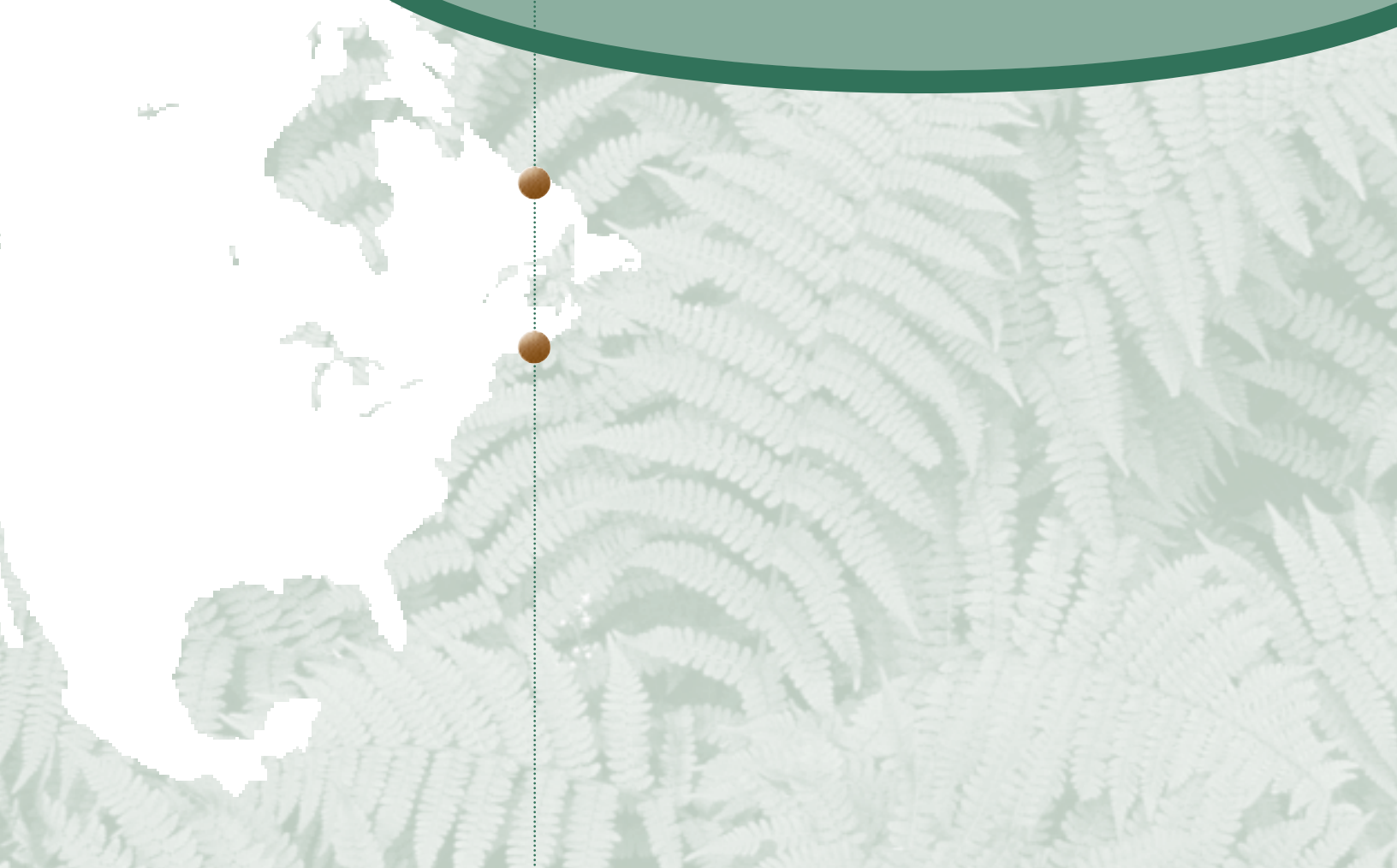
Together, the three countries are working through the CEC toward national goals and international obligations. After all, it is only through joint action that we can meet the challenge posed by continental environmental issues. These issues—many of which are transboundary or regional in nature—cannot be solved by one country alone.

The early achievements of the CEC are modest in light of the future potential of this innovative partnership. Greater political will and broader public participation will bring us closer to realizing such goals as reducing the risk posed by dangerous substances and developing policy tools to maximize positive impacts and mitigate adverse consequences of free trade on the environment. Cooperation has laid the groundwork for meeting such goals, but much remains to be done.

In a short time, the CEC has become a model for regional cooperation—a model which is being closely scrutinized in other areas of the world such as Asia and Europe. The ultimate success of this model depends entirely on the will of its partners and the long-term vision of a healthier future for all North Americans. Our shared economic goals can be met without sacrificing the environment. An environmentally sustainable future is in our hands.

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cooperative
Achievements

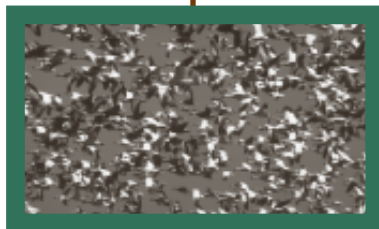


strategic program framework

summary

Environmental Conservation

The goals of projects in this program area are to promote and conserve ecosystem health and integrity, and foster and encourage the conservation, protection and sustainable use of biodiversity and its components.



- > *Cooperation in the Conservation of North American Birds*
- > *North American Biodiversity Information Network*
- > *Maps of North American Ecological Regions*
- > *Cooperation in the Protection of Marine and Coastal Area Ecosystems*
- > *Nongovernmental Participation in the Conservation of Protected Areas and Adjacent Land Holdings*

Protecting Human Health and the Environment

The goal of the program on Protection of Human Health and the Environment is to facilitate cooperative initiatives to reduce pollution risks and minimize pollution impacts.



- > *Sound Management of Chemicals*
- > *North American Pollutants Release Inventory*
- > *North American Air Monitoring and Modeling*
- > *Science Liaison, Cooperation and Coordination*
- > *Transboundary Environmental Impact Assessment*
- > *Energy Efficiency Cooperation*
- > *North American Cooperation on Climate Change*
- > *Climate Change and its Potential Impact on Transboundary Water Resources in North America*
- > *Environmental Education and Training*
- > *Capacity Building in Environmental Management in Guanajuato*

Environment, Trade and Economy

The goal of the Environment, Trade and Economy program is to encourage mutual compatibility of trade environmental and economic policies and instruments within North America and between North America and other trade alliances or regions.



> *NAFTA Environmental Effects*

> *Technology Clearinghouse*

> *Pollution Prevention Cooperation*

Enforcement Cooperation and Law

The goal of the Enforcement Cooperation and Law program is to facilitate the development of law, policy and economic instruments; to aid the development of alternative approaches to achieving compliance, including effective enforcement; and to promote greater public participation and transparency in decision-making.



> *Dialogue on Environmental Law*

> *Reciprocal Access to Courts*

Information and Public Outreach

The goal of the Information and Public Outreach program is to raise the level of public awareness and understanding about the environmental challenges facing the NAFTA partners.



> *CEC Database Development*

> *CEC Information Center*

> *North American Environmental Awareness Initiative*

> *North American Integrated System for Environmental Management*

Building a North American Approach

The year 1996 marked an important transition for the CEC. In the previous year and a half, the CEC Secretariat had been established in Montreal, with staff recruited from across North America, and had begun extensive consultation with experts and the public on a range of environmental concerns. This process continued in 1996, helping the CEC determine how best to contribute in light of ongoing international, binational and national efforts. By the end of 1996, the CEC had sharpened its focus, reducing its work program to 15 major initiatives for the following year.

The CEC's accomplishments in 1996 represent significant progress on a North American environmental agenda. As such, in some cases they also represent historic "firsts"—the first time the three countries of North America have made concrete commitments, reflecting continent-wide priorities and building upon ongoing efforts in each country, to cooperate on specific issues affecting human health and to slow down degradation of North America's shared ecosystems.

Building upon early cooperative efforts undertaken in 1995, the 1996 CEC work program was divided into five main areas:

- > Environmental Conservation;
- > Protecting Human Health and the Environment;
- > Environment, Trade and Economy;
- > Enforcement Cooperation and Environmental Law; and
- > Information and Public Outreach.

In addition, the CEC Council—during its second annual regular session held in Oaxaca, Mexico, in October 1995—designated four priority issues for the CEC Secretariat to emphasize within its 1996 work program:

- > Habitat and Species (under Environmental Conservation);
- > Reducing Risk (under Protecting Human Health and the Environment);
- > Climate Change and Energy Efficiency (under Protecting Human Health and the Environment); and
- > North American Greenlane (under Information and Public Outreach).

Reaching out to a broader public in North America was a goal which underscored all CEC activities in 1996. During its Oaxaca meeting, the CEC Council created the North American Fund for Environmental Cooperation (NAFEC) to grant resources to nongovernmental organizations for community-based projects. In doing so, the CEC Council expressed the desire to engage communities across North America in the shared environmental objectives of the North American partners. The role of other existing public participation tools in the CEC, most notably citizen submissions under Article 14 and independent reports on pressing environmental concerns (Article 13 reports), was expanded and found expression in a range of environmental issues.



Environmental Conservation

To conserve ecosystem health and integrity and foster and encourage the conservation, protection and sustainable use of biodiversity and its components

When one looks at North America from space, national boundaries are rendered invisible and the continent appears as a series of ecosystems—forests, plains, deserts, mountains, lakes, rivers, tundra and wetlands. This distinctive perspective—North America as a series of complex and interdependent ecological regions—is reflected in all areas of CEC's work, but particularly in the area of environmental conservation. This year, the CEC focused on projects related to migratory bird conservation, mapping of ecological regions, biodiversity information, marine and coastal area protection, and nongovernmental participation in conservation.

Habitat and Species

COOPERATION IN THE CONSERVATION OF NORTH AMERICAN BIRDS From a regional perspective, migratory birds are a particularly important component of North American biodiversity. Over 354 species of birds migrate from Canada to the United States, to Mexico, or even further south in Latin America. A similar number of birds migrate from the United States. When the environmental health of migration routes are endangered, entire populations of species can be put at risk. Without regional cooperation, the best policies and programs can be rendered futile since migratory species—such as songbirds—require protection throughout their entire range. While there are international and regional programs for the conservation of migratory waterfowl and shorebirds, there is no similar cooperative effort for the conservation of migratory terrestrial birds. The CEC is working with the three countries to identify cooperative initiatives to facilitate the conservation of terrestrial migratory birds.

In 1995, private sector organizations from each country worked together to identify important bird areas for non-game migratory birds. In 1996, the Council formally established the Working Group on Cooperation in the Conservation of North American Birds made up of wildlife agency representatives and citizen groups concerned about migratory bird conservation. One of the main tasks of the Working Group will be that of developing a strategy and action plan for the conservation of North American birds.



NORTH AMERICAN BIODIVERSITY INFORMATION NETWORK There is no comprehensive understanding at the North American level of what biodiversity data exists, where it is held, how reliable it is and how it may be accessed. To address this gap, the CEC launched an initiative whose objectives were to identify and make accessible biodiversity information in North America. In 1996, the CEC Secretariat identified the steps and elements required to link up the databases of various agencies and establish a virtual North American Biodiversity Information Network (NABIN). The business plan and guidelines for NABIN were finished by the end of 1996. The implementation of the plan is scheduled to begin in 1997.

MAPS OF NORTH AMERICAN ECOLOGICAL REGIONS In 1995, the CEC coordinated the production of a set of maps and descriptions for North American ecological regions. This valuable educational tool is intended to provide scientists and policy makers with a common interpretation and understanding of North American geographical and ecological information. This year, the scientists and cartographers engaged in the project from each of the three countries wrote the report describing the level I regions and their classification. The maps have been developed according to two levels of complexity, levels I and II, which include 15 and 52 ecological regions respectively. Maps are now being completed for level III, which will be composed of approximately 200 ecological regions. At this level, local and regional influences, rather than continental or national ones, are identified. The maps will be available in 1997 in both printed and electronic formats, and will be accompanied by the report summarizing the mapping and describing each of the specific ecological regions.

**Ecological Regions
of North America**



COOPERATION IN THE PROTECTION OF MARINE AND COASTAL AREA ECOSYSTEMS

Increasing pollution threatens rich marine ecosystems all over North America. Contaminants from municipal and industrial effluents and sewage overflows—as well as atmospheric deposition and agricultural runoff—are just some of the pressures on these highly dynamic and diverse habitats. The CEC has launched a project to conserve these areas through joint actions, recognizing the need for cooperation at the regional and subregional levels. Identification of major threats to marine ecosystems, and strategies for dealing with them, form the basis for this action. This year, the CEC launched two cooperative pilot projects with local organizations for the implementation of the UNEP Global Program of Action (GPA) for the Protection of the Marine Environment from Land-based Activities. The two pilot projects—for which cooperative strategies were developed with the help of relevant agencies and organizations in each region—are the Southern California Bight (Mexico-United States) and the Gulf of Maine (Canada-United States). The CEC also provided assistance to the NAFTA countries in advancing the International Coral Reef Initiative (ICRI). A report on these efforts will be available in 1997 and implementation of the strategies will begin at that time.

NONGOVERNMENTAL PARTICIPATION IN THE CONSERVATION OF PROTECTED AREAS AND ADJACENT LAND HOLDINGS There is general recognition that protected areas will survive only if they are seen to be of value to the country and to the local community. To promote participation in the conservation of these important areas, the countries of North America benefit by sharing their respective experiences. This year, the CEC helped identify possible sites for pilot projects to improve nongovernmental participation and established a first North American cooperative pilot project in Mexico. A survey of possibilities for nongovernmental participation in the conservation of these areas was completed in late 1996. Site selection criteria for these pilot projects will be defined in early 1997. The results of a subsequent evaluation will form the basis of case studies to be presented at the end of the project.

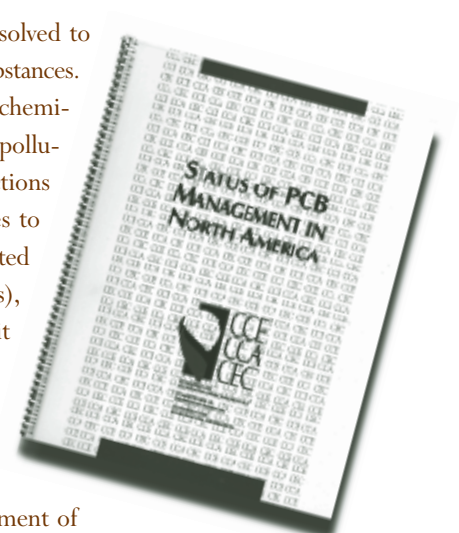
Protecting Human Health and the Environment

To facilitate cooperative initiatives to reduce pollution risks and minimize pollution impacts.

The presence of toxic substances in the North American environment has caused concern in all three countries regarding potentially serious health problems both for humans and wildlife. Toxic chemicals have accumulated in food chains, particularly affecting people whose sustenance derives principally from wildlife, including native peoples in regions such as the Arctic and the Great Lakes. The CEC approach to protecting human health and the environment focuses on reducing pollution risks and minimizing the impact of existing pollution across the continent.

Reducing Risk Program

SOUND MANAGEMENT OF CHEMICALS In late 1995, the CEC Council resolved to develop trilateral action plans for the reduction or phase-out of priority substances. This resolution included provisions for joint action in the sound management of chemicals, with the reduction and virtual elimination of persistent bioaccumulative pollutants in North America as a medium-term objective. The initiatives and actions pursued in this project include finding suitable policy options and alternatives to the toxic and persistent substances named. In 1996, four substances were targeted for the development of regional action plans: polychlorinated biphenyls (PCBs), DDT, chlordane and mercury. Meetings with interest groups were held to solicit input into these plans. In addition, a criteria document outlining the process for the identification of additional substances for common action was drafted for public comment. This year, the Council resolved to identify two additional substances for regional action on reduction or phase-out. Goals for 1997 include the completion of the first four regional action plans and the development of two additional plans.





NORTH AMERICAN POLLUTANTS RELEASE INVENTORY In 1996 the CEC prepared the first annual North American Pollutant Release Inventory (NAPRI) report on pollutant release and transfer registers (PRTRs) based on publicly available information from the 1994 national pollutants inventories in each country. Since Canada and the United States have PRTRs in place and Mexico is in the process of developing its own, initial work in 1995 included a focus on providing Mexico with support for the development of its PRTR. The first NAPRI report will be published in 1997 and will include a description and status of the national inventories, an evaluation of the comparability and compatibility of the data, as well as extensive data analysis. A series of special issues documents will also be considered based upon national needs and priorities, to provide an update on emerging issues and trends in North America. Furthermore, it is expected that a comparative analysis of PRTRs will assist in the implementation and evaluation of CEC air efforts.

NORTH AMERICAN AIR MONITORING AND MODELING Air monitoring and modeling efforts are essential for tracking the movement of pollutants in order to develop valid policy and regulatory decisions. Experts and officials throughout North America must have reliable information upon which they can base these decisions. In 1996, the CEC-established Advisory Group recommended several key action areas for cooperation, including promotion of data compatibility, status and quality enhancement of emissions inventories and technology transfer. As a result, the CEC launched several important air monitoring and modeling activities in 1996.

SCIENCE LIAISON, COOPERATION AND COORDINATION This project was designed to foster and encourage increased trinational cooperation and joint initiatives between the environmental science communities of North America and the CEC. Activities in 1996 included promoting the generation of sound science-based environmental information; support for the planning and convening of a North American Conference on Atmospheric Change and Transportation (being organized by the Royal Society of Canada and the National Academies of Science in Mexico and the United States); producing a study on the potential for scientific cooperation between the CEC and other organizations; and co-sponsoring a North American Workshop to assess the impact of non-indigenous species on the abundance, distribution and diversity of native freshwater species.

TRANSBOUNDARY ENVIRONMENTAL IMPACT ASSESSMENT Under Article 10(7) of NAAEC, the CEC is charged with developing specific recommendations on transboundary environmental impact assessment. In 1995, the CEC initiated discussions with senior impact assessment officials from the three countries on this important area, leading in October 1995 to the adoption by the CEC Council of the Transboundary Environmental Impact Assessment

“Overarching Principles.” In 1996, the intergovernmental group used these principles to develop a draft of the specific recommendations. Such recommendations include assessing the environmental impact of projects likely to cause significant adverse transboundary effects, notification and provision of relevant information, consultation between the Parties and consideration of mitigation measures of the potential adverse effects of such projects. This document will be completed in 1997 and submitted to the CEC Council for further action.

Climate Change and Energy Efficiency Program

ENERGY EFFICIENCY COOPERATION In 1996, the CEC worked to support an expanded program of energy efficiency upgrades for small- and medium-size enterprises in North America. Four pilot audits were conducted and the results, including an overview of the financing opportunities, are expected to be ready in the third quarter of 1997. Based on the study of barriers and opportunities completed in 1995, as well as extensive consultations with government and nongovernmental experts, the CEC this year provided a forum for discussion and exchange of information on experiences in voluntary energy efficiency audit programs. Also to be published are case studies based on initiatives, at the trinational, federal and sub-federal levels, in which governments and private sector partnerships have developed innovative energy technologies and efficiency gains.

NORTH AMERICAN COOPERATION ON CLIMATE CHANGE In 1995, the Council signed a Statement of Intent to Cooperate on Climate Change and Joint Implementation. The Statement laid the groundwork for joint action by the three countries on information exchange, technology transfer and facilitating private sector involvement in greenhouse gas emissions reduction activities. Milestones under this project were an assessment of barriers and opportunities to joint implementation, capacity development of relevant institutions in Mexico involved in greenhouse gas mitigation, release of funds to evaluate potential joint implementation projects at four different sites and produce an options paper on the potential for a greenhouse gas emissions trading system.

CLIMATE CHANGE AND ITS POTENTIAL IMPACT ON TRANSBOUNDARY WATER RESOURCES IN NORTH AMERICA The CEC continued work on a report, expected to be completed by the end of 1997, that will provide the public with “vulnerability” indicators to climate variability in the transboundary water basins. It will also include detailed case studies of the potential impact of climate variability on fresh water resources along the Canadian-US and US-Mexican borders. The results of the report are intended to assist policy and decision makers in revising current policies for the management of these resources.



Capacity Building Program

ENVIRONMENTAL EDUCATION AND TRAINING Techniques for protecting the environment, education and training have become vital for both management and employees. A new survey conducted as part of this project found that many Mexican companies are looking to specific environmental training and education programs for help. The survey represents perhaps the most comprehensive effort so far to gauge this interest in Mexico. This report will be released in 1997 and efforts are continuing to ensure that Canada, Mexico and the United States give a high priority to environmental education and training.

CAPACITY BUILDING IN ENVIRONMENTAL MANAGEMENT IN GUANAJUATO One of the results of the first Secretariat report under Article 13 on the *Death of Migratory Birds in the Silva Reservoir* was the identification of the need to build capacity for environmental management at the state level in Guanajuato. During 1996, the CEC developed an environmental action program with the State of Guanajuato for the period 1995–2000, which was officially approved by the Mexican Congress in November of 1996. Other achievements included the creation of the state's first environmental council, a nongovernmental organization, as well as the provision of technical support for the preparation of the management plan for the Turbio River. Additionally, and in cooperation with Environment Canada, a workshop on wastewater treatment and plant operation was conducted; another, for environmental management, is planned for early 1997.

Environment, Trade and Economy

To encourage mutual compatibility of trade, environmental and economic policies and instruments within North America and other trading regimes.

Public consultations convened by the Joint Public Advisory Committee identified the trade and environment program as a core area for the CEC. In 1996, the CEC made progress in converting existing theoretical and conceptual work into practical programs deployed in the real-world context of the North American economy. The CEC advanced on two projects, one which explores the linkages between free trade policies and the environment, and a second which reduces barriers to accessing timely and useful information on North American technologies.

Trade and the Environment

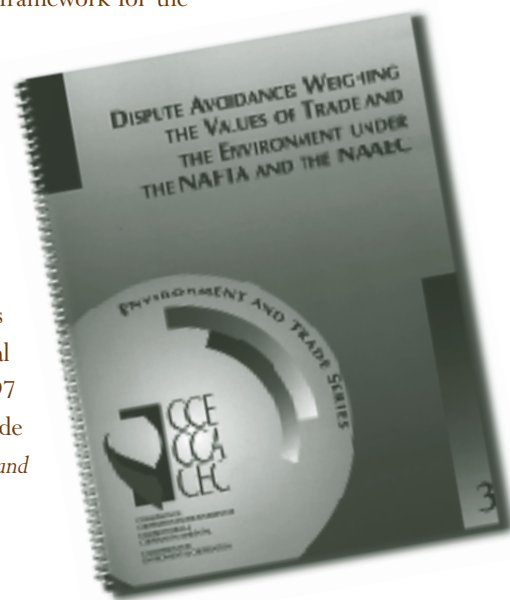
NAFTA ENVIRONMENTAL EFFECTS This project responds directly to Articles 10(2)(1) and 10(6) of the North American Agreement on Environmental Cooperation. The general objective of the NAFTA Effects Project is to design and implement an analytical framework to identify and assess the effects of NAFTA on the environment.

In 1995, the CEC began the exploratory phase of the NAFTA Effects Project, Phase I, which focused on the main elements of NAFTA and its more general regime, and their immediate effects on trade and investment within North America.

In April 1996, in partnership with the Institute of the Americas (United States), El Colegio de México (Mexico), and the National Round Table on the Environment and the Economy (Canada), the CEC held a workshop in La Jolla, California, to consider a preliminary framework. The proceedings of the workshop have been issued as the fourth publication in the CEC's Environment and Trade Series, *Building a Framework for Assessing NAFTA Environmental Effects: Report of a workshop held in La Jolla, California, on April 29 and 30, 1996*. In 1996, the CEC prepared for distribution the complete set of research papers undertaken in Phase I of the project and has made them available to the public as the NAFTA Effects Working Papers.

The objectives of Phase II of the project, begun in 1996, include considering specific issues that, taken together, address key elements of the general framework. This will permit expanded focus on those areas where empirical data is not available or will clarify linkages between environmental issues and trade and economic activity. The studies explore such issues as production processes, technology use, infrastructure, social organization and government policy, and will also include analysis of one or more elements of environmental media: air, water, biodiversity and land. Phase II also includes systematic work to develop the framework for the ongoing monitoring of trade and investment dimensions of environmental issues.

In addition, work in 1996 included a study of the inter-governmental institutions created or inspired by NAFTA. This work responds to repeated assertions that the effects of NAFTA on the North American environment would depend on the operations of the dozens of trilateral intergovernmental institutions implementing, managing and extending the trinational trade regime. This information will be published in 1997 as number five in the CEC's Environment and Trade Series: *NAFTA Effects: NAFTA's Institutions, their Potential and Performance*.





Technology Cooperation Program

TECHNOLOGY CLEARINGHOUSE The CEC actively promotes “green technology” that is appropriate and cost-effective for helping North American companies meet their environmental goals. This year, the CEC joined forces with three private environmental technology groups in Canada, Mexico and the United States to create an electronic service to promote such technology. This environmental technology information service is designed to help environmental technology and service suppliers in Canada, Mexico and the United States increase sales and introduce North American technology globally, including markets in Central and South America. The pilot version of this service, which draws on information collected by each of the three governments, will be available to the public in 1997.

POLLUTION PREVENTION COOPERATION This initiative concentrated on meeting the technical support needs of small- and medium-size enterprises in Mexico. An initial study concluded that access to financing and information on available, successful approaches and technologies were the two key barriers to the successful adoption of pollution prevention in the region. Work undertaken in 1996 with the cooperation of private and public institutions was aimed at addressing these barriers and led to the adoption of a resolution that established the first-ever pollution prevention fund for small- and medium-size enterprises in Mexico. The Fund will eventually be available to help SMEs in Canada and the United States, as well.

Enforcement Cooperation and Law

To facilitate the development of law, policy and economic instruments for alternative approaches to compliance, effective enforcement, and to promote greater public participation and transparency in decision-making.

The North American Agreement on Environmental Cooperation (NAAEC) obligates Canada, Mexico and the United States to enforce their environmental laws effectively, maintain high levels of environmental protection and ensure that adequate procedural guarantees are available to North American citizens. In 1996, the three countries intensified the cooperative programs established in 1995 to coordinate environmental enforcement policies, build capacity and inform citizens of government enforcement efforts and results.

In August 1996, the Council constituted the North American Working Group on Environmental Enforcement and Compliance Cooperation to strengthen enforcement through joint training and shared expertise, to prepare the annual report on environmental enforcement obligations and activities, and to provide advice and recommendations to the CEC on related program priorities. The Enforcement Working Group in turn established the Wildlife Enforcement Working Group to direct policies and programs in that area. Projects undertaken by these two working groups during the past year were:

Enforcement and Compliance Cooperation:

- A series of meetings, with supporting documentation, were organized for enforcement and customs officials from key border crossings to improve their ability to detect the transboundary movement of regulated or banned substances or wastes, including smuggling of CFCs.
- In parallel, continued support was given to the interagency exchange of information and strategies on alternative approaches to environmental compliance, focusing particularly on ISO 14000.

Wildlife Enforcement:

- Training workshops were conducted for wildlife enforcement and customs officials in Toronto on endangered fur-bearing species and in Jalapa on endangered bird species.
- Commitment to coordinate wildlife enforcement activities was formalized between the CEC and the Trilateral Committee for Wildlife and Ecosystem Conservation and Management.

Finally, a CEC report surveying North American innovations and experience with alternative strategies for achieving effective environmental enforcement and compliance, and the performance indicators for measuring their success, will provide the background for an international conference planned for the fall of 1997.

DIALOGUE ON ENVIRONMENTAL LAW Since its inception the CEC has received a number of submissions from the North American community raising issues or concerns related to alleged deregulation, defunding or reduced enforcement of environmental laws. In August 1996 the CEC Council issued a communiqué stating its intention to “develop principles to help guide the development of a new generation of environmental regulatory and other management systems, in accordance with each country’s laws in order to avoid a reduction of effective environmental protection and public health standards.”

In response the CEC Secretariat sponsored a dialogue among environmental lawyers, government, industry, NGOs and academia from the three countries in December in Austin, Texas. The purpose was to identify and explore major trends in the development of North American environmental law and to initiate the dialogue on potential common principles to guide the development and implementation of environmental laws. Background papers and the proceedings of the dialogue are available. A follow-up project is to be delivered in 1997, focusing on joint identification and review of principles and processes for use in the introduction of new environmental law, policy or management.



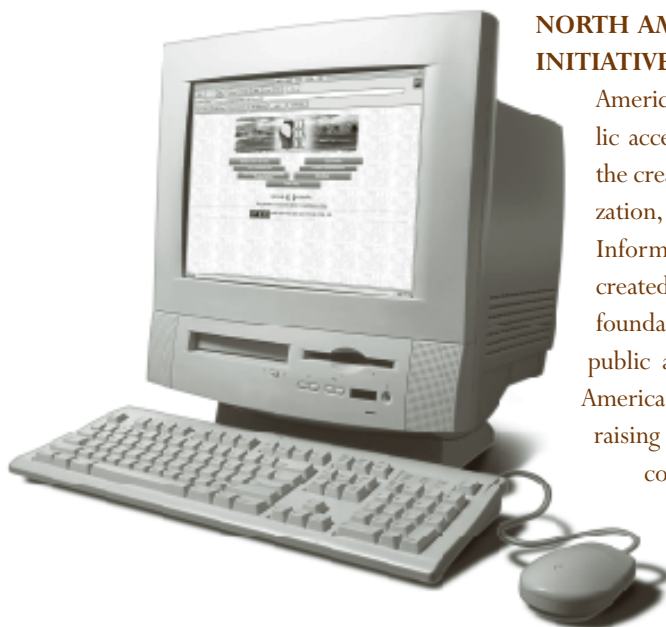


RECIPROCAL ACCESS TO COURTS Under current practice, citizens suffering environmental harm may encounter significant barriers to seeking administrative or judicial remedies when the source of the harm originates in a neighboring country. The CEC is exploring ways to improve access to legal remedies. In 1996, the CEC prepared a report for publication in 1997, reviewing the current status of reciprocal access to courts in the three NAFTA countries. The report assesses current barriers and constraints to reciprocal access; provides an overview of current practice in each country; and reviews the status of OECD, state and bar association efforts to improve reciprocal access.

Information and Public Outreach

To communicate with the growing network of concerned citizens across North America, the CEC continues to invest resources in developing tools for the open, transparent and low-cost exchange of information.

CEC INFORMATION CENTER & CEC DATABASE DEVELOPMENT The CEC Information Center, located in Montreal, expanded its collection of periodicals and monographs on topics related to the North American environment. The public can access this Information Center through the CEC homepage, one of the main vehicles for informal, trilateral information exchange being developed by the Secretariat. In 1996, the CEC homepage had close to 100,000 visitors. One of its most heavily used features was the environmental law database, which offers summaries of environmental laws in Canada, Mexico and the United States. Another database, which catalogues existing transboundary agreements in North America, was also developed this year and will be made available on the CEC homepage in 1997.



NORTH AMERICAN ENVIRONMENTAL AWARENESS INITIATIVE

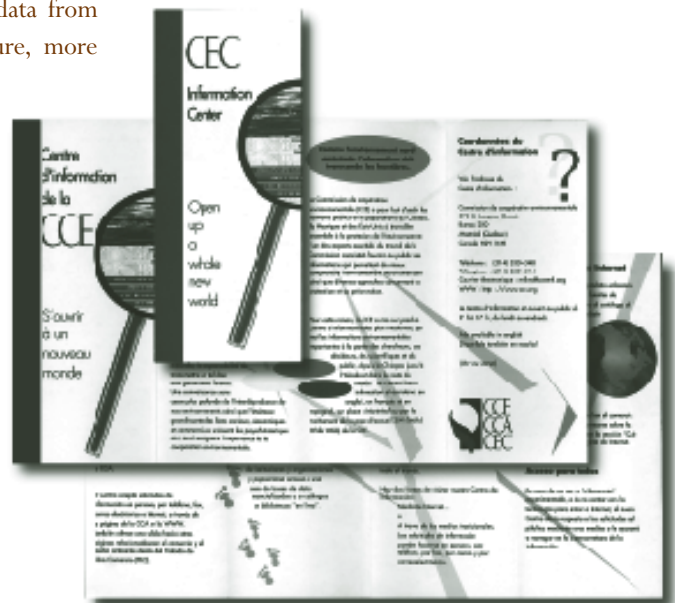
Efforts to promote a greater awareness of North American environmental issues focused this year on public access to information. In 1995, the CEC supported the creation of a Mexico-based nongovernmental organization, the North American Center for Environmental Information and Communication. In 1996, this group created an environmental video library and built the foundations for an information center which gives the public access to environmental resources across North America. The Center successfully implemented a fundraising plan that attracted private donations from several corporations, including Hewlett Packard of Mexico,

General Electric of Mexico, Chrysler of Mexico, Coca-Cola of Mexico, Dupont of Mexico, Lucent Technology, Microsoft of Mexico and the Grupo Pulsar. The Center also moved closer to independence from the CEC by creating a trinational board.

NORTH AMERICAN INTEGRATED SYSTEM FOR ENVIRONMENTAL MANAGEMENT

The CEC launched a project in 1995 to address the problems posed by limited sources of information on environmental issues covering the whole of North America. This project is intended to provide public on-line access to environmental and selected social data parameters in Canada, Mexico and the United States for educational, demonstration and analytical purposes.

Work in 1996 focused on overlaying ecological and other physical data parameters with socioeconomic data from the national census and other sources. A future, more refined database will eventually offer users the same information, but at the municipal or county level. The CEC is also working to create a World Wide Web interface that will enable users to access other existing regional systems.



Reaching out public participation: reaching out ACROSS NORTH AMERICA

The public in North America is demanding and achieving a greater role in environmental decision-making processes. The CEC provides the public in Mexico, Canada and the United States with an important, unprecedented opportunity to participate in environmental decision-making. It does so through a variety of formal and informal means, many of which are changing the way the public interacts with environmental authorities across the continent. Taken together, they enable the public to influence the direction and priorities of the North American agenda. They also help ensure that the processes established under the North American Agreement on Environmental Cooperation (NAAEC) are open and transparent. Public participation through the CEC is evolving, shaped by the demands and needs of the public itself.

The CEC is committed at every level to involving the public in its work. Working groups and expert meetings conducted by the CEC Secretariat help the CEC solicit concrete input from the public. This year, these consultations also contributed significantly to the process of sharpening CEC's focus and narrowing its work program to fewer initiatives. At over 100 meetings this year, experts from the private and public sector participated actively in the process of helping to shape and define the CEC work program and shared governmental priorities. The Secretariat seeks out these experts formally and informally for every CEC project.

One of the central avenues for public participation is through the Joint Public Advisory Committee (JPAC). The members of JPAC, five from each country, serve on a volunteer basis as advisors to Council. They do not represent specific constituencies, but rather speak as knowledgeable, independent, concerned individuals. The year 1996 marked the second round of JPAC public consultations. At these consultations—21 June in Montreal, Quebec, 15 July in San Diego, California and 1 August in Toronto, Ontario—members of JPAC listened to the opinions of concerned citizens on the following issues:

- reducing human health risks from environmental contaminants,
- conserving biodiversity,
- strengthening environment and economy linkages, and
- defining public participation.

All these sessions included plenary sessions and roundtable discussions, which involved over 600 participants from industry, NGOs, academia and government. Using this input, the JPAC was able to develop sound recommendations, which were delivered to Council at its third regular session, held in Toronto, Ontario. Summaries of all JPAC public consultations and JPAC regular sessions are available electronically on the CEC homepage, or in hard copy at the CEC Secretariat in Montreal.

As part of its mandate, the CEC Council holds public sessions at its yearly meetings. This year, at the regular session held in Toronto, over 200 participants contributed to roundtable discussions and a free exchange with the three North American environment ministers.

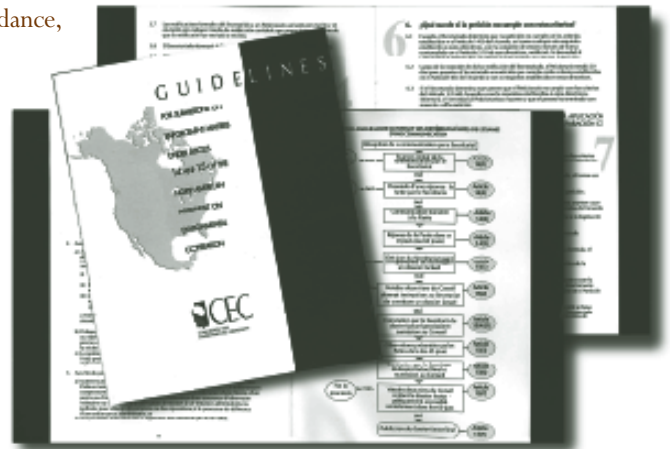
Responding to Public Concerns

Responding to public concerns about the environment is of utmost importance to the CEC. Under Article 13 of NAAEC, the CEC Secretariat can prepare a special report on any environmental matter relating to the CEC's scope of work. In response to public consultation and general public concerns over air pollution, the CEC Secretariat this year launched a report on continental pollutant pathways and the fate of atmospheric pollutants in North America. This report, scheduled for release in 1997, is expected to provide a foundation for developing a framework agreement to guide and promote regional cooperation on reducing transboundary air pollution.

Citizen Submissions on Enforcement Matters

The CEC plays important roles in both reporting on how governments are living up to their environmental commitments, and in helping governments improve environmental enforcement. The public has an opportunity to be part of this effort. In accordance with NAAEC, any person or nongovernmental organization asserting that a Party to NAAEC is failing to enforce its environmental law effectively may make a submission to the CEC Secretariat on enforcement matters under Articles 14 and 15 of NAAEC. This year, the Secretariat received four citizen submissions, filed under Article 14 of NAAEC.

In order to provide potential submitters with additional guidance, the CEC makes available Guidelines for Submissions on Enforcement Matters. As well, the CEC maintains a registry to provide information for any interested organization or person wishing to follow the status of any submission during the review process. The guidelines and registry are available for viewing and downloading in electronic format on the CEC homepage. Hard copies are also available on request from the CEC Information Center. Please see the end of this section for a complete listing of the submissions filed in 1996.



Linking North American Communities

The North American Fund for Environmental Cooperation (NAFEC), created by Council in 1995, is the CEC's newest venue for public participation. This year marked the first full year of operation for this trilateral fund. For 1996, the CEC allocated C \$2 million to NAFEC, a source of funding for community-based environmental projects in Canada, Mexico and the United States.



NAFEC is intended to enhance public participation in protecting the North American environment at two levels. First, it provides an avenue for communities to propose ways of dealing with environmental concerns based on their own experience and seek support for concrete actions. This allows people throughout North America to suggest, and potentially carry out, initiatives within the framework of the CEC, and disseminate the results of their work widely. At the level of the projects themselves, the emphasis on “community-based” projects reflects the notion that those who are affected should take part in decisions related to their environment.

Guidelines for the NAFEC fund were developed and a Call for Preproposals was issued at the end of April 1996. Each of the Parties appointed two representatives to the NAFEC Selection Committee. This committee selects preproposals for which full proposals are requested and, from this group, chooses the final projects to be awarded grants. In total, 35 NAFEC grants were awarded to nongovernmental organizations across North America in 1996, ranging from C \$7,000 to \$100,000. The first group of fourteen grants was announced at the CEC Council meeting in August. A second set of awards followed soon afterwards and another fifteen grants were awarded in early December. The remaining six grants were made from the discretionary fund (for amounts up to \$10,000).

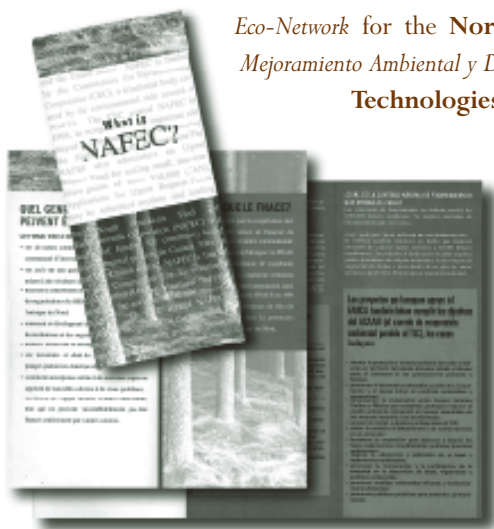
As a recipient of over 700 preproposals and several thousand information requests in 1996, NAFEC has already become a storehouse of information about community-based environmental activities in North America. Lists of resource materials, other sources of funding and products resulting from NAFEC projects have been developed and continue to be expanded. Such information could prove to be the basis of an important new network of communities across the continent—people all interested in protecting the North American environment.

Groups awarded grants in 1996 include:

- *Air & Waste Management Association* for **Advancing Environmental Quality and Sustainability in Two Model Cities: Hamilton, Canada and Monterrey, Mexico** (Canada/Mexico/US)
- *International Institute for Sustainable Development* for **Communities for Environmentally Sustainable Development** (Canada/US/Mexico)
- *World Wildlife Fund (WWF)* for **The DDT Dilemma: Seeking Alternatives which address Community Priorities** (Mexico/US/Canada)
- *Manitoba Eco-Network* for the **North American Forest Forum** (Canada/US/Mexico)
- *Grupo de Mejoramiento Ambiental y Desarrollo Económico de la Barra del Potrero* for the **Use of Alternative Technologies to Increase the Sustainability of a Small Community Located in a Marine Turtle Reserve** (Oaxaca, Mexico)

- *Border Ecology Project* for the **Development of Cross-Border Strategies to Diminish the Social and Environmental Impact of Mining in Mexico** (Mexico/US)
- *Assembly of First Nations* for the **Environmental Tool Kit for First Nations** (Canada).

Information about applying for a NAFEC grant is available through the Internet, on the CEC homepage, or by contacting the CEC headquarters.



Citizen Submissions on Enforcement Matters

Articles 14 & 15 of NAAEC

Submission I.D.: SEM-96-001

Submitter(s):

Comité para la Protección de los Recursos Naturales, A.C.; Grupo de los Cien Internacional, A.C.; Centro Mexicano de Derecho Ambiental, A.C.

Party: United Mexican States

Summary of the matter addressed in the submission:

The Submitters allege that the appropriate authorities failed to effectively enforce environmental laws during the evaluation process of the project “Construction and Operation of a Public Harbor Terminal for Tourist Cruises on the Island of Cozumel, State of Quintana Roo” (*Construcción y operación de una terminal portuaria, de uso público para cruceros turísticos en la Isla Cozumel, Estado de Quintana Roo*).

The Submitters allege that during the evaluation process of the above-mentioned project, the competent authorities failed to effectively enforce the following environmental laws: General Law of Ecological Equilibrium and Environmental Protection (*Ley General del Equilibrio Ecológico y la Protección al Ambiente*); Regulation on Environmental Impact (*Reglamento en materia de Impacto Ambiental*); Instructions to prepare and present a general declaration of Environmental Impact (*Instructivo para desarrollar y presentar la Manifestación de Impacto Ambiental en la Modalidad General*). The Submitters also describe other legal requirements that in their opinion were not effectively enforced. These are: the Decree published in the *Diario Oficial de la Federación* establishing the Declaration of a “Protection Zone for the Marine Fauna and Flora of the western coast of the Island of Cozumel in the State of Quintana Roo” (*Decreto publicado en el Diario Oficial de la Federación que estableció la Declaratoria de “Zona de refugio para la flora y fauna marinas de la costa occidental de la Isla Cozumel, Estado de Quintana Roo”*) of 11 June 1980, the Declaratory Decree of Uses, Functions and Reserves of the Municipality of Cozumel (*Decreto de Declaratoria de Usos, Destinos y Reservas del Municipio de Cozumel*) of 9 March 1987, and the Law on Harbors (*Ley de Puertos*).

More specifically, the Submitters allege that the above-mentioned project was initiated without a declaration of environmental impacts covering all the works included in the project, contrary to the Concession Title awarded by the Secretariat

of Communications and Transportation (*Título de Concesión otorgado por la Secretaría de Comunicaciones y Transportes*) for the construction and operation of the project. In addition, the Submitters argue that the project is located within the limits of a protected natural area known as the “Zona de refugio para la protección de la flora y la fauna marinas de la costa occidental de la Isla Cozumel” protected under a special legal regime. The Submitters further allege that the situation is serious and represents an immediate danger for the survival and development of both the Paradise Reef “*Arrecife Paraíso*” and the Caribbean Barrier Reef (*Cadena Arrecifal del Gran Caribe*).

Name and citation of the environmental law in question:

1. Ley General del Equilibrio Ecológico y la Protección al Ambiente (LGEEPA)
2. Reglamento de la Ley General del Equilibrio Ecológico y la Protección al Ambiente en Materia de Impacto Ambiental
3. Instructivo para desarrollar y presentar la Manifestación de Impacto Ambiental en la Modalidad General
4. Decree published on 11 June 1980 in the *Diario Oficial de la Federación*, which declares the “Zona de refugio para la protección de la flora y fauna marinas de la costa occidental de la Isla Cozumel, Estado de Quintana Roo”
5. Decreto de Declaratoria de Usos, Destinos y Reservas del Municipio de Cozumel, Quintana Roo, publicado en el Periódico Oficial del Estado de Quintana Roo el 19 de Marzo de 1987
6. Ley de Puertos

Summary of the response provided by the Party:

In its response, the Mexican Government asserts that the application of the North American Agreement on Environmental Cooperation (NAAEC) cannot be retroactive, and argues that the submission exceeds CEC’s jurisdiction. The response also states that the submission is inadmissible under Article 14 of NAAEC as, in its view, the Submitters did not certify their legal capacity, did not specify the damages they suffered and did not exhaust all remedies available under Mexican Law.

The Government of Mexico also states in its response that there is an inconsistency between the issues raised in the submission and NAAEC’s goals as, in its opinion, the Submitters failed to “establish a necessary relation between the alleged environmental damage to the flora and fauna of Paraíso’s reef and the alleged violations of environmental law” [translation].

The Government of Mexico’s response also disputes many factual assertions in the submission regarding the alleged failure to effectively enforce its environmental law.



Summary of the notifications to the submitter(s):

1. Acknowledgement of receipt of the submission (18 January 1996)
2. Secretariat's Determination under Articles 14(1) (6 February 1996)
3. Secretariat's Determination under Articles 14(2) (8 February 1996)
4. Secretariat Notification to Council (7 June 1996)

Council's decision on the preparation of a factual record:

Council instructed Secretariat to develop a factual record on 2 August 1996

Council's decision on the public release of the factual record: N/A

Status of the process:

The Secretariat is developing a factual record.

Submission I.D.: SEM-96-002

Submitter(s):

Aage Tottrup, P. Eng.

Party: Canada

Summary of the matter addressed in the submission:

The Submitter asserts that the governments of Canada and Alberta have failed to effectively enforce their environmental laws resulting in the pollution of specified wetland areas, which impacts on the habitat of fish and migratory birds.

Name and citation of the environmental law in question:

1. Fisheries Act, R.S.C., c. F-14, a. 35, 36 and 38;
2. Department of Environment Act, R.S.A. 1980, c. D-19, a.7, 16 and 17;
3. Clean Water Act, R.S.A. 1980, c. C-13, a. 3, 4 and 17;
4. Environmental Protection and Enhancement Act, S.A. 1992, c. E-13.3, as modified by part 4, divisions 1 and 2, and part 10;
5. Waste Water and Storm Drainage Regulation, Alberta Regulation 199/93 as modified by Alta. Reg. 249/93.

Summary of the response provided by the Party: N/A

Summary of the notifications to the Submitter(s):

1. Acknowledgment of receipt of the submission (28 March 1996)

2. Article 14(1) Determination (17 April 1996)

3. Article 14(2) Determination (28 May 1996)

Council's decision on the preparation of a factual record: N/A

Council's decision on the public release of the factual record: N/A

Status of the process: The Secretariat advised the Submitter that the submission did not merit requesting a response from the Government of Canada. The process is therefore terminated.

Submission I.D.: SEM-96-003

Submitter(s):

The Friends of the Oldman River

Party: Canada

Summary of the matter addressed in the submission:

The Submitter alleges that "[t]he Government of Canada is failing to apply, comply with and enforce the habitat protection sections of the Fisheries Act and with CEAA (Canadian Environmental Assessment Act). In particular the Government of Canada is failing to apply, comply with and enforce Sections 35, 37 and 40 of the Fisheries Act, Section 5(1)(d) of CEAA and Schedule 1 Part 1 Item 6 of the Law List Regulations made pursuant to paragraphs 59(f) and (g) of CEAA." According to the Submitter the Department of Fisheries released a Directive (Directive on the Issuance of Subsection 35(2) Authorizations) which creates "a decision-making process which frustrates the intention of Parliament and usurps the role of CEAA as a planning and decision-making tool." The Submitter further alleges that "[t]here are very few prosecutions under the habitat provisions of the Fisheries Act and the prosecutions that do occur are very unevenly distributed across the country. In fact there has been a *de facto* abdication of legal responsibilities by the Government of Canada to the inland provinces. And the provinces have not done a good job of ensuring compliance with or enforcing the Fisheries Act." According to the Submitter, "228 projects were reviewed by the Department of Fisheries and Oceans in the Central and Arctic Region (the Prairie Provinces, Ontario and the Northwest Territories), as of 21 June 1996. For these projects, 78 Letters of advice were issued. The other 150 projects listed were handled by providing advice to provincial or territorial agencies or to the permitting agency."

Name and citation of the environmental law in question:

1. Fisheries Act, R.S.C. 1985, c. F-14, s. 35, 37 and 40
2. Canadian Environmental Assessment Act, S.C. 1992, c. 37, s. 5(1)(d); 59(f)(g), Schedule 1, Part 1
3. Law List Regulations, Item 6, SOR/94-636

Summary of the response provided by the Party:

In its response, the Canadian government indicates that the matter raised in the submission is the subject of a pending judicial or administrative proceeding before the Federal Court of Canada.

It specifies that on 7 November, the Friends of the West Country Association filed an Originating Notice of Motion in the Trial Division of the Federal Court of Canada in Alberta, *The Friends of the West Country Association v. The minister of Fisheries and Oceans and the Attorney General of Canada* (Federal Court case No. T2457-96). It also states that at issue in both the submission to NAAEC and the case before the Federal Court are the application and interaction of sections 35, 37 and 40 of the Fisheries Act and of the Canadian Environmental Assessment Act.

The Government of Canada further states that as referred to in Article 14(3), private remedies in connection with the matter raised in the submission are available and are being pursued in the Federal Court action.

Summary of the notifications to the Submitter(s):

1. Acknowledgment of receipt of the submission (20 September 1996).
2. Article 14(1) Determination (1 October 1996)
3. Acknowledgment of receipt of the amended submission (15 October 1996)
4. Second Article 14(1) Determination (18 October 1996)
5. Secretariat's request for a response from Canada (8 November 1996)
6. Article 14(3) advice from the Party that it will be responding within 60 days (23 December 1996)
7. Response from Canada (10 January 1997)
8. Article 15(1) Determination (2 April 1997)

Council's decision on the preparation

of a factual record: N/A

Council's decision on the public release

of the factual record: N/A

Status of the process:

On 2 April 1997, the Secretariat notified the Submitter that the Submission does not warrant developing a factual record. The process is therefore terminated.

Submission I.D.: SEM-96-004

Submitter(s):

The Southwest Center for Biological Diversity and Dr. Robin Silver

Party:

United States of America

Summary of the matter addressed in the submission:

The Submitters allege that the United States of America is failing to effectively enforce its environmental law, namely the National Environmental Policy Act (NEPA), with respect to the United States Army's operation of Fort Huachuca, Arizona. According to the Submitters, the Army has significantly increased the number of people assigned to Fort Huachuca and this expansion also resulted in a corresponding increase in off-base population. The Submitters allege that as the population continues to increase, the water demand upon the limited water resources of the Upper San Pedro basin will increase and that increased pumping from the aquifer that sustains the river threatens to dewater the San Pedro and to destroy the unique ecosystem that is dependent upon it. The Submitters further allege that "in 1992, the Army prepared an environmental analysis of impacts of expanding Fort Huachuca. In that document, the Army split off the required analysis of current and future impacts on a cumulative basis, promising to include the cumulative analysis in a separate Master Plan (Environmental Impact Statement)." The Submitters allege that the analysis was never prepared. The Submitters also state that on 7 July 1994 they brought a claim under NEPA in the United States District Court of Arizona to compel the Army to complete the required cumulative impact analysis. The judge assigned to the case found that the claim was barred by the statute of limitations under the Defense Base Closure and Realignment Act of 1990. The Submitters further note that this procedural ruling barred the Submitters from compelling the Army to complete the NEPA analysis by a court order, even though the Court agreed that the Army's analysis was insufficient.

Name and citation of the environmental law in question:

National Environmental Policy Act (NEPA), 42 U.S.C. ss. 4321-4370d



Summary of the response provided by the Party:

The Party alleges that “In this case, the Secretariat should not request authorization to prepare a factual record regarding the assertions in the Submission for the following reasons. First, the United States is not failing to effectively enforce its environmental laws as contemplated by Article 14(1) of the NAAEC because the Submitters’ assertions relate to actions that were complete before the Agreement’s entry into force or relate to proposed federal actions that are not ripe for challenge under United States law. Second, the Submitters suggestion that there is an ongoing failure to enforce the requirements of NEPA misstates applicable law. Third, the Submitters failed to pursue private remedies under United States law in a timely manner, and when they did pursue remedies, they abandoned them as moot. Fourth, the development of a factual record could adversely affect the pending judicial appeal by the Southwest Center for Biological Diversity and others of the dismissal of a suit brought under the Endangered Species Act which arises from the facts that are the subject of the Submission. Finally, the Submission suggests that the Submitters do not have a complete understanding of the activities at Fort Huachuca related to population and groundwater use.”

Summary of the notifications to the Submitter(s):

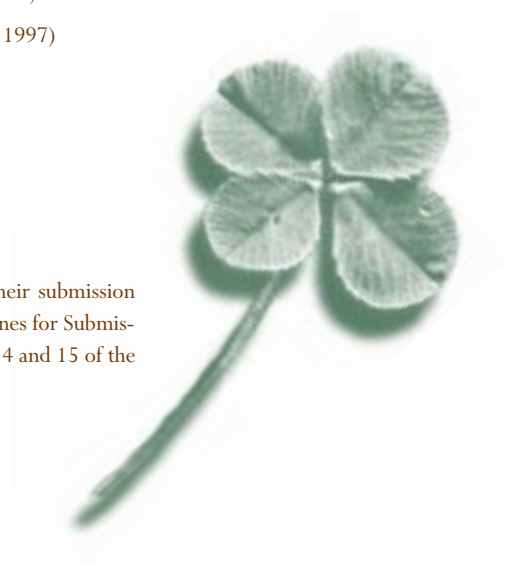
1. Acknowledgement of receipt of the submission (27 November 1996)
2. Article 14(1) Determination (16 December 1996)
3. Article 14(2) Determination (22 January 1997)
4. Response from the United States (3 March 1997)

Council’s decision on the preparation of a factual record: N/A

Council’s decision on the public release of the factual record: N/A

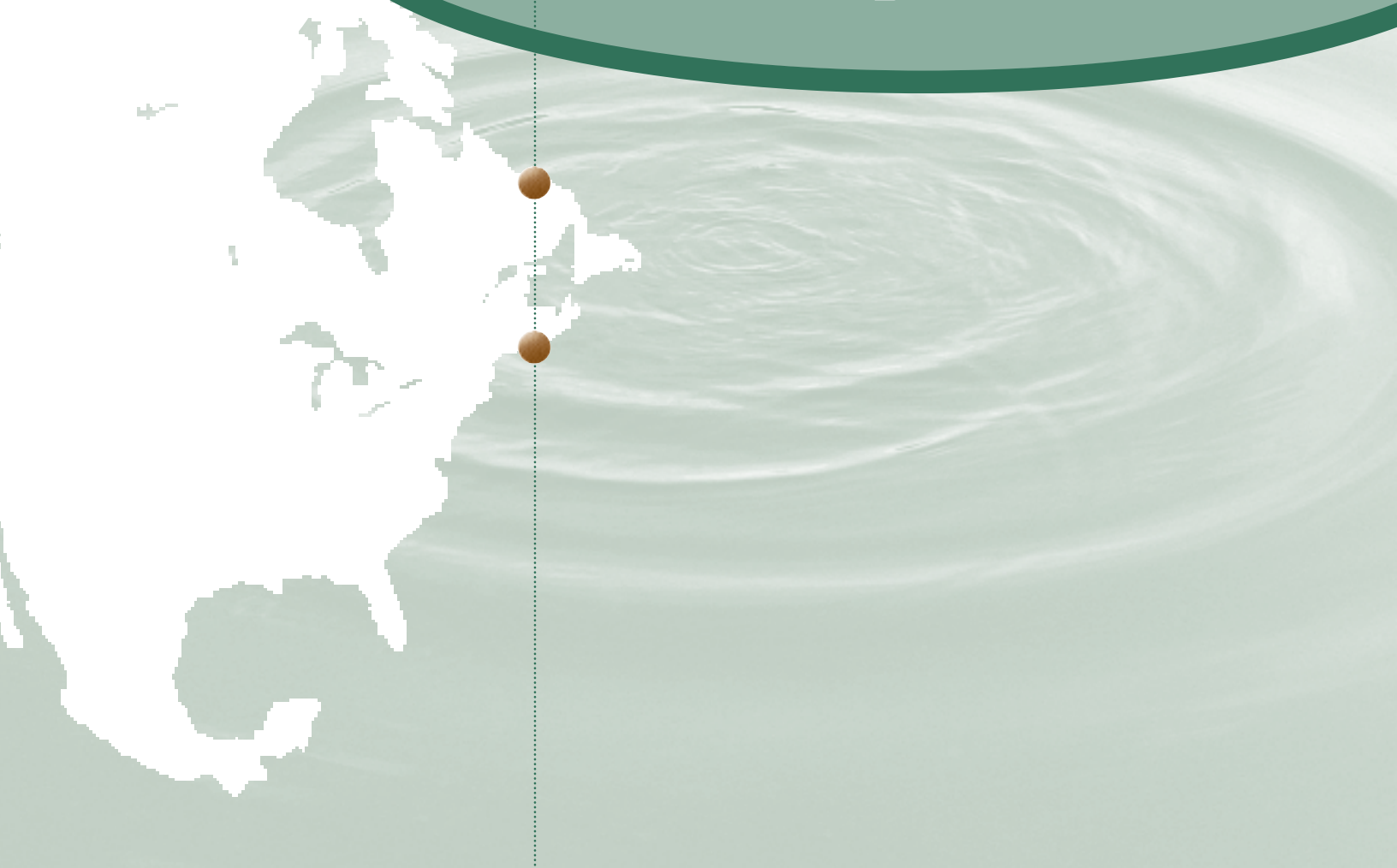
Status of the process:

On 5 June 1997, the Submitters withdrew their submission in accordance with Section 14.1 of the Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the NAAEC. The process is therefore terminated.



2

country
Reports



*Country Reports on Implementation
of the Commitments Derived from
the NAAEC*

*The following report was submitted to the CEC Secretariat
by Environment Canada in accordance with NAAEC.*

Article 2

General Commitments

Article 2(1)(a)

Canada's third national state of the environment report, *The State of Canada's Environment 1996*, was completed in 1996 and released on both the Internet and on CD-ROM. A print version of the report is scheduled for completion in spring of 1997. The comprehensive report provides information on environmental conditions and trends in each of Canada's main ecological regions, as well as overviews of national and global trends.

In addition to the national report, seven new or updated bulletins in Canada's *National Environmental Indicator Series* were produced in the 1996–97 fiscal year: *Stratospheric Ozone Depletion* update; *Climate Change* update; *Acid Rain*; *Urban Water: Municipal Water Use and Wastewater Treatment* update; *Urban Air Quality* update; *Energy Consumption* update; *Canadian Passenger Transportation* update.

The State of the Environment Infobase, can be accessed from Environment Canada's Green Lane home page on the Internet at <http://www.ec.gc.ca>. The CD-ROM containing the infobase and other information is entitled *Conserving Canada's Natural Legacy / Le capital nature du Canada en capsule*.

1996 marked the first year of full participation in the North American Agreement on Environmental Cooperation by the province of Alberta. In 1996, Alberta released its State of the Environment Report, which focused on aquatic ecosystems, and was intended to inform and educate readers about Alberta's rivers, lakes and wetlands. Two State of the Environment fact sheets were distributed in 1996: one on Alberta's Special Places program and a second one on the Clean Air Strategic Alliance, a multistakeholder organization that is developing strategies to address several air quality issues.

Article 2(1)(b)

Progress was made in the development of regional annexes implementing the Canada-United States Joint Inland Pollution Contingency Plan. Environment Canada's Quebec region and USEPA Region 1 developed a risk assessment program to identify sites that could create trans-boundary effects as a result of an emergency release. The Joint Inland Pollution Contingency plan is on track for finalization in 1997–1998.

Environmental emergency officials from Mexico, the United States and Canada met in March to promote the use of national telephone numbers for reporting environmental emergencies, and to harmonize notification and actions to minimize the impact of spills at border crossings.

Canada also hosted representatives from Profepa and Semarnap in March and June respectively in regard to environmental emergencies programs and creation of an emergency response center in Mexico.

Article 2(1)(c)

In 1996, Canada began a process to develop a national framework for environmental education. At the practical level, Canada began pilot testing the Rescue Mission Indicators kit created by Peace Child International in 20 schools. Through this project, students will conduct assessments of their school grounds and immediate surroundings based on 16 sustainability indicators. Results will be sent to the United Nations by June 1997.

Article 2(1)(d)

Canada worked in partnership with both the United States and Mexico to further scientific research and technology development in respect of environmental matters.

Canada-US cooperation included initiatives such as research on *in situ* combustion of oil spills, as well as ongoing negotiation of a draft agreement on Mutual Acceptance of Data related to OECD Good Laboratory Practice for Testing of Chemicals.

Cooperation with the US Environmental Protection Agency included:

- The joint development and verification of environmental analytical methods;
- Studies of exhaust emissions from heavy-duty diesel vehicles/engines to determine the effectiveness of existing regulatory compliance protocols and to develop more effective and representative methodologies; and
- Evaluation and development of pervaporation for decontaminating water.

Canada also worked with the US Department of Interior (the Minerals Management Service) on:

- Development of airborne oil spill remote sensing technologies, including the Scanning Laser Environmental Airborne Fluorosensor (SLEAF);
- Studies on spill-treating agent effectiveness and effects;
- Field studies on *in situ* treatment of oiled shorelines, including the development of improved methods for cleaning oiled shorelines hydraulically; and
- Studies on the performance of oil sorbent products.



Canada is conducting research, in conjunction with the US National Oceanic and Atmospheric Administration, on the bioremediation of oil spills, and with the US Coast Guard, on development of spill countermeasures for the fuel “orimulsion,” and evaluating the performance of oil skimmers in ice-infested waters.

With Mexico, Canada also provided training on the development of a National Environmental Laboratory Accreditation System—in cooperation with the Canadian Association of Environmental Analytical Laboratories and the Canadian Chapter of the International Association for Environmental Analytical Testing Laboratories.

Article 2(1)(e)

The Canadian Environmental Assessment Agency (CEAA) is responsible for administering the federal environmental assessment process. In 1996–1997, the Canadian Environmental Assessment Agency managed a total of twelve public reviews, six under the Environmental Assessment and Review Process Guidelines Order, and six under the Canadian Environmental Assessment Act. In addition, during the same period federal departments and agencies conducted, in accordance with their environmental assessment obligations under the Act, a total of 8,759 screenings and 18 comprehensive studies.

Article 2(1)(f)

The first demonstration of an international trade between Canada and the United States for nitrogen oxides under an open-market emission reduction trading system occurred under the Pilot Emission Reduction Trading Project (PERT). This is an industry-led initiative to reduce smog in the Windsor-Quebec corridor and to develop principles and program elements for creating, recognizing and trading Emission Reduction Credits as a commodity in an open market.

Canada promoted the use of economic incentives for the efficient achievement of environmental goals through the federal budget. In 1996, the federal budget encouraged the creation of a level playing field between certain renewable and non-renewable energy investments by extending the use of flow through share financing to certain renewable energy expenditures.

In addition, both the National Round Table on the Environment and the Economy, which reports to the Prime Minister, and the Canadian Council of Ministers of the Environment made public commitments to promote economic instruments.

Article 2(3)

Bis(chloromethyl) ether (BCME) and chloromethyl methyl ether (CMME) have been determined to be toxic. Although neither substance is present in Canadian commerce, as a preventive measure both substances were added to the List of Toxic Substances (Schedule I) and to the List of Prohibited Substances (Schedule II) of CEPA. These substances were then added to the Schedule of the *Prohibition of Certain Toxic Substances Regulations*.

Article 3 Levels of Protection

Two major pieces of legislation were introduced in the House of Commons in 1996: the Canada Endangered Species Protection Act and the Canadian Environmental Protection Act.

The Endangered Species Protection Act provides for the early identification, protection, and recovery of species at risk, and applies to migratory birds, fish and marine mammals, species that range across international boundaries, and all species on federal lands. When a species is listed, the act provides prohibitions on activities causing damage or destruction to habitat that is critical to its survival. The Act also provides the federal authority to develop regulations, in consultation with the provinces, to protect those species that range across international boundaries. The Act establishes a mandatory recovery planning process to put in place measures addressing the identified threats that species face. Stiff penalties are provided for offenses.

The renewed Canadian Environmental Protection Act (CEPA) aims to better protect the health and environment of Canadians from the threat of pollution. It is a result of extensive consultations with Canadians. The renewed CEPA will: make pollution prevention the national goal; implement a fast track approach to evaluating and controlling toxic substances; ensure the most dangerous substances will not be released into the environment in any measurable quantity, or be phased out; improve enforcement of existing and new regulations; encourage greater citizen participation; and allow for more cooperation and partnership with other governments and Aboriginal Peoples.

On the regulatory side, regulations were either proposed or promulgated during 1996 whose objectives are:

- providing Canadian PCB owners with the opportunity to export their PCB wastes for treatment and destruction to the United States while ensuring that these wastes are managed in an environmentally sound manner;
- limiting the concentration of sulfur in diesel fuel, which will result in reduced emissions and environmental and human health effects from the combustion of diesel fuel;
- putting into one set of regulations all of the toxic substances for which it has been determined that their manufacture, use, process, offer for sale, sale and importation in Canada should be totally banned for reasons of environmental and health protection;
- amending the Pulp and Paper Effluent Regulations Schedule V to identify provincial representatives for the provinces of Saskatchewan and Alberta, as a result of administrative agreements being signed for the enforcement of the regulations;
- requiring owners of federally and privately owned storage tanks to register storage tank systems containing petroleum or allied petroleum products, to Environment Canada. The resulting inventory will enable federal departments to more effectively implement and administer sound storage tank management programs;



- extend the period of exemption for certain classes of racing vehicles for the use of leaded gasoline; and
- amending the New Substances Notification Regulations to adopt a preventive approach by providing for health and environmental assessment of biotechnology products. The amendments will provide a safety net for those products not regulated under other acts of Parliament.

In addition, a *Memorandum of Understanding (MOU) Respecting the Import of Chloranil and Chloranil-derived Substances (CDS)* was signed between the Department of the Environment and Canadian companies which import chloranil or dyes and pigments derived from chloranil into Canada.

In Alberta, a new Water Act was passed by the Alberta Legislature, and is scheduled for proclamation and filing in 1997. The act focuses on managing and protecting Alberta's water and streamlining administrative processes. The legislation: protects existing licenses; protects existing traditional agricultural uses of water; recognizes the importance of household uses of water; requires that a provincial water management framework be developed; requires that a strategy for protecting the aquatic environment be developed; streamlines the licensing and approval process; provides the ability to transfer water licenses; and provides firm but fair enforcement measures.

Article 4

Publication

Environment Canada publishes all of its laws, regulations, procedures and administrative rulings.

The Canada Endangered Species Protection Act was tabled on 31 October 1996 and the Canadian Environmental Protection Act was tabled on 10 December 1996.

The following regulatory initiatives were published in 1996:

- The *Prohibition of Certain Toxic Substances Regulations* under the Canadian Environmental Protection Act (CEPA), published in *Canada Gazette Part II* in May 1996, and amendments to the *Pulp and Paper Effluent Regulations* under the Fisheries Act in June 1996.
- Amendments to the *Gasoline Regulations* (December), *PCB Waste Export Regulations* (October), and *New Substances Notification Regulations* (dealing with biotechnology products) (August).
- The *Registration of Storage Tank Systems for Petroleum Products and Allied Petroleum Products on Federal Lands Regulations* (October) and the *Diesel Fuel Regulations* (September) were new proposals published in *Canada Gazette Part I*.
- *Technical Guidelines for Above Ground Storage Tank Systems Containing Petroleum Products* (August).

Article 5 | **Government Enforcement Action**

(See Annex: North American Report on Environmental Enforcement)

Article 6 | **Private Access to Remedies**

In Canada, interested persons may present to a competent authority a request to investigate alleged violations of environmental laws and regulations. For example, the Canadian Environmental Protection Act provides specific statutory authority for a person to apply to the Minister of the Environment for an investigation of any alleged environmental offense under that Act. As well, persons with a recognized legal interest in a particular matter have access to administrative, quasi-judicial and judicial proceedings for the enforcement of Canada's environmental laws and regulations. In this regard, the Canadian Environmental Protection Act provides the statutory authority to sue for damages, seek injunctions and to request the review of administrative decisions or proposed regulations. These statutory provisions and others ensure that Canada fully satisfies its obligations under Article 6 of the NAAEC. Canada is continuing and building on its commitment to private access to remedies in Bill C-74, the renewed Canadian Environmental Protection Act, 1997.

Article 7 | **Procedural Guarantees**

Canada has administrative, quasi-judicial and judicial proceedings available for the enforcement of environmental laws and regulations. Persons are given an opportunity, consistent with the rules of procedural fairness and natural justice, to make representations to support or defend their respective positions and to present information or evidence. Decisions are provided in writing, made available without undue delay and are based on information or evidence in respect of which the parties were offered the opportunity to be heard. In accordance with its laws, Canada provides parties to such proceedings, as appropriate, with the right to seek review and, where warranted, correction of final decisions by an impartial and independent tribunals. One example of fair, open and equitable proceedings at the administrative level is the Board of Review process available under the Canadian Environmental Protection Act.

Mexico

Country Reports on Implementation of the Commitments Derived from the NAAEC

The following report was submitted to the CEC Secretariat by the Secretariat of Environment, Natural Resources and Fisheries (Semarnap) in accordance with NAAEC.

Article 2

General Commitments

Article 2(1)(a)

The 1995–1996 Report on the General Situation Regarding Ecological Balance and Environmental Protection is being prepared in collaboration with the *Instituto Nacional de Estadística, Geografía e Informática* [National Statistics, Geography, and Computing Institute]

Article 2(1)(b)

The 1995–2000 Program to Improve the Air Quality in the Valley of Mexico was drafted. This program includes the participation of the Department of the Federal District, the Government of the State of Mexico, the Health Department and Semarnap. The objectives are health protection and the elimination of air pollution.

A study was begun, with the objective of implementing the *Centro Nacional de Emergencias Ambientales* [National Environmental Emergency Center]; it will operate 24 hours a day all year round, will run on Lada 800, and will guide the responsible authorities and the public in general as regards the activities that are necessary to control emergencies and avoid damages among the population and to the environment. The Center is expected to start operating in late 1996.

With respect to national environmental emergencies and contingencies, 300 reports on environmental risks issued by the *Instituto Nacional de Ecología* (INE) [National Ecology Institute] were followed up, in order to verify compliance with the recommendations made. Also, the *Procuraduría Federal de Protección al Ambiente* (Profepa) [Federal Attorney General's Office for Environmental Protection] received reports on a total of 466 emergencies and contingencies.

As regards information relative to recycling companies and controlled containment of hazardous waste, at this time both the handling capacity and the type of the waste that can be treated and contained at a national level have been identified. The implementation of the *Sistema de Empresas de Riesgo Ambiental* (Siera) [Environmental Risk Company System] is in progress. This system contains general information on substance handling and hazardous waste per company, as well as on the response to environmental emergencies in a georeferenced manner at a national level.

Article 2(1)(c)

With respect to primary education, the *Secretaría de Educación Pública* (SEP) [Education Department] and *Secretaría de Medio Ambiente, Recursos Naturales y Pesca* (Semarnap) [Secretariat of Environment, Natural Resources and Fisheries] Coordination Guidelines signed on 5 July 1995 specify the actions that are necessary to incorporate an environmental perspective to the *Sistema Educativo Nacional* (SEN) [National Educational System]. The related actions and activities are the following: the establishment of the Evaluation and Monitoring Committee that carried out an initial diagnosis of the activities conducted jointly by both institutions, through federal delegations, decentralized organizations, and various sections, in the case of Semarnap, and through all SEP bodies.

The environment and sustainability educational package for secondary school teachers is being prepared. It consists of a guide and an anthology, as well as video and audio material. They are to be included in the upcoming promotion of the SEP's *Programa de Actualización Permanente* [Continuing Skills Upgrading Program], starting in January 1997. The *Dirección General de Programas Complementarios de la Subsecretaría de Servicios Educativos para el D.F.* [Complementary Programs Section of the Federal District Office for Educational Services] attended to the concerns of 152 environmental education teachers who participated in the School Crusade for the Preservation and Protection for the Environment. The Crusade was carried out during the 1995–1996 academic year at 4,588 primary education schools in the Federal District. The 1996–1997 Tools and Basic Environmental Concepts conference cycle aimed at primary education teachers was delivered in conjunction with the *Centro de Educación Ambiental para la Comunidad Escolar* [Center for Environmental Education for the School Community].

The *Instituto Tecnológico de Oaxaca* [Oaxaca Technology Institute], the *Instituto Estatal de Educación Pública de Oaxaca* [Oaxaca State Public Education Institute] and the Semarnap federal delegation in Oaxaca are offering a Diploma in Environmental Education, aimed at increasing the availability of environmental education and teacher training.

The official participation of Semarnap in the boards of directors of SEP-Conacyt [National Science and Technology Council] institutions that conduct research in our particular field has been normalized, particularly at the *Colegio de la Frontera Sur* [College of the Southern Border], the *Instituto de Ecología de Jalapa* [Jalapa Ecology Institute], CIAD [Food and Development Research Center], Cibnor [North Western Biological Research Center], and CICESE [Center for Scientific Research, Technological Development, and Higher Education].

Article 2(1)(d)

During the past year, several Semarnap Internet sites have been published, all of which are being integrated into a unified vehicle to provide information about the sector and the Secretariat.

The first version of the *Sistema de Indicadores Ambientales* (Sidia) [Environmental Indicators System] has been built. This system, which facilitates projections with real data, has been incorporated as an additional element to the indicator debate. Sidia is based on the PSR (pressure-state-response) model proposed by the OECD and was designed to provide information according to the OECD's 13 basic subjects.



The state-of-the-art *Red Informática Nacional Privada de Telecomunicaciones* [National Private Telecommunications Information Network] will be started. The network will allow for a more efficient interaction between the various jurisdictions of this sector as regards decision making.

Article 2(1)(e)

As regards environmental impact, more than 674 inspection and verification visits were conducted at a national level between September 1995 and December 1996. As a result, 24 [facilities] were closed, irregularities were detected in 180 cases, and 470 [industries] complied with environmental regulations.

Article 2(3)

In order to track efficiently the cross-border movement of waste and hazardous materials, a tracking system called Haztracks was brought into effect at the six northern ports of entry.

During the past year, 66 markedly polluting industries were identified. In 38 cases, irregularities warranted the application of sanctions; in the remaining 28 cases, no irregularities were found. The number of companies identified during that time decreased by 55 percent compared to the previous year.

Article 3

Levels of Protection

The establishment of a body of environmental information is being sought. In order to develop it, a system has been established by combining the various information and production variables of the INE. Among the available programs, the *Programa de Registro de Emisiones y Transferencia de Contaminantes* (RETC) [Emissions and Pollutant Transfer Registration Program] will provide full information on the release of pollutants through a multimedia registration system. The coordination group is designing the mechanisms to bring it into effect.

A second extension for the 1997 Mexican Environmental Program is currently in the process of formalization. The extension, which was approved by the World Bank on the basis of the Plan of Action, allows the spending of an estimated credit balance of US \$3.1 million. A donation in the amount of \$400,000 was authorized for the preparations.

The development of the *Subsecretaría de Recursos Naturales* [Natural Resources Office] forestry project was completed. A donation of \$400,000 was authorized for preoperative actions.

As regards the revision of technical documents relative to the aquaculture development project in Mexico, work was restarted in conjunction with the World Bank under a new administrative structure that includes the participation of all key Semarnap areas.

A donation of \$410,000 was obtained through the World Bank Institutional Development Fund (IDF), to strengthen the areas of planning and international affairs.

Projects carried out in conjunction with the UNEP were revised. Also reviewed was the possibility of new projects to be implemented with local, Agenda 21, GEF and other resources. The

areas identified to date are biodiversity, international waters, climate change, decentralization and clean production (standardization and certification).

Article 4

Publication

Article 4(1)

The 1995–2000 *Programa de Áreas Naturales Protegidas de México* [Protected Natural Areas of Mexico Program] was published and implemented. This program, which was established as the starting point for an organized collective initiative in favour of conservation, envisions 10 important objectives with specific actions and projects; it incorporates new elements for regional development through sustainability, resorting to consensus, consultation, and negotiation; it also includes novel financing programs that involve the participation of private initiatives.

The Border XXI Program represents an innovative bilateral effort that brings together the various federal bodies responsible for the border area environment in Mexico and the United States. The purpose is to collaborate in the common objective of sustainable development through the protection of human health and the environment, and through the adequate management of natural resources.

Within the framework of the Border XXI Program, agreements have been reached with state and municipal governments, as well as with various NGOs and organizations rooted in civil society in general, to carry out decentralization activities in the northern strip of the country; the issues addressed are water, air, hazardous waste, contamination prevention, emergency response, information systems, and environmental and natural resources law enforcement.

During the past year, four Regional Advisory Councils were established to guarantee the broadest possible participation of social groups in the development of environmental management strategies, policies, and instruments, as well as in forums aimed at discussing, negotiating and agreeing on solutions for the diversity of environmental problems affecting the country. In doing so, a balanced and broad representation of all groups and sectors was sought.

Eight *Normas Oficiales Mexicanas* (NOM) [Mexican Official Standards] were issued, and two standard projects were published. The new standards cover: installation and testing methods for fuel fumes recovery systems at service stations and self-serve facilities (NOM-092 and 093-ECOL-1995); separation, packaging, storage, collection, transport, treatment and final disposal of biological and infectious hazardous waste generated by health facilities, which is estimated at 800 tonnes/day (NOM-087 ECOL-1995); mobile source emissions (NOM-076-ECOL-1995, NOM-077-ECOL-95, and NOM-EM-102-ECOL-1995); fixed source emissions (NOM-075-ECOL-1995 and NOM-097-ECOL-1995). Also, the projects for standards NOM-045-ECOL-1995 and NOM-001-ECOL-1996 were published. These would regulate vehicle exhaust emissions and would establish the maximum limits for discharges of sewage into national waters and property.

Issuance of these standards brings the number of current Mexican environmental norms to 87.



Article 4(1)(2)(a)(b)

On 13 December 1996, the *Reforma a la Ley General de Equilibrio Ecológico y Protección al Ambiente* [Amendment to the Ecological Balance and Environmental Protection Act] was published. The general objectives are to promote the process of decentralization in environmental matters, to broaden the right of society to participate in environmental management, to reduce the discretion of the authorities, to incorporate economic instruments and devices for voluntary compliance with the law, and to strengthen and develop environmental policy instruments.

During the past winter, 14,010 vehicles were stopped for inspection, out of which 9,069 contravened the regulations.

Article 5

Government Enforcement Action

Article 5(1)

The 1995–2000 Environmental Program is intended to monitor and encourage strict compliance with environmental legislation in the following areas: forestry, industry, fisheries, wildlife, protected natural areas and the Federal Land and Sea Zone, as well as ecological regulations and environmental impact of activities and projects. The Program is also aimed at preventing the deterioration of ecosystems and environmental damage by reaching a consensus regarding preventive measures, through voluntary environmental audits, by correcting and reversing the environmental damage caused by accidents or uncontrolled events, by decentralizing verification procedures through state and regional inspection and monitoring infrastructures, and through permanent action and surveillance to prevent corruption.

Following the administrative updating of the Monarch Butterfly Program, and in order to inspect and monitor natural resources, 183 spot checks, 35 inspection and verification procedures and 25 technical audits were conducted. These actions resulted in 40 reports, 21 administrative records, seven administrative resolutions, 90 recommendations, 23 notifications, as well as seven precautionary equipment seizures and 12 precautionary product seizures; 19 cases were referred to other authorities, 10 offenders appeared before the *Ministerio Público* [Justice Department], and two development permits were temporarily suspended.

Article 5(1)(a)

Also initiated was the process aimed at updating the skills of the Prosecutor's Office technical personnel at state delegations who are in charge of conducting environmental inspections and verifications, and of issuing resolutions.

Article 5(1)(b)

As regards the encouragement and monitoring of compliance with environmental regulations, Profepa published last August a Web page containing information on the *Procuraduría* [Prosecutor's Office] and on environmental legislation, as well as on environmental audits, natural resources law enforcement, industrial verification, citizen submissions, the program,

and training activities carried out by Profepa. Between September 1995 and August 1996, 118 inspection visits were conducted; as a result, 98 companies were found liable for slight irregularities and 20 had no irregularities at all.

Article 5(1)(f)(j)

During the past 16 months (September 1995 to December 1996) 13,965 inspection visits were carried out. To date, a total of 55,200 visits have been conducted. The following are the results of the inspections:

- 45 temporary full closures,
- 175 temporary partial closures,
- 9,019 companies with slight irregularities, and
- 4,064 companies without irregularities.

With the objectives of conducting detailed evaluations, closely monitoring compliance with environmental legislation and informing the public, a procedure has been developed to rate the level of compliance of each source of pollution. This procedure, which is currently being tested, was brought into effect in late 1996 and will become part of the *Sistema de Seguimiento de la Aplicación de la Normatividad Ambiental* (SSANA) [Environmental Legislation Application Monitoring System].

Article 5(1)(k)

In order to address issues related to marine and water resources, as well as to the Federal Land and Sea Zone, seven basic programs were put into effect that reflect the priorities in this area. The programs included 5,132 verification procedures, which resulted in the seizure of 1,213 tonnes of fishery products and 356,160 marine product items. Also seized were 3,775 pieces of fishing equipment and nets. Particularly noteworthy is the seizure of 362 tonnes of fishery products during an operation that involved three vessels, including a foreign ship, and resulted in fines in the amount of 2,144,000 pesos.

(See Annex: North American Report on Environmental Enforcement)

Article 6

Private Access to Remedies

On 2 August 1996, the Commission for Environmental Cooperation (CEC) unanimously instructed the Secretariat to prepare a factual record about the petition submitted by three Mexican NGOs as regards the effective application of environmental legislation by the Mexican authorities in the port terminal project at Playa Paraíso, Cozumel, Quintana Roo.

Profepa, through the *Sistema Nacional para la Atención de la Denuncia Popular* [national system to receive citizen submissions], received and processed 5,552 submissions, out of which 3,330 were concluded. The distribution of the total received per resource is the following: air: 1,487; water: 388; soil: 787; fauna: 914; and flora: 2,068. Eight submissions were related to other issues.

united states

Country Reports on Implementation of the Commitments Derived from the NAAEC

*The following report was submitted to the CEC Secretariat
by the US Environmental Protection Agency (EPA)
in accordance with NAAEC.*

Article 2 General Commitments

Article 2(1)(e)

The Sustainable Fisheries Act, which amends and reauthorizes the Magnuson Fishery Management and Conservation Act of 1976 (PL 94-265) was signed into law October 1996. The amendments contain new conservation and management measures to prevent overfishing and to ensure that already depressed stocks are rebuilt to levels that produce maximum sustainable yield. The Act includes a new national standard to minimize bycatch or the unintentional capture of non-target species. The Act also highlights the importance of habitat to fish stocks by requiring that fishery management plans describe and identify essential fish habitats, including adverse impacts on and actions to ensure enhancement of such habitats.

Article 2(1)(f)

The Sustainable Fisheries Act (above in (e)), specifically prohibits implementation of new fishery management systems that employ individual quota shares, an economic instrument called individual fishing quotas or IFQs.

Article 3 Levels of Protection

HABITAT In 1996, the United States continued development of habitat-based conservation planning (Habitat Conservation Plans, or HCPs). Habitat Conservation Plans bring an ecosystem perspective to the protection of individual species, thus increasing the chances of success with the primary target species, and providing protection to the entire suite of species associated with a particular habitat type, including species that are not legally protected. The plans often involve multiple landowners and local governments, and require significant up-front investment in scientific information. However, they can provide increased certainty regarding the kinds of activities that can be undertaken in an area, consistent with viability of the protected species. The US Fish and Wildlife Service issued, as of 30 September 1996, 197 HCP permits, covering hundreds of species and more than 1.8 million hectares. In addition, the Service is currently negotiating 200 additional HCPs that cover approximately 5.8 million hectares. The total acreage identified in these HCPs includes lands that will be preserved, as well as lands that will be actively managed or developed.

ENDANGERED SPECIES The United States listed 91 new species in 1996 under the Endangered Species Act, delisted one species, and reclassified three species from endangered to threatened status. The United States also continued implementation of several procedural innovations designed to provide greater flexibility and certainty to the regulated community in dealing with the Endangered Species Act. The “No Surprises” policy assures non-Federal landowners participating in functioning Habitat Conservation Planning efforts that no additional land restrictions or financial compensation will be required for species should unforeseen or extraordinary circumstances occur. The “Safe Harbor” policy authorizes non-intentional taking of federally listed species that establish themselves on a property as a result of the landowner’s affirmative conservation efforts. These policies are strong incentives for the private sector to work with FWS in recovery of listed species.

WATER QUALITY The Safe Drinking Water Act (SDWA) Amendments of 1996 are among the most significant legislative changes to be enacted and signed into law in the environmental area during the last several years. Some of the important amendments are the following: establishment of drinking water state revolving funds to provide money to communities to improve their drinking water facilities; new authority requiring that cost-benefit analysis of each new drinking water standard promulgated by EPA not be used to weaken existing drinking water standards or to set standards for disinfection byproduct; and a requirement for EPA to promulgate regulations for disinfectants and disinfection byproducts, an enhanced surface water treatment rule (including standards for cryptosporidium), a radon standard, and a revised arsenic standard by 2001 reflecting additional research on cancer risks from exposure to low levels of arsenic.

Under the Amendments, there are also requirements for community water systems to monitor for up to 30 unregulated contaminants in order to collect information for future standards and for each system to issue an annual consumer confidence report to its customers, including information about contaminants in their water and health effects information regarding contaminants found above national drinking water standards; and authorization for increased administrative penalties that may be assessed in enforcement actions for violation of the SDWA. In addition, states must identify areas that contribute pollution to sources of drinking water and assess potential pollution threats. The amendments also address ways to improve delivery of drinking water (e.g., states must have authority to prohibit new systems that do not have the capacity to meet health standards, and must certify system operators).

In a separate but related action, the Drinking Water Information Collection Rule (ICR) was promulgated under the SDWA, requiring the largest public water systems in the United States to monitor for microbials (including cryptosporidium) and provide extensive information on treatment technologies. These data will be used initially to determine if current drinking water disinfection and filtration regulations need to be strengthened. Later, these data, together with the results of a coordinated research effort, will be used to determine appropriate levels of control for disinfectants and disinfection byproducts. This future disinfection cluster rule is EPA’s highest drinking water regulatory priority.

Also, on 31 October 1996, the EPA Administrator signed a final Clean Water Act (CWA) rule establishing effluent limitations guidelines, new source performance standards, and pretreatment



standards for the coastal oil and gas industry. The rule requires zero discharge of produced water and drilling wastes for the entire coastal subcategory, except in Cook Inlet, Alaska, where the rule requires limits equal to those already required of offshore oil and gas operations.

PESTICIDES Another significant piece of environmental legislation, the Food Quality Protection Act of 1996 (FQPA), was signed into law in 1996 to provide a comprehensive and protective regulatory scheme for pesticides. The new law amends both the Federal Food, Drug and Cosmetic Act (FFDCA) and the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). Among the key provisions of FQPA linked to ensuring a high level of environmental protection is the requirement that pesticide tolerances must be determined to be safe for children, including an additional safety standard factor of up to ten-fold, if necessary, to account for uncertainty in data relating to children. Other key provisions include the establishment of a strong, health-based safety standard (reasonable certainty of no harm) for pesticide residues in all foods; the requirement that all existing tolerances be reviewed every 10 years to ensure they meet the new health-based safety standard; provisions relating to endocrine disruptors, such as authority to require pesticide manufacturers to provide data on potential endocrine effects; enhanced enforcement authority enabling the Food and Drug Administration to impose civil penalties for tolerance violations; and expedited review of safer pesticides to help them reach the market sooner and replace older and potentially more risky chemicals.

HEAVY METALS Deteriorated (chipped, peeling, etc.) lead-based paint is a major source of lead exposure among children in the United States. Lead exposure in children can result in learning disabilities, growth, hearing and visual impairment, and other damage to the brain and nervous system. US housing built before 1978 may contain lead-based paint because use of lead-based paint was common in the United States prior to 1978 when use of lead in residential paint was banned by law. A final rule developed jointly by EPA and the US Department of Housing and Urban Development was signed by the EPA Administrator on 19 February 1996, to require measures relating to disclosure of the presence of lead-based paint and potential associated health hazards to buyers or renters of housing constructed before 1978. The three main components of the rule are requirements that those seeking to sell or lease housing constructed pre-1978 housing: (1) disclose to buyers and renters the presence of known lead-based paint and lead-based paint hazards in housing; (2) provide buyers and renters with any available records and reports pertaining to the presence of lead-based paint and lead-based paint hazards in the housing; and (3) provide buyers and renters with a federally-approved lead hazard information pamphlet. The rule was developed under section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992. The rule does not require that housing be inspected for lead-based paint or lead hazards or that abatement of lead hazards be conducted. However, it does require sellers to provide buyers with a 10-day opportunity to conduct a risk assessment or inspection of the housing for the presence of lead-based paint or lead-based paint hazards.

TOXIC SUBSTANCES EPA published a final rule on 18 March 1996, which allows persons who have facilities in the United States that are approved pursuant to the Toxic Substances Control Act (TSCA) for storage and disposal of polychlorinated biphenyls (PCBs), to import PCB wastes for disposal in the United States. This rule is significant because, since 1980, EPA's PCB rules

have banned import into the United States and export from the United States of PCB wastes at concentrations of 50 parts per million (ppm) or greater for disposal. The final rule concludes that these PCB imports will be regulated as stringently as domestically-generated PCB wastes, and will not present an unreasonable risk of injury in the United States. The final rule does not address the export from the United States of PCB wastes of 50 ppm or greater, which is still banned.

CONTINGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW The EPA Administrator signed a risk management plan (RMP) rule and related guidance on 24 May 1996, that will require approximately 66,000 stationary sources that hold large quantities of 140 volatile acutely toxic and flammable chemicals to assess their potential for catastrophic, accidental air releases that could affect the public; record their release history; undertake programs to prevent and respond to chemical accidents; and disclose this information in publicly-accessible, electronic RMPs by the summer of 1999. This rule was promulgated under the authority of section 112(r) of the Clean Air Act (CAA), which addresses prevention of catastrophic, accidental chemical air releases like the Bhopal, India, release of methyl isocyanide, and lesser, more common accidents. The rule will affect a wide range of regulated entities, such as: chemical plants and refineries that use several chemicals; manufacturers who use acids like nitric, hydrofluoric, and hydrochloric; users and distributors of propane; fertilizer retailers with ammonia tanks; ammonia-based refrigeration systems; and water treatment facilities.

AIR QUALITY A final rule issued in June 1996 establishes performance standards and certification procedures for fuel additives, commonly referred to as detergents, to prevent accumulation of deposits in engines or fuel supply systems. This regulation is required by section 211(l) of the CAA. The final rule requires detergent additives to be registered and certified to meet certain performance standards for control of deposits in port fuel injectors and intake valves. It provides various options under which an additive can be certified, relating to the type and geographic distribution of the gasoline in which it will be used. It also establishes limited exemptions for some types of fuel, such as racing and aviation fuels.

In a separate regulatory action, EPA published final regulations under which it will administer CCA Part V operating permits programs for use in all situations in which it is necessary for EPA to assume permitting authority responsibility. For example, the CAA requires that EPA establish federal programs for all states that did not receive approval of their state operating permits program. Also covered are those situations in which a state fails to adequately implement its approved program, or fails to respond to EPA's veto of a state-issued permit. It will also apply to areas over which states have no jurisdiction such as the outer continental shelf and Native American territories.

HAZARDOUS WASTE On 26 March 1996, President Clinton signed into law the Land Disposal Program Flexibility Act. The legislation provides greater flexibility under the Resource Conservation and Recovery Act (RCRA) by allowing for land disposal of certain wastes that no longer exhibit a characteristic of a hazardous waste at the point of discharge, without the need to pre-treat such wastes to meet strict RCRA land-disposal characteristics. Specifically, the legislation states that such wastes would not be prohibited from land disposal if they are managed under: (1) a treatment system whose discharge is regulated under the Clean Water Act (CWA),



(2) a CWA-equivalent treatment system, or (3) a Class I non-hazardous waste injection well regulated under the SDWA. The legislation is focused on small changes to RCRA that would remove requirements for low risk wastes and is the result of an initiative announced as part of the President's plan for Reinventing Environmental Legislation. It had the support of the Administration on the condition that it was not amended by Congress to expand its limited scope.

The following month, on 12 April 1996, a final rule was published in the Federal Register implementing in the United States a Council Decision of the Organization for Economic Cooperation and Development (OECD), concerning the control of the transboundary movement of hazardous wastes destined for recovery (not for disposal). The rule identifies the wastes, under RCRA, that are subject to a graduated system of controls (green, amber, red) when they move across national borders between OECD countries. These rules apply only to US importers and exporters of RCRA hazardous wastes destined for recovery in OECD countries (except for Canada and Mexico—bilateral agreements continue to govern exports of hazardous wastes from the United States to those two countries).

GENERAL On 29 March 1996 the President also signed into law the Small Business Regulatory Enforcement Fairness Act (SBREFA). The statute calls on federal agencies to establish programs and policies to assist small entities in their efforts to comply with regulatory requirements, and generally to reduce or waive penalties levied on first-time violators who are small businesses. It also establishes mechanisms for overseeing enforcement practices with respect to small business entities, and Subtitle E establishes an opportunity for Congress to review and potentially disapprove agency regulations promulgated after 29 March 1996 (or 1 March 1996 for major rules). Thus, although SBREFA is procedural in nature, it has significant substantive implications for US environmental regulatory and enforcement programs.

Article 5

Government Enforcement Action

(See Annex: North American Report on Environmental Enforcement)

Article 6

Private Access to Remedies

A final regulation signed by the EPA Administrator explicitly requires US states that administer, or seek to administer, an authorized National Pollutant Discharge Elimination System (NPDES) program, to provide an opportunity for judicial review in state court of final permit decisions that is sufficient to provide for, encourage and assist public participation in the permitting process. States have one year from the date the rule was published to come into compliance with it, unless state legislation is required in order for the state to come into compliance, in which case they are allowed two years. The rule specifies that a state will meet this standard if it allows opportunity for judicial review that is the same as that available to obtain judicial review in federal court of federally issued NPDES permits. It also specifies that a state will not meet this standard if it narrowly restricts the class of persons who may challenge permit decisions (for example, if persons must demonstrate injury to a pecuniary interest in order to obtain judicial review).

3

1996 financial
Review



1996 budget and expenditures

For 1996, the Council approved a US \$10,255,000 budget, as represented in Figure 1.

Figure 1:
1996 BUDGET

- Direct Program Costs
- Common Operations
- Departmental Operations
- Contingency Fund

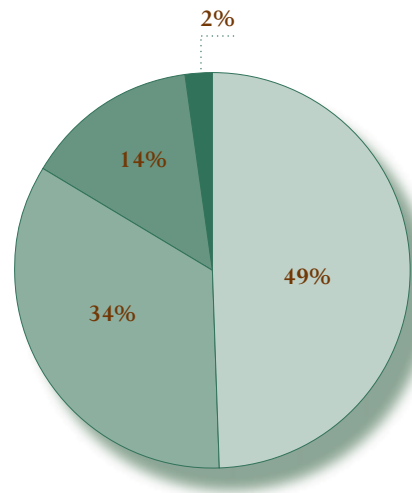
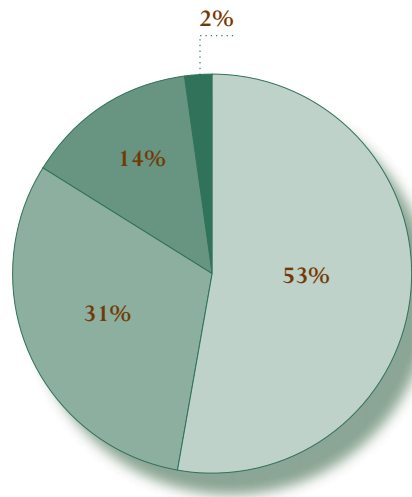


Figure 2:
1996 EXPENDITURE DISTRIBUTION

- Direct Program Costs
- Common Operations
- Departmental Operations
- Contingency Fund



Auditors' Report

Samson Bélair
Deloitte &
Touche



To the Council of the Commission
for Environmental Cooperation

We have audited the balance sheet of the Commission for Environmental Cooperation as at December 31, 1996 and the statements of revenue and expenditures and operating surplus, capital surplus and of changes in financial position for the year then ended. These financial statements are the responsibility of the Commission's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, these financial statements present fairly, in all material respects, the financial position of the Commission as at December 31, 1996 and the results of its operations and the changes in its financial position for the year then ended in accordance with generally accepted accounting principles in Canada.

*Samson Bélair
Deloitte + Touche*

Chartered Accountants

March 21, 1997

Balance Sheet

As at December 31, 1996
(in Canadian dollars)

	1996	1995
	\$	\$
A S S E T S		
Current assets		
Cash and term deposits	5,077,953	5,357,610
Receivables (Note 3)	1,094,503	669,230
Contributions receivable (Note 4)	2,109,926	954,800
Prepaid expenses	23,031	21,979
	<u>8,305,413</u>	<u>7,003,619</u>
Capital assets (Note 5)	722,420	686,212
	<u>9,027,833</u>	<u>7,689,831</u>
L I A B I L I T I E S		
Current liabilities		
Accounts payable and accrued liabilities	932,231	1,096,583
Contributions received in advance (Note 6)	1,324,104	—
Contributions from 1995 refundable	340,826	—
	<u>2,597,161</u>	<u>1,096,583</u>
Deferred revenue	1,079,173	625,173
Deferred contributions (Note 7)	2,800,920	3,281,863
NORTH AMERICAN FUND FOR ENVIRONMENTAL COOPERATION	1,598,240	2,000,000
OPERATING SURPLUS	229,919	—
CAPITAL SURPLUS	722,420	686,212
	<u>9,027,833</u>	<u>7,689,831</u>
Commitments (Note 8)		

Statement of Revenue, Expenditures and Operating Surplus

Year ended December 31, 1996
(in Canadian dollars)

	1996	1995
	\$	\$
R E V E N U E		
Contribution - Canada	4,125,000	4,125,000
Contribution - Mexico	4,125,000	4,125,000
Contribution - United States	4,125,000	4,125,000
Contribution from 1994 transferred to 1995	—	1,246,371
Internally generated funds	786,097	784,989
Other revenue	240,328	85,798
	13,401,425	14,492,158
E X P E N D I T U R E S		
Expenses related to work program - Schedule	3,275,026	2,732,627
Expenses related to specific obligations - Schedule	499,658	—
Expenses related to the Council and public meetings - Schedule	404,503	290,319
Expenses related to the JPAC - Schedule	110,407	150,813
Expenses related to North American Fund for Environmental Cooperation support	167,907	—
Expenditures related to contingency fund	73,979	—
Salaries and fringe benefits	3,385,603	2,845,787
Relocation and orientation expenses	73,533	213,462
Travelling expenses	153,999	254,566
Training expenses	37,973	38,744
Temporary personnel	407,013	275,741
Office expenses	224,870	167,719
Publishing and Website	401,378	157,427
Telecommunications	189,616	170,661
Office maintenance and improvements	203,394	248,471
Rent	281,238	218,892
Professional fees	312,738	1,083,660
External relations	23,219	18,882
Translation and interpretation	107,225	36,887
Loss on foreign exchange	52,219	105,544
Contributions transferred to capital surplus	215,007	200,093
	10,600,505	9,210,295
EXCESS OF REVENUE OVER EXPENDITURES	2,800,920	5,281,863
Transferred to the North American Fund for Environmental Cooperation	—	(2,000,000)
Contributions transferred to the following year budget (Notes 2(b) and 7)	(2,800,920)	(3,281,863)
Contributions from 1995 transferred to 1996	3,281,863	—
Expenditures related to 1995 commitments - Schedule	(2,711,118)	—
Contributions refundable	(340,826)	—
OPERATING SURPLUS	229,919	—

Statement of Capital Surplus

Year ended December 31, 1996
(in Canadian dollars)

	1996	1995
	\$	\$
BALANCE, BEGINNING OF YEAR	686,212	672,845
Add:		
Contributions for the acquisition of capital assets		
- transferred from operations	215,007	200,093
- transferred from 1995 contributions	34,897	—
Deduct:		
Disposal of capital assets	—	(5,312)
Amortization of capital assets	(213,696)	(181,414)
BALANCE, END OF YEAR	722,420	686,212

Statement of North American Fund for Environmental Cooperation

Year ended December 31, 1996
(in Canadian dollars)

	1996	1995
	\$	\$
BALANCE, BEGINNING OF YEAR	2,000,000	—
Transfer from operations	—	2,000,000
Grants disbursed	(401,760)	—
BALANCE, END OF YEAR	1,598,240	2,000,000

Statement of Changes in Financial Position

Year ended December 31, 1996
(in Canadian dollars)

	1996	1995
	\$	\$
O P E R A T I N G A C T I V I T I E S		
Operating surplus	229,919	—
Items not affecting cash		
Contributions transferred to the following year budget	2,800,920	3,281,863
Contributions from prior year	(3,281,863)	(1,246,371)
	(251,024)	2,035,492
Changes in non-cash operating working capital items	(80,873)	(155,331)
	(331,897)	1,880,161
F I N A N C I N G A C T I V I T I E S		
Change in North American Fund for Environmental Cooperation	(401,760)	2,000,000
Contributions for the acquisition of capital assets	249,904	200,093
Change in deferred revenue	454,000	459,573
	302,144	2,659,666
I N V E S T I N G A C T I V I T I E S		
Acquisition of capital assets	(249,904)	(200,093)
Net cash inflow	(279,657)	4,339,734
Cash position, beginning of year	5,357,610	1,017,876
CASH POSITION, END OF YEAR	5,077,953	5,357,610

Notes to the Financial Statements

Year ended December 31, 1996

(in Canadian dollars)

I . N A T U R E O F A C T I V I T I E S

The Commission for Environmental Cooperation is an international organization that was created by the North American Agreement on Environmental Cooperation for the purpose of meeting NAFTA's environmental provisions. The Commission became operational in July 1994.

2 . S I G N I F I C A N T A C C O U N T I N G P O L I C I E S

A) FINANCIAL STATEMENT PRESENTATION

All transactions related to capital assets, including amortization, are presented in capital surplus. The operating results are included in operating surplus. Contributions for the purchase of capital assets which form part of the contributions from the Parties are charged to operations and transferred to capital surplus.

B) CONTRIBUTIONS

The Government of Canada, the Government of the United Mexican States and the Government of the United States of America (the Parties) contribute an equal share to the Commission's annual budget.

Funds contributed remain available for 12 months following the end of the financial year to discharge related obligations incurred during the year.

Any surplus funds in excess of 5% of the budget are credited to the Parties by an adjustment of the assessments for the subsequent financial year.

C) CAPITAL ASSETS

Capital assets are recorded at cost and are being amortized on a straight-line basis at the following annual rates:

Computer equipment	20%
Computer equipment and software—projects	30%
Computer software	30%
Furniture and fixtures	20%
Telephone system	30%
Equipment	30%
Leasehold improvements	12%

Notes to the Financial Statements

Year ended December 31, 1996

(in Canadian dollars)

D) FOREIGN CURRENCIES

Transactions conducted in foreign currencies are translated using the temporal method. Exchange gains and losses are included in the results for the period.

E) DEFERRED REVENUE

Deferred revenue represents leasehold inducements relating to office space. These inducements, which are amortized over the term of the lease, are offset against rental expenses.

3 . RECEIVABLES

A portion of these receivables (\$967,235) relates to QST and GST receivable. Given the international status of the Commission, special agreements must be signed between the Federal and Quebec governments and the Commission before the sales taxes paid on purchases are reimbursed. As at the auditors' report date, no agreement has been signed. Management is of the opinion that this amount will be received.

4 . CONTRIBUTIONS RECEIVABLE

	1996	1995
	\$	\$
Mexico	–	954,800
Canada	2,109,926	–
	2,109,926	954,800

5 . CAPITAL ASSETS

	1996		1995	
	Cost	Accumulated Amortization	Net Book Value	Net Book Value
	\$	\$	\$	\$
Computer equipment	358,654	115,124	243,530	265,965
Computer equipment and software-projects	100,972	15,146	85,826	–
Computer software	57,709	16,496	41,213	13,235
Furniture and fixtures	356,473	151,158	205,315	276,610
Telephone system	97,986	52,524	45,462	52,003
Equipment	123,823	79,835	43,988	78,399
Leasehold equipments	60,654	3,568	57,086	–
	1,156,271	433,851	722,420	686,212

Notes to the Financial Statements

Year ended December 31, 1996
(in Canadian dollars)

6 . C O N T R I B U T I O N R E C E I V E D I N A D V A N C E

	1996	1995
	\$	\$
United States	1,215,300	—
Mexico	108,804	—
	<u>1,324,104</u>	<u>—</u>

7 . D E F E R R E D C O N T R I B U T I O N S

For the financial year 1996, contributions available to discharge related obligations during 1997 amount to \$2,800,920 (1995: \$3,281,863). These contributions are presented as deferred contributions in the balance sheet.

8 . C O M M I T M E N T S

- A) The Commission leases premises under an operating lease which expires in August 2004. Total minimum payments required as well as minimum payments required in future years, are as follows:

	\$
1997	50,661
1998	303,550
1999	346,902
2000	390,254
2001	433,606
2002 and thereafter	1,460,966
	<u>2,985,939</u>

- B) The Commission has commitments of \$3,832,000 relating to 1996 environmental projects as at December 31, 1996.

9 . P R I O R Y E A R F I G U R E S

Certain of the prior year's comparative figures have been reclassified to conform to the current year's presentation.

Schedule

Expenses Related to the Work Program, Specific Obligations under North American Agreement, Council Meetings, Joint Public Advisory Committee (JPAC) Meetings and Prior Year Commitments

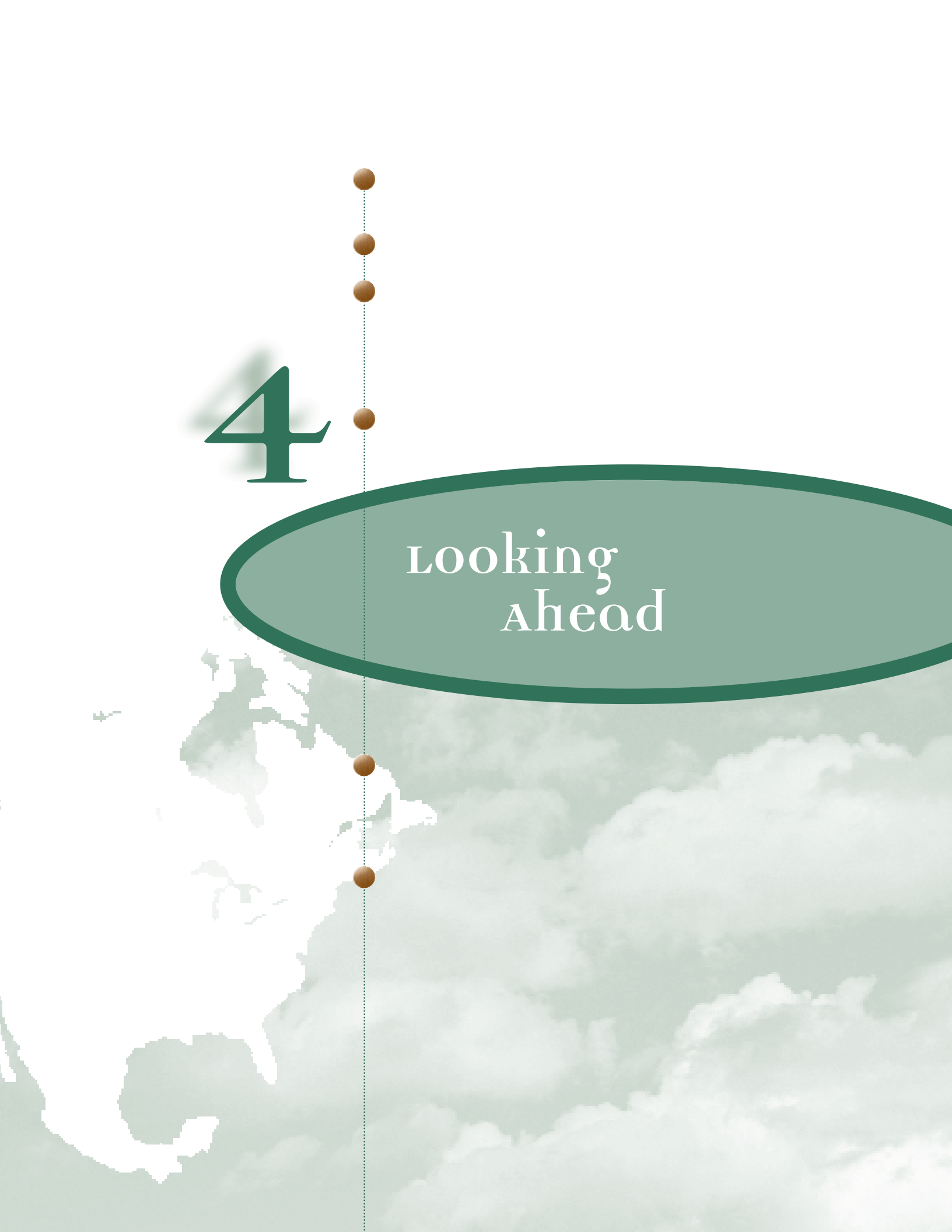
Year ended December 31, 1996
(in Canadian dollars)

	1996	1995
	\$	\$
Work program		
Professional fees	1,648,687	1,665,831
Travelling, accommodation and meeting expenses	976,944	653,627
Translation and interpretation	337,527	227,553
Office expenses	311,868	185,616
	<u>3,275,026</u>	<u>2,732,627</u>
Specific obligations under North American Agreement on Environmental Corporation		
Professional fees	299,899	—
Travelling, accommodation and meeting expenses	106,203	—
Translation and interpretation	82,468	—
Office expenses	11,088	—
	<u>499,658</u>	<u>—</u>
Council meetings		
Professional fees	27,870	9,273
Travelling, accommodation and meeting expenses	146,137	71,762
Translation and interpretation	124,770	140,827
Office expenses	105,726	68,457
	<u>404,503</u>	<u>290,319</u>
Joint Public Advisory Committee (JPAC) meetings		
Professional fees	2,825	32,343
Travelling, accommodation and meeting expenses	46,835	66,752
Translation and interpretation	30,289	47,086
Office expenses	30,458	4,632
	<u>110,407</u>	<u>150,813</u>
Expenditures related to prior year commitments		
Professional fees	2,439,361	—
Travelling, accommodation and meeting expenses	86,470	—
Publications and communications	74,084	—
Translation and interpretation	49,569	—
Office expenses	26,737	—
Contributions transferred to capital surplus	34,897	—
	<u>2,711,118</u>	<u>—</u>



4

Looking
Ahead





1997 Annual program and budget

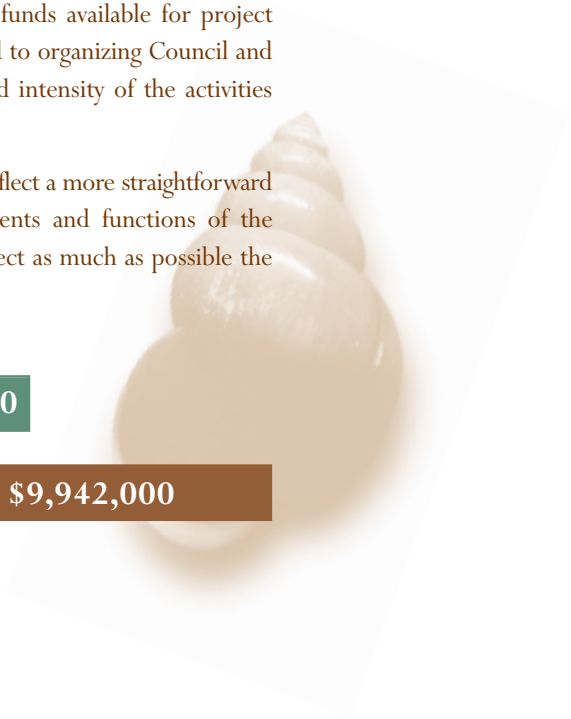
The CEC is building upon lessons learned and progress achieved in 1996 by moving ahead in 1997 with a work program that corresponds to the demonstrated strengths of regional cooperation and was approved by the Council. The 1997 annual program and budget takes into account the recommendations made by the Joint Public Advisory Committee (JPAC) and the general public as expressed through the public consultations held throughout 1996. In broad terms, the work program reflects an effort to ensure that all CEC activities complement existing efforts, both governmental and nongovernmental, in North America and internationally. In order to better focus the program, the number of projects has been reduced from 26 in 1996 to 17 for this year.

The experience of the last two years and an effort to use the resources more efficiently is reflected in the 1997 budget. This has allowed us to save close to US \$500,000, mainly from the Common Operations activities, through the streamlining of resources used for administration purposes. The main objective of this effort was to maximize the funds available for project implementation while taking into account that the functions related to organizing Council and JPAC meetings are growing along with their broader mandates and intensity of the activities planned for 1997.

The budget in 1997 is presented under a new format that strives to reflect a more straightforward and transparent allocation of resources to the different components and functions of the Secretariat's activities. The goal is to have the budget structure reflect as much as possible the real costs of implementing of the Program.

ANNUAL PROGRAM BUDGET TOTAL: US \$2,687,000

1997 BUDGET TOTAL: US \$9,942,000



Direct Program Costs

This item has been restructured to include direct costs for the implementation of projects such as salaries and professional fees, costs of project-related publications, specific obligations under the Agreement—such as the State of the North American Environment Report, expected to be published late 1997/early 1998—and the maintenance and continued support of the CEC Information Center.

Common Operations

All of the elements under this rubric support the Commission as a whole. Included are technical editing, external and temporary support, telecommunications, rent of our headquarters office in Montreal and our liaison office in Mexico City, relocation expenses for staff, professional development costs, and assets which consists of payments for ongoing equipment leases. It is important to note that a substantial proportion of the amounts listed under this category correspond to indirect program costs.

Departmental Operations

This budget element has also been restructured to reflect the realities of the Commission. The salaries included under this rubric are those of staff whose activities relate directly to Council, JPAC, executive management, administration and accounting, and public outreach. Also included are Council sessions, JPAC meetings and sessions, the *Eco Region* newsletter, CEC Internet homepage and a substantially reduced contingency fund. Typical costs to be found under these items are travel, rental of facilities and interpretation services.

NAFEC

This item will be used for grants of up to \$100,000 (CAN), for a discretionary fund for projects not exceeding \$10,000 (CAN), and has been restructured to include fund management costs.

Contingency Fund

A substantially reduced amount, as compared to 1996, has been set aside for unforeseen needs.

Annual program at-a-glance

Environmental Conservation

P97-01	Habitat and Species
--------	---------------------

97.01.01 **Cooperation in the Conservation of North American Birds** to develop a strategy and action plan for the conservation of birds in North America as well as to promote a North American Network of Important Bird Areas.

BUDGET: \$200,000

97.01.02 **North American Biodiversity Information Network** to improve access to information about species by promoting data compatibility and information exchange.

BUDGET: \$100,000

97.01.03 **Cooperation on the Protection of Marine and Coastal Area Ecosystems** to continue work in two pilot projects (the Southern California Bight and the Gulf of Maine) that will help implement the Global Program of Action for the Protection of the Marine Environment from Land-based Activities in North America.

BUDGET: \$255,000

97.01.04 **Cooperation for the Conservation of Monarch Butterflies** to promote the protection of Monarch butterfly sites.

BUDGET: \$100,000

Protecting Human Health and the Environment

P97-02	Reducing Risk
--------	---------------

97.02.01 **Sound Management of Chemicals** to limit use and emissions of dangerous substances in North America. Work continues on Regional Action Plans for PCBs, mercury, chlordane and DDT.

BUDGET: \$250,000

97.02.02 **North American Pollutant Release Inventory (NAPRI)** to continue publishing a series of reports on North American pollutant releases and transfers using the most current, publicly available data. The project aims to further cooperation on compatibility of methodologies and data.

BUDGET: \$105,000

97.02.03 **North American Air Monitoring and Modeling** to provide information required for policy planning, decision making and management related to shared airsheds and transboundary air pollutants.

BUDGET: \$150,000

97.02.04 **Transboundary Environmental Impact Assessment (TEIA)** to provide States with a cooperative framework to better enable them to address potential transboundary environmental problems.

BUDGET: \$100,000

P97-03 | Climate Change and Energy Efficiency

97.03.01 **North American Cooperation on GHG Emissions Trading** to evaluate economic instruments and a potential North American emissions trading system to reduce the emission of greenhouse gases.

BUDGET: \$100,000

P97-04 | Capacity Building

97.04.01 **Capacity Building in Environmental Management** to raise capacity levels for state environmental management in Guanajuato, Mexico; to enhance pollution prevention in small- and medium-sized enterprises; and to implement regional action plans under the CEC's Sound Management of Chemicals project.

BUDGET: \$382,000

Environment, Trade and Economy

P97-05 | Trade and the Environment

97.05.01 **NAFTA Environmental Effects** to complete a study of the intergovernmental institutions created or inspired by NAFTA and update the assessment methodology developed that, through an examination of specific sectors, will study the effects of NAFTA on the environment.

BUDGET: \$250,000

P97-06	Technology Cooperation
---------------	-------------------------------

97.06.01 **Technology Clearinghouse** to develop a database that will provide information on environmental technologies and services available in North America to help promote compliance with environmental laws and regulations while allowing companies to improve production efficiency and remain competitive.

BUDGET: \$125,000

Enforcement Cooperation and Law

P97-07	Enforcement Cooperation and Law
---------------	--

97.07.01 **Enforcement Cooperation Program** to continue to act as a forum, through the North American Working Group on Environmental Enforcement and Compliance, for sharing enforcement-related strategies and information, facilitate trilateral enforcement cooperation initiatives, and help monitor enforcement and compliance indicators.

BUDGET: \$320,000

97.07.02 **New Approaches for Improving Environmental Performance** to help raise the standard of environmental performance in North America in the public and private sectors by developing principles to guide a new generation of environmental regulatory and other management systems.

BUDGET: \$100,000

Information and Public Outreach

P97-08	North American Greenlane
---------------	---------------------------------

97.08.01 **North American Integrated System for Environmental Management** to compile physical, socioeconomic and ecological data which will be presented in the context of a series of maps of the ecological regions of North America to provide the public with information necessary to promote sustainable development and sound environmental management.

BUDGET: \$150,000

ANNUAL PROGRAM BUDGET TOTAL: US \$2,687,000

1997 Budget - general

DESCRIPTION	AMOUNT (US\$)
DIRECT PROGRAM COSTS:	5,212,000
1) Direct Project Costs	2,687,000
2) Salaries	1,570,000
3) Specific Obligations under NAAEC	420,000
4) Publications and Reports	375,000
5) CEC Resource Center	100,000
6) Common Program Related Expenditures	60,000
COMMON OPERATIONS:*	724,000
1) Technical Editing	210,000
2) External and Temporary Support	179,000
3) Telecommunications	110,000
4) Assets	65,000
5) Rent	60,000
6) Relocation & Orientation	40,000
7) Office Equipment & Supplies	40,000
8) Professional Development	20,000
DEPARTMENTAL OPERATIONS:	2,256,000
1) Salaries**	1,376,000
2) Public Outreach	310,000
3) Council	180,000
4) Executive Management	90,000
5) Joint Public Advisory Committee (JPAC)	300,000
CONTINGENCY FUND	150,000
NAFEC	1,600,000
TOTAL	\$9,942,000

* A substantial proportion of the amounts listed under this category correspond to indirect program costs

** Including: Public outreach, Council, Executive Management, JPAC and Administration and Accounting.

1997 Budget - Summary

DESCRIPTION	AMOUNT (US\$)
Direct Program Costs	5,212,000
Common Operations	724,000
Departmental Operations	2,256,000
NAFEC	1,600,000
Contingency Fund	150,000
TOTAL	\$9,942,000

1997 Revenues

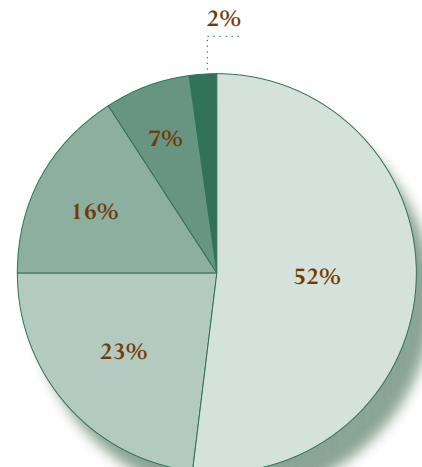
DESCRIPTION	AMOUNT (US\$)
Party Contributions	9,000,000
Roll-over resources from 96 (Max: 5% of Budget)	198,000
CEC Levy	571,000*
Interest on Short-Term Investments/Others	173,000*
TOTAL	\$9,942,000

* Estimated

1997 CEC Budget - Graphic Overview

OVERALL CEC BUDGET FOR 1997

- Direct Program Costs
- Departmental Operations
- NAFEC
- Common Operations
- Contingency Fund



5

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enforcement
Reports

ANNEX: north american report on environmental enforcement

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introduction

This report is presented by the Parties in compliance with their common obligation under the North American Agreement for Environmental Cooperation (NAAEC) article 12 (2)(c) to report on the actions taken to effectively enforce their respective environmental laws and regulations through appropriate government action. A report on trilateral initiatives by the Parties to cooperate in environmental enforcement is provided in the main text of the 1996 Annual Report under the Enforcement Cooperation and Law Program.

This report includes the country reports by each Party on their respective domestic environmental enforcement programs and activities. It was prepared for the Parties under the direction and coordination of the North American Working Group on Environmental Enforcement and Compliance Cooperation with the assistance of the CEC Secretariat. For the purpose of the 1996 report the Working Group selected three priority areas, which are also the subject of ongoing cooperative activity. These areas include the enforcement of laws regulating the transboundary movement of hazardous wastes, air pollution and the trade in wild flora and fauna. It is the intention of the Parties to provide regular updates on areas of significance to the three countries. A summary of related international and bilateral agreements is provided in the appendices. This report also provides a brief update on related legislative or policy initiatives since the 1995 report.

It may be noted that the 1995 Annual Report on Enforcement provided an overview of the environmental enforcement and compliance policies, programs and strategies adopted by each country and may provide useful reference material for review of this report.



Part A What's New?

This second annual report covers three themes mutually agreed upon by the NAFTA partners. The first report covered the legal and constitutional framework for environmental enforcement and compliance promotion. Additionally, it provided an overview of environmental enforcement and compliance policies, programs and strategies. This report deals with the enforcement and compliance promotion activities of Environment Canada and those of the province of Alberta. By next year the provinces of Quebec and Manitoba should be included.

The proposed Canadian Environmental Protection Act (CEPA) amendments will give priority to pollution prevention and to removal of toxic substances from the environment. It contains enforcement provisions that will strengthen the powers of inspectors, establish a new class of officer—"CEPA investigator"—and provide for alternative measures to prosecution.

The Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (WAPPRIITA) came into force in May 1996. It replaces and strengthens legislation that was previously used to implement the Convention on International Trade in Endangered Species of Fauna and Flora (CITES). In addition, it prohibits trade in wildlife which has been taken illegally or transported illegally from one province or territory of Canada to another, as well as prohibiting the importation of species which are harmful to Canadian ecosystems. The legislation provides for high penalties. For minor offenses, courts may impose fines of up to \$25,000 or imprisonment of up to six months for each offense. For serious offenses, courts may impose fines of up to \$150,000 and five years imprisonment. For corporations or second and subsequent offenses, the maximum fines are doubled.

The proposed Canada Endangered Species Act was tabled in the House of Commons on 31 October 1996. When passed, it will be the first-ever legislation to give comprehensive protection to endangered species under federal jurisdiction in Canada. It applies to migratory birds, fish and marine mammals, species that range across international boundaries and all species on federal lands. The Act will introduce tough new penalties: fines of up to \$500,000 for corporations for each specimen of a species that is harmed; fines of up to \$1,000,000 for repeat offenders; and fines of up to \$250,000 and five years imprisonment for an individual. At the same time, federal and provincial ministers have agreed in principle to a National Accord for the Protection of Species at Risk, which commits provincial governments to pass complementary legislation and programs to ensure that endangered species are protected throughout all jurisdictions of Canada.

The federal, provincial, and territorial governments under the auspices of the CCME have agreed in principle to a harmonization agreement that would, subject to specific subsequent bilateral agreements, see pollution inspections related to both federal and provincial environmental legislation performed by the best situated government.

In Alberta, through its Regulatory Reform Action Plan, Alberta Environmental Protection has developed a simpler, more efficient and cost-effective regulatory system. The numbers and types of approvals required for air and water activities, chemical assessment and management, and land reclamation have been reduced and replaced with codes of practice, and/or guidelines. These activities will continue to be regulated and subject to more focused and timely enforcement responses.

Part B Transboundary Movement of Hazardous Waste

BACKGROUND Hazardous waste management is regulated at both the federal and provincial/territorial levels in Canada. Provincial and territorial governments establish requirements for waste management activities within their borders, including the generation, transportation, recycling and disposal of hazardous wastes. The federal government is responsible for controlling the international and interprovincial movement of hazardous wastes. Environment Canada (EC) is the lead federal department with the assistance of Revenue Canada (Customs). Controls for transboundary movements are established in accordance with Canada’s international obligations as set out in Table 1.

By comparison, of the 225,989 tonnes of hazardous wastes exported in 1995, 56% was destined for recycling and the balance for final disposal—all to sites located in the United States.

The Export and Import of Hazardous Wastes (EIHWS) Regulations, made pursuant to the Canadian Environmental Protection Act (CEPA), set out the conditions that must be met before any international shipment of hazardous waste can occur. Table 2 sets out the key requirements of the EIHWS Regulations. Other federal regulations control certain aspects of the transboundary movements of hazardous wastes: the PCB Waste Export Regulations contain controls specific to PCBs; and the Transportation of Dangerous Goods Regulations establish transportation safety requirements including the labeling, packaging and placarding of shipments.

Table 1: Canada’s International Commitments Respecting the Transboundary Movement of Hazardous Wastes

AGREEMENT	SUMMARY OF OBJECTIVES / REQUIREMENTS
Basel Convention on the Control of the Transboundary Movement of Hazardous Wastes and Their Disposal, United Nations multilateral agreement ratified by Canadian government in August 1992.	Promotes the disposal of hazardous wastes in their country of origin; prohibits shipments of the wastes to countries unable to manage them in an environmentally sound manner; establishes the controls on exports and imports of wastes; and promotes cooperation in the exchange of hazardous waste information.
OECD Council Decision C(92)39 Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations, Organization for Economic Cooperation and Development multilateral agreement adopted in March 1992, and supported by Canada.	Classifies hazardous recyclables into three categories: green, amber and red based upon a series of hazard and risk criteria.
Canada-US Agreement on the Transboundary Movement of Hazardous Waste, bilateral agreement, signed by Canada in November 1986.	Ensures that transboundary movements of hazardous wastes between Canada and the United States are handled in an environmentally sound manner, and that they are shipped to facilities that are authorized by the importing jurisdiction. This is achieved through a comprehensive notification, approval, manifest and monitoring program.

Canada generates approximately 5.9 million metric tonnes of hazardous wastes annually including both wastes for final disposal and recycling. As well, in 1995, a total of approximately 609,000 tonnes of hazardous wastes were imported into or exported from Canada. Of the 383,134 tonnes imported in 1995, 71% was destined for recycling, and 29% for disposal. Nearly 99% of the imports were from the United States.

Under the EIHWS Regulations, EC maintains lists of hazardous wastes, reviews all documentation presented prior to shipment to ensure that wastes will be managed in an environmentally sound manner, acts as an intermediary between exporters/agents and the import authorities, tracks transboundary movements, undertakes compliance promotion activities, and enforces the legislation. Revenue Canada (Customs) checks and collects



Table 2: Selected Requirements under the EIHW Regulations

REQUIREMENT	DESCRIPTION
Notice & Consent	Written notification to EC, and consent from the importing country or province is required prior to shipment.
Manifest	The manifest identifies the parties involved in the shipment, and contains details respecting the type and amount of waste being shipped, special handling precautions, and the storage and/or disposal requirements for the waste at its destination. The manifest accompanies the shipment and tracks the waste from its departure point to its specified destination. Three copies of the manifest (consignor, border, consignee) are forwarded to EC for compliance monitoring.
Insurance	The Canadian exporter or importer, and the carrier must be insured such that sufficient funds are available, if an incident occurs, to redress the situation.
Contracts	There must be a signed contract between the exporter and importer, submitted at the time of notification.
Certificate of Disposal/Recycling	This certificate must be forwarded to EC by the receiving disposal/recycling firm. The certificate is matched to copies of the manifest to ensure that the hazardous waste was treated, disposed of or recycled as per the notification.
Environmentally Sound Management	The Canadian importer or exporter is required to take all practicable measures to ensure that the hazardous waste will be managed in a manner that protects human health and the environment.

copies of the required documents from shippers, forwards documents collected at the border to Environment Canada, and identifies inconsistencies for inspections by EC regional enforcement officers.

COMPLIANCE PROMOTION, VERIFICATION AND ENFORCEMENT ACTIVITIES AND ISSUES

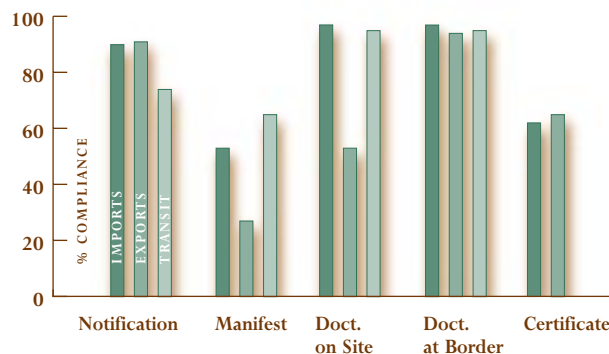
Following the introduction of the EIHW Regulations in 1992, guides and factsheets were distributed, and workshops held to inform the industry of its responsibilities under these regulations. Presentations, workshops and meetings continue to be held, and EC staff is available by phone, fax and the Internet to deal with information requests from industry and enforcement partners (e.g., Customs officers.) The newsletter “Resilog” is used to highlight hazardous waste activities and to update industries on transboundary movement of hazardous wastes issues. The report is distributed to approximately 3000 subscribers biannually.

Figure 1 illustrates compliance records collected by EC for the period 1992–1994. It is important to note that this period is early in the implementation of the regulations. Compliance by exporters was lower than by importers. Since Canadian exporters represent a large and diversified group with irregular shipping patterns, they are more of a challenge to identify, communicate with and to monitor. By comparison, there are relatively few Canadian importers, and most of these are large

enterprises with established shipping patterns. These companies are generally well aware of the EIHW requirements, and present proper documentation upon arrival at the border.

Between 1992 (the first full year that the EIHW regulations were in existence) and 1995 the number of manifests received by Environment Canada had doubled. Although data for 1995–1996 has not been completely analyzed, improvements have been noted in manifest and certificate compliance.

Figure 1: Compliance with Selected Regulatory Provisions (Nov. 1992 - Dec. 1994)



Doc. on Site: complete documentation available and included with shipment at point of departure/receipt.
Doc. at Border: complete documentation available at border crossing.

Since assessing these results, EC has focused its communication efforts on areas of non-compliance with positive results.

In addition to its regular monitoring and investigation activities, EC undertakes enforcement blitzes at major border crossings. These activities have resulted in the laying of several charges since adoption of the regulation. In 1995, there were 156 inspections and 15 follow-up investigations. Four (4) warnings were issued, and 3 prosecutions under the EIHW Regulations led to one (1) conviction.

In March 1996 an Alberta firm, Philip Environmental Services, was fined \$100,000 and an employee sentenced to three months in jail under Alberta's Environmental Protection and Enhancement Act for the unlawful disposal of 75,000 kg of hazardous waste in a City of Edmonton landfill. Alberta was able to confirm with the State of Texas that 180 drums of waste with similar characteristics were shipped by the firm in November 1993 to a broker in Texas using a hazardous waste manifest.

NEXT STEPS As part of the renewal of CEPA, the Canadian government intends to enhance controls on the movement of wastes, including requirements for exporters to submit plans for reducing their exports of hazardous wastes for disposal. Efforts are also underway to harmonize federal and provincial/territorial definition criteria for hazardous waste and recyclables, and a protocol on the listing and delisting of wastes.

To improve compliance with the regulations, a promotion strategy is being developed that includes targeting manifest compliance. As amendments are made to federal laws and regulations, additional communication tools will be developed to facilitate continued and improved compliance.

To improve its communications with exporters, importers and partner agencies, EC set up a database system capable of real-time dial-up access to inspectors, and an enhanced electronic transfer of notice information. At present, a pilot project is being undertaken to facilitate the electronic transfer of notice information between Environment Canada, the provinces/territories, and US authorities.

Enforcement of the EIHW regulations is an enforcement priority. Environment Canada and Revenue Canada are working with international partners to determine the potential and extent of illegal shipping via all modes of transport.

REFERENCES

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- Environment Canada. *Compliance and Enforcement Report - Volume 1: Six Regulations under CEPA and the Fisheries Act*; 1995, Ottawa.
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- Environment Canada. *Resilog* (a biannual newsletter).
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Part B Air Pollution

BACKGROUND Air quality is managed at both the provincial/territorial and federal levels in Canada. The major management responsibilities of domestic point source air pollution rests with the provincial governments. The development and enforcement of air quality legislation is largely the jurisdiction of the provinces which oversee the protection and management of natural resources within their boundaries. In all provinces and territories, the legislative and regulatory authority for air quality is based primarily on the control of point sources, especially industries and fossil fuel power. Additional air quality controls may be imposed at the municipal level; however, these are uncommon. In general, the federal government's role is focused on addressing transboundary issues and managing potential federal sources of air pollution.

Air pollution has serious short and long-term effects on the health of humans and ecosystems. There are many different types of air pollutants, including volatile organic compounds (VOCs), sulphur oxides (SO_x) and nitrogen oxides (NO_x) which originate from vehicle and industrial emissions, and that contribute to problems such as acid rain, smog, and inhalable particulates (a major cause of asthma.) Also of concern are persistent organic pollutants (POPs) and heavy metals which accumulate in the food chain and thus threaten the health of human and animal populations. And, of global importance, because of their ability to reduce the protective ozone layer in the atmosphere, is the release of ozone-depleting substances (ODS) and the resulting impacts on plants and animals from increased exposure to ultra violet radiation. Furthermore, global emissions of greenhouse gases are causing our climate to change and are linked to more frequent and severe weather events. Canada is working to address all of these issues through a variety of voluntary and regulatory means.



International

In 1987, Canada hosted the international conference which led to the Montreal Protocol to control ODS, and was one of the first countries to ratify it. Canada is also signatory to the UN Convention on Long-Range Transboundary Air Pollution (LRTAP), which has five protocols aimed at reducing transboundary acid rain and smog through emission controls on sulphur dioxide (SO₂), NO_x and VOC. Canada will be commencing international negotiations concerning new protocols for heavy metals, POPs and nitrogen oxide emissions including ammonia. Canada is also signatory of the UN Framework Convention on Climate Change.

also operates the Canadian Global Emissions Interpretation Center, collecting and summarizing information from around the world.

National

The principal federal legislative vehicles for managing air quality are summarized in Table 1. In addition, the federal government has several relevant policies, plans, and programs including the Toxic Substances Management Policy, the Pollution Prevention Strategy, the Arctic Environmental Strategy, and the National Pollutant Release Inventory.

Table 1: Federal Air Quality Legislation

LEGISLATION	DESCRIPTION
Canadian Environmental Protection Act (CEPA)	Controls fuel quality, toxic chemicals including ODS, heavy metals, and POPs; establishes ambient air quality objectives for common air pollutants such as ozone, NO _x and SO ₂ ; allows for national emissions guidelines for major air pollution sources such as power plants.
Pest Control Products Act	Regulates pesticides and ensures their safe use.
Motor Vehicle Safety Act (MVSA)	Regulates emissions from cars and trucks, and establishes standards for carbon monoxide, nitrogen oxides, hydrocarbons and diesel particulates.

Under the Arctic Council, formed in 1996, and the Arctic Environmental Protection Strategy, the eight Arctic countries, including Canada, are committed to protect the Arctic environment.

At present, Canada is leading discussions on the formulation of specific recommendations for a global POPs management strategy to be considered at the 1997 sessions of the United Nations Environment Program (UNEP) Governing Council and the World Health Assembly.

Canada is also party to a number of North American agreements governing air quality control. In 1991, Canada and the United States signed an Air Quality Agreement which is intended to establish “a practical and effective instrument to address shared concerns regarding transboundary air pollution.” The Great Lakes Water Quality Agreement is also relevant to the management of air quality as sections of the agreement specifically address the research, surveillance and monitoring, and pollution control measures for airborne toxic substances. In keeping with these objectives, Canada and the United States are working together to develop a Strategy for the Virtual Elimination of Persistent Toxic Substances in the Great Lakes.

Finally, Canada is responsible for managing the World Ozone Data Centre on behalf of the World Meteorological Office, and

Coordination between the federal government and the provinces/territories is achieved through the Canadian Council of Ministers of the Environment (CCME) and the Council of Energy Ministers. In 1993, the CCME and the Council of Energy Ministers, and the CEPA Federal Provincial Advisory Committee (CEPA/FPAC) jointly signed a Comprehensive Air Quality Management Framework for Canada. The Framework established a mechanism for coordinating actions on regional, national and international issues, especially those with transboundary or global effects. It also provided for the establishment of common goals and objectives.

COMPLIANCE PROMOTION, VERIFICATION, ENFORCEMENT ACTIVITIES AND ISSUES

As noted above, in Canada, the majority of air pollution legislation and therefore enforcement activities take place at the provincial/territorial level. In nearly all provinces and territories, legislation or regulations require the owners or operators of industrial facilities to obtain operating permits or approvals which can contain emission limits or requirements for all atmospheric pollutants. Emission limits and requirements are most often set for common air pollutants, such as sulphur dioxide and particulates, and heavy metals, such as lead and cadmium. Emissions of POPs are controlled when appropriate. The majority of provinces and territories also have legislation governing pesticides.

Canada has promoted compliance with air quality requirements and encouraged “good practice” by using non-regulatory approaches to complement traditional regulatory methods. Several CCME initiatives include the use of non-traditional methods including the NO_x/VOC Management Plan, the Regional Smog Management Plans, and the Cleaner Vehicles and Fuels Initiative. As well, the federal government has promoted the use of Memoranda of Understanding (MOU), and other voluntary agreements to commit particular industrial sectors to improvements, as well as codes of practice and guidelines. For example, a MOU has been signed with Canadian fuel producers to limit the content of sulphur in their diesel products.

Both the provinces and the federal government have inspection programs to ensure that air quality requirements are met and that there is compliance with legislation, regulations and permit conditions. These programs include responses to complaints as well as regular inspections, and are administered by regional or district offices of the federal, provincial or territorial departments of the environment.

Recent enforcement activities in Alberta led to the prosecution of Dow Chemical Canada on 18 November 1996 under the Alberta Environmental Protection and Enhancement Act for two unauthorized CFC releases, and failure to report all circumstances surrounding the first release. During the two events, a total of 486 kilograms of Freon 11, and 1,800 kilograms of Freon 12 were released from the company’s Fort Saskatchewan complex. A provincial court judge levied a \$150,000 fine and ordered the company to set up two \$75,000 trust funds: one for the University of Alberta’s Faculty of Engineering to be directed towards air pollution prevention or reduction, or remediation of the environment with respect to air quality; the second to be administered by the Environmental Law Centre for the development of a two-year Community Monitoring Program.

In November 1996, a Burlington, Ontario, company, Amcast Industrial Ltd., pleaded guilty and was fined \$25,000 for importing a cleaning product that contains CFC-113. The product, *Switch and Contact Cleaner*, was imported during the period of March 1993 to June 1995, contrary to provisions of the Ozone-depleting Substances (Products) Regulations made pursuant to CEPA.

In April 1996, Werner’s Wholesale Inc., doing business under the name of D.S. Fraser, was fined \$9,000 in the New Brunswick and Nova Scotia provincial courts, after pleading guilty to 10 charges of offering for sale and selling products containing CFCs, contrary to the Ozone-depleting Substances (Products) Regulations pursuant to CEPA. The company has also agreed to be responsible for the disposal of the product in an environmentally safe manner.

NEXT STEPS

- Continue to develop ambient air quality objectives, including a revised objective for particulate matter with a diameter of less than 10 microns (PM₁₀), ground-level ozone, and objectives for selected hazardous air pollutants and particulate matter with a diameter of less than 2.5 microns. (Canada-wide standards for certain of these substances are to be put in place over the coming 18 months.)
- Implement a National “Next Steps” Smog Management Strategy and National Acid Rain Strategy.

REFERENCES

- Environment Canada’s Green Lane at <http://www.ec.gc.ca>
- Canadian Council of Ministers of the Environment at <http://www.ccme.ca/ccme/index.html>
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- National Environmental Indicator Series, Environment Canada, 1996 (Acid Rain; Stratospheric Ozone Depletion; Urban Air Quality; Climate Change; Toxic Contaminants in the Environment.)
- Chemicals Control Fact Sheet: Federal Regulations on Ozone Depleting Substances, Environment Canada, 1996.

Part B International Trafficking in Flora and Fauna

BACKGROUND International trafficking of flora and fauna contributes significantly to the loss of biodiversity by reducing the world’s populations of threatened and endangered species, and by introducing non-native species into foreign ecosystems. In response to a more restrictive market for these goods, illicit trade in exotic wildlife is on the increase. Illegal traders realize considerable profits since many countries of origin lack the financial resources to deal with this burgeoning problem.

Canada is party to three international conventions on the protection of wildlife: the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Convention on Biological Diversity, and the Migratory Birds Convention. Canada is also subject to the environmental requirements of the North American Free Trade Agreement (NAFTA) and the World Trade Organization (WTO).

Canada is both a source and destination of legally and illegally procured specimens that enter into illegal trade. It also serves as a transit route for wildlife goods moving to and from other countries, and is home to dealers with market links in other countries. In order to address this challenge cooperation and coordination are required among agencies including Revenue



Canada (Customs), the Royal Canadian Mounted Police (RCMP), Agriculture and Agri-Food Canada (AAFC), the Department of Fisheries and Oceans (DFO), and Parks Canada, as well as provincial and territorial wildlife agencies. EC also cooperates with sister organizations in the United States and Mexico, with Interpol, and with the World Customs Organization in the enforcement of national and international laws respecting the transboundary movement of flora and fauna.

The main vehicle used by Canada to implement the intent of CITES is the new Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (WAPPRIITA), and its implementing regulations, the Wild Animal and Plant Trade Regulations, proclaimed in May 1996. Other pieces of federal legislation used to control the trade of wildlife are the following:

- Migratory Birds Convention Act – prohibits trafficking in migratory birds;
- Fisheries Act – general regulations govern the fish trade; Marine Mammal Regulations control the possession and transport of marine mammals;
- Health of Animals Act and Plant Protection Act – provide for the inspection of animals and plants coming into Canada;
- Customs Act – provides for customs officers to make inspections and detentions for violations under other legislation.

Import and export permits are administered by three groups: The Environmental Conservation Service of Environment Canada issues CITES import permits, export permits for CITES cultivated plants, as well as export permits for all covered specimens leaving the Province of Alberta, and temporary trade and scientific certificates; the Department of Fisheries and Oceans (DFO) issues export permits for fish and marine mammals; and the provinces and territories (except Alberta) issue export permits for items leaving their jurisdiction.

COMPLIANCE PROMOTION, VERIFICATION, ENFORCEMENT ACTIVITIES AND ISSUES

Over the past five years, Environment Canada has increased its efforts to promote compliance through the following activities:

- launching public awareness campaigns using newspaper articles, posters, brochures, and videos on CITES (many prepared in several languages);
- sending regular information mailings to user groups (e.g., traditional medicine importers, and horticultural societies);
- posting CITES displays in airports and other public buildings;
- hosting information sessions for the public, user groups, and other interested parties such as travel agencies and commercial importers (e.g., pet trade industry);

- promoting awareness at trade shows and conferences;
- producing manuals on the identification of flora and fauna covered under CITES;
- providing training to staff at Canada Customs, the RCMP, and to provincial/territorial officials in the enforcement of Canada’s regulations.

Despite these activities, voluntary compliance with international wildlife trade laws has improved only slightly and many enforcement agencies perceive that illegal trade in protected species by international criminal organizations is on the rise. While compliance with import regulations has improved, overall compliance still needs improvement.

Accordingly, EC’s five regional offices are engaged in more inspecting and monitoring now than they were in previous years. Activities include the following:

- the review of CITES permits and other export/import permits;
- inspections at international ports;
- exchanging and cross-referencing information from Customs and other national and international agencies;
- spot-checks or routine inspection of wildlife businesses (e.g., taxidermists, outfitters, guides, etc.);
- monitoring hunting;
- cultivating sources of information, intelligence gathering;
- investigating allegations from the public, other agencies, and other countries (e.g., through Crime Stoppers).

While the definition of illegal trafficking is not standardized, in 1995–1996 Environment Canada conducted 3,369 inspections related to international wildlife trafficking. As well, approximately 207 investigations, both independently and in cooperation with partners, were carried out related to illegal commerce in wildlife. These activities were performed under the Migratory Birds Convention Act, the Export and Import Permits Act and some provincial legislation. Seventeen convictions were

Table 1: Summary of Enforcement Activities

Fiscal year	Inspections	Investigations	Prosecutions	Convictions
1994–95	1,083	93	20*	43**
1995–96	3,369	207	46*	17**

obtained during 1995–96.

* In many cases, prosecutions are handled by other agencies and are not reported by Environment Canada.

** Some convictions obtained from prosecutions initiated in previous years.

Recent illustrative examples of prosecutions involving provincial wildlife legislation:

- As a result of a covert operation, an Alberta resident was convicted on 15 January 1996 of three counts of trafficking in wildlife contrary to the Alberta Wildlife Act. Three transactions occurred involving purchases by the accused of a total of 70 black bear claws destined for sale in the United States as souvenirs and trinkets. A fine of \$4,500 was assessed.
- On April 3, 1996 an Edmonton, Alberta resident was found guilty under the Alberta Wildlife Act of possession of four pieces of carved elephant ivory from Hawaii, USA. The accused was assessed a penalty of \$2,500 and five months in jail.
- Following a covert operation, an Ontario resident was convicted in Saskatchewan in July 1996 on five counts of possession and trafficking under Saskatchewan's Wildlife Act. Items seized included hawk head and feet, eagle feet, bundles of eagle and hawk feathers, bear claws and teeth, an alligator foot and an alligator tooth knife, all intended for sale at US powwows. A fine of \$5,000 was levied.

Since enactment of the WAPPRITA in May 1996, Environment Canada has carried out approximately 20 investigations.

Illustrative examples of prosecutions are:

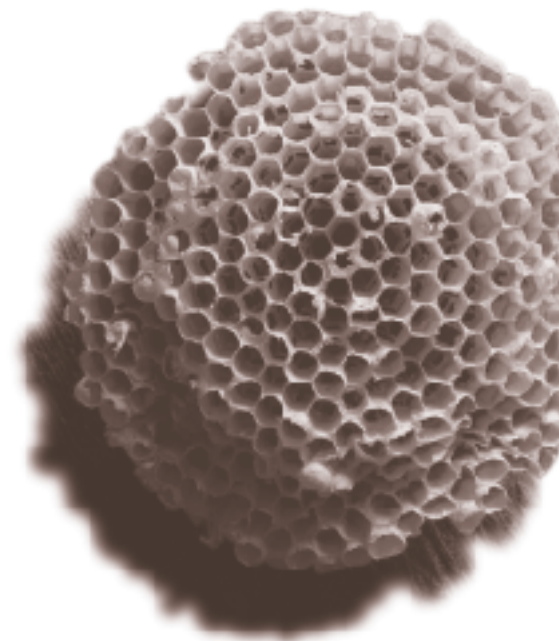
- A foreign seaman was convicted in an Ontario court for unlawfully importing four elephant tusks into Canada, and was sentenced to 23 days in jail.
- A foreign national was convicted for unlawfully importing 232 live Indian Star Tortoises into Canada and was fined \$10,000 and ordered to forfeit the tortoises, valued at up to \$250,000.

NEXT STEPS The Canadian government intends to continue its efforts to control and reduce the illicit trade in flora and fauna through the following activities:

- proceeding with phase two of WAPPRITA regulations, particularly to provide for personal exemptions;
- amending the National Parks Act to address the enforcement, anywhere in Canada, of offences arising under the Act;
- continuing to inform the public and appropriate businesses of legal requirements; and
- continuing efforts to educate the judiciary in the seriousness of wildlife crimes.

REFERENCES

- *Environment Canada's Green Lane* at <http://www.ec.gc.ca>.
- *Your guide to WAPPRITA: Information on Canada's Law to Control Trade in Wild Animals and Plants* (Environment Canada, 1996).



Part A What's New?

The Decree amending the General Law on Ecological Equilibrium and Environmental Protection (LGEEPA) was published in the Official Gazette of the Federation on 13 December 1996; this legal reform was the outcome of an extensive consultation process among federal and local authorities, business organizations and social and academic institutions, which started in the early months of 1995 and was convened both by the Secretariat for the Environment, Natural Resources and Fisheries and the Ecology and Environment Commissions of the House of Representatives and the Senate who jointly prepared the draft amendments which summarized the consensus on the goals underlying the process.

The main objective behind the reform was to introduce in the legislation the guidelines of the new environmental policy based on the principle of sustainable development. Likewise, the specific goals pointed at initiating the process of decentralization of those environmental issues of local concern; reducing the discretionary powers of environmental authorities; broadening the opportunities for citizen involvement in environmental management; strengthening and enriching environmental policy instruments; and removing those regulatory obstacles to economic activity that do not result in environmental benefits.

To this end, the amendments to the General Law on Ecological Equilibrium and Environmental Protection include significant changes in the following areas:

1. DISTRIBUTION OF JURISDICTION

Under this topic, the responsibilities of the federal, state and municipal levels of government are more clearly and accurately defined, based on the criterion that improved efficacy will result from the handling of environmental issues at the local level.

2. ENVIRONMENTAL POLICY

In this area, the reform is based both on the principle of "polluter pays" and on incentives granted to those who undertake activities dealing with environmental protection and preservation.

2.1. Economic Instruments; these are statutory and administrative mechanisms of a fiscal, financial or market

nature, aimed at encouraging private parties to undertake actions that may benefit the environment, through which such parties are held accountable for the environmental costs and benefits generated by their economic activities.

2.2. Voluntary Compliance Mechanisms (Self-regulation and Environmental Audit); these mechanisms are intended to foster private sector initiatives aimed at enhancing its environmental performance beyond what is required under the prevailing Mexican legislation.

3. BIODIVERSITY

The principles embodied in the Biodiversity Convention are incorporated into the General Law on Ecological Equilibrium and Environmental Protection.

3.1. Wild Flora and Fauna; criteria governing the exploitation of species are ascertained and control mechanisms for the exploitation of the wild flora and fauna for biotechnological purposes are devised.

4. ENVIRONMENTAL PROTECTION

4.1. Prevention and Control of Air Pollution; the new law defines with greater accuracy the grants of jurisdiction to the three government levels, thereby providing private parties with a greater degree of certainty in terms of potential actions by the authority.

4.2. Hazardous Materials and Wastes, and Environmental Risk; in regard to these issues, some provisions intended at rendering the management of hazardous materials and wastes, both by authorities and private parties, more efficient, are contemplated.

5. INVOLVEMENT OF SOCIAL SECTORS

5.1. Involvement of Social Sectors in Environmental Management; for each one of the instruments of environmental policy, the law sets forth the mechanisms through which interested parties may take part in the decision-making process regarding the preservation of ecological equilibrium and environmental protection.

5.2. Access to Information Rights; all persons are granted the right to access environmental information, while that information which is protected by law or only concerns its possessor is safeguarded.

5.3. Revision Recourse for Communities Affected by Offenses under Environmental Laws; under the amended Law, those juridical persons and individuals from communities that are affected by violations committed by facilities or activities, the implementation of ecological planning programs, declarations of protected natural areas or the issuance of regulations and Mexican official standards arising from the Law, are granted a revision recourse and the right to request that such actions, deemed necessary in order for the applicable legal provisions to be complied with, be undertaken, providing they can prove that harm to natural resources, wildlife, public health or quality of life has been or is about to be caused.

6. CLASS ACTION

Some provisions aimed at strengthening relevant procedures are included in the chapter devoted to class actions, in order to establish a more effective mechanism that may address the concerns of the various social sectors in regard to environmental issues.

7. ENVIRONMENTAL OFFENSES

These types of violations are included in the Criminal Code in order to make it possible for those actions which are harmful to the environment, natural resources, flora and fauna, public health and biodiversity in general to be prosecuted.

Part B Transboundary Movement of Hazardous Waste

BACKGROUND The last few years have witnessed a significant increase in the number of facilities located along the United States-Mexico border. The majority of them are set up as *maquiladoras* which produce significant quantities of hazardous wastes that are subject to a temporary import regime provided under applicable environmental and customs legislation, according to which the said hazardous wastes must revert back to the country of origin. As a result of this regime being enforced, the transboundary passage of hazardous wastes has increased dramatically, thereby requiring stiff control measures and extensive coordination between the authorities of both neighboring countries.

Hazardous wastes are included under the LGEEPA, the Regulation under the latter dealing with Hazardous Wastes, the Regulation for the Surface Transportation of Hazardous Materials and Wastes, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and various Mexican official standards.

Mexico, as a party to the Basel Convention, has built into its regulatory framework the provisions of this international document, and has also implemented the necessary measures to fulfill the commitments agreed through the Convention, seeking the reduction, environmental sound management and control of hazardous waste.

Chapter VI of Part Four, Environmental Protection of the LGEEPA grants jurisdiction to the various secretariats concerned with hazardous materials and wastes and includes provisions governing the handling of such substances.

Section 153 regulates the import and export of hazardous materials and wastes including imposition of ecological control and surveillance issues, permits, import and export limitations, and transport across the domestic territory.

Specifically, in regard to the import of hazardous materials and wastes, subsections II and III provide that such activities shall only be allowed for the purpose of treating, recycling or reusing the said hazardous substances. Any imports intended at their final disposal or simple deposit, storage or confinement in the national territory is forbidden.

The Regulation empowers Semarnap to authorize any operation dealing with the handling of hazardous wastes, including their import and export. Under section 9, handling is defined as any procedure involving the storage, collection, transportation, reuse, treatment, recycling, burning and final disposal of hazardous wastes. Likewise, the Regulation includes requirements, obligations and prohibitions governing the transportation of hazardous wastes, including their import and export. Section 43 states that the Secretariat is responsible for intervening at border crossing posts, seaports and airports and, in general, anywhere in the country for the purpose of controlling the import and export of hazardous wastes and enforcing safety measures intended to avoid the contamination of the environment and the degradation of the ecosystems.

On the other hand, the Regulation for the Surface Transportation of Hazardous Materials and Wastes provides that the Secretariat for Communications and Transport is responsible for enforcing the Regulation along highways, roads and service areas.

This Regulation contains the classification of hazardous substances as well as the provisions that must be observed when bottling, packing, labeling and marking such substances; the characteristics of the containers and cargo arrangement; and, in general, all the safety procedures dealing with the ground transportation of hazardous materials and wastes.



RESPONSIBILITIES FOR ENFORCING COMPLIANCE WITH STATUTORY PROVISIONS ON HAZARDOUS WASTES

In accordance with the provisions of section 32 bis, subsections IV and V, of the Organic Law for the Federal Public Administration, Semarnap is responsible for setting the Mexican official standards on hazardous materials and wastes and controlling, in conjunction with the federal, state and municipal authorities, that the laws, regulations, standards and programs regarding the environment and the other matters under its jurisdiction, are complied with. In addition, Semarnap has the power to impose the applicable sanctions.

The Semarnap Bylaws provide, under subsections II and VII of section 59, that the General Division of Materials, Wastes and Hazardous Activities of the National Ecology Institute (INE) is in charge of authorizing the installation and operation of systems for the collection, storage, transportation, reuse, treatment, recycling, incineration and final disposal of hazardous wastes, as well as the transboundary movement of hazardous materials and wastes in accordance with applicable laws.

The Bylaws also provided, under section 62, subsections I and XII, that the Profepa is responsible for, among other things: ensuring that the applicable legal provisions relating to the prevention and control of environmental pollution are complied with; establishing the mechanisms, instances and administrative procedures aimed at fulfilling such goals; and bringing to the attention of the Federal Prosecutor those illicit actions, omissions or facts implying that an offense has been or is about to be committed, in order to protect and safeguard the environment.

The control of compliance with the prevailing legislation regarding air pollution and hazardous wastes is performed by the *Subprocuraduría* for Industrial Inspections. Likewise, the 31 Delegation Bureaus of Profepa located in each state of the Mexican Republic are granted jurisdiction over inspection and supervision issues. Their administrative structure includes a Sub-delegation for Industrial Inspections.

These administrative Sub-delegations rely on teams of inspectors who are responsible for verifying that the fixed sources under federal jurisdiction abide by the statutory provisions governing both air pollution and hazardous wastes.

In the next section on air pollution, the overall program for inspection and surveillance for industrial facilities is outlined in detail and compliance statistics are presented for all media.

Part B Air Pollution

BACKGROUND Air pollution is regulated under the Political Constitution of the United States of Mexico, the General Law on Ecological Equilibrium and Environmental Protection, the Regulation, adopted thereunder, dealing with the Prevention and Control of Air Pollution (Air Law) and the Mexican official standards.

As stated in section 1, subsection VI, the General Law on Ecological Equilibrium and Environmental Protection (LGEEPA), which implements the Political Constitution in this regard, aims at regulating the protection and rehabilitation of the ecological equilibrium and the protection of the environment by, among other things, laying the groundwork for the prevention and control of air, water and soil pollution.

The LGEEPA provides that the powers granted to the State, on environmental issues, be jointly exercised by the Federation, the federate entities and the municipalities. In this regard, subsection XII of section 5 states that the regulation of air pollution resulting from emission sources of any type, as well as the prevention and control regarding areas or fixed or mobile sources under federal jurisdiction, shall be the responsibility of the federal government.

On the other hand, section 7 provides that the States shall be in charge of the prevention and control of air pollution generated by those fixed sources that operate as industrial facilities and those mobile sources that do not fall under federal jurisdiction. With regard to municipalities, subsection III of section 8 states that the prevention and control of air pollution generated by fixed sources that deal with commercial activities of goods and services, as well as the emissions of contaminants into the atmosphere arising from mobile sources which are not under federal jurisdiction, are the responsibility of this government level.

In addition, Part Four contains a chapter that deals with atmospheric pollution and sets the criteria for its prevention and control, while stating that the air must be of a satisfactory quality and contribute to the well-being of the population; this is why emissions of pollutants, from both artificial and natural sources, fixed or mobile, must be reduced and controlled.

Finally, the LGEEPA prohibits the discharge into the atmosphere of those contaminants that cause or might cause ecological imbalances or environmental damage.

The Regulation adopted under the Air Law contemplates two types of contaminating sources: fixed and mobile sources. Fixed sources are defined as facilities established in a single site for the purpose of carrying on industrial and commercial operations

and processes, services or activities that generate or might generate contaminating emissions into the atmosphere.

Mobile sources are listed as follows: planes, helicopters, railways, street cars, tractor trailers, buses, trucks, cars, motorcycles, boats, mobile equipment and machinery with combustion or similar engines, which, by virtue of their operation, generate or might generate contaminating emissions into the atmosphere.

In both cases, the Regulation states that odor and gas emissions as well as solid and liquid particles discharges must not exceed the maximum emission levels allowed under the Mexican official standards. Twenty-six of these standards are currently in force regarding these issues, encompassing those emissions generated both by fixed and mobile sources whether under federal, state or municipal jurisdiction. The Regulation imposes liability on those responsible for emission sources and provides sanctions where offenses are committed.

RESPONSIBILITIES FOR ENFORCING COMPLIANCE WITH STATUTORY PROVISIONS REGARDING AIR POLLUTION According to subsection V of section 32 bis of the Organic Law of the Federal Public Administration, the Secretariat of the Environment, Natural Resources and Fisheries (Semarnap) is responsible, among other things, for securing compliance with the laws, regulations, standards and programs related to the environment, as well as imposing the applicable sanctions, where warranted.

Along the same lines, under the LGEEPA, the Semarnap is given responsibility, among other duties, for setting the criteria for the prevention and control of air pollution, deciding on the use of technologies aimed at reducing the emissions of contaminants by motor vehicles, designing and implementing the policy on environmental rehabilitation, adopting the measures deemed necessary for the prevention and control of environmental contingencies, and issuing the Mexican official standards governing these issues.

On the other hand, under section 62 of the Bylaws of the Semarnap, the Federal Attorney General's Office for Environmental Protection (Profepa) is empowered to supervise the enforcement of and compliance with environmental law.

Profepa is responsible for supervising compliance with the applicable legal provisions dealing with the prevention and control of environmental pollution, as well as cooperating with the federal, state and municipal authorities in the control of the enforcement of all environmental statutory provisions. In order to protect and safeguard the environment, Profepa may conduct

investigations on offenses under environmental laws, advising concerned authorities of their outcome, and bring to the attention of the Federal Prosecutor those illicit actions, omissions or facts indicating that an offense has been committed. Finally, section 70 of the Semarnap Bylaws asserts that the General Division for Industrial Inspections is in charge of supervising compliance with the environmental laws, regulations, standards and programs regarding the prevention and control of air pollution.

VERIFICATION OF COMPLIANCE WITH ENVIRONMENTAL LEGISLATION The key national programs carried out by the Profepa, through its *Subprocuraduría* for Industrial Control, include inspection and control of industrial pollution sources and inspection of new vehicles at assembly plants. In the metropolitan area of Mexico City several programs are implemented simultaneously, specifically those relating to: environmental contingencies, aerial surveillance and impoundment of highly contaminating vehicles. The latter is carried out in conjunction with the Secretariat for Communications and Transport, the Federal District and the Government of the State of Mexico. In addition, a series of complementary support programs have been devised.

a) Program for the Inspection and Control of Industrial Pollution Sources

With the objective of ensuring compliance with environmental legislation, the Profepa has since August 1992 been implementing a comprehensive program of inspection and surveillance over industry. The program involves inspections of contaminating sources under federal jurisdiction, mainly directed at those facilities which are more likely to generate pollution. It also addresses complaints and charges made by the community.

In 1996, the Profepa performed 13,108 inspection and verification visits to facilities nationwide. Of these, 8,368 were inspection visits, while the remaining 4,740 were verification visits.¹

For the total number of visits (verification and inspection), the findings were the following:

Compliance with the law	Number of facilities	Percentage
Serious irregularities	233	1.78%
Slight irregularities	9,503	72.49%
No deficiencies found	3,372	25.73%
Total	13,108	100%

¹ It is important to note that the figures presented here include the inspection and surveillance of the industrial sector where compliance with the legislation governing atmospheric pollution, hazardous waste, risk and noise is verified; since these activities are performed in an indivisible manner within the firm as opposed to a by-subject approach, there are no statistics in this regard.

As far as sanctions are concerned, the following were imposed during 1996: 233 closures were ordered and 9,736 fines imposed. 3,372 of the visits did not bring about any sanctions.

In particular, 3,326 visits were made during the course of 1996 in the border states of Northern Mexico. In the six states considered, the visits were distributed as follows:

Border state	Large	Medium	Small	Micro business	Total
Baja California	155	203	248	260	866
Chihuahua	191	103	209	67	570
Coahuila	136	86	272	433	927
Nuevo León	58	62	116	77	313
Sonora	49	30	66	107	252
Tamaulipas	131	72	107	88	398
Total	720	556	1,018	1,032	3,326

In terms of compliance with the law, the following findings were made:

Compliance with the law	Percentage
Serious irregularities	1.50%
Slight irregularities	72.25%
No deficiencies found	26.24%

b) Aerial Surveillance

This program is carried out on a yearly basis during the winter (December to March). During this season, helicopters belonging to public safety institutions of the Federal District and the State of Mexico fly over the Metropolitan Area of Mexico City and its vicinity for the purpose of detecting those industrial facilities which generate emissions of contaminants beyond the maximum permissible levels set forth in the Mexican official standards. Once they are detected, an inspection visit is performed.

In the winter of 1995–1996, 116 polluting sources were located, of which 66 are under the jurisdiction of Profepa. Of the facilities involved, 8 were ordered to implement emergency remedial actions and 30 were confronted with irregularities, while the remaining 28 did not show any deficiencies.

c) Response to Environmental Emergencies in the Metropolitan Area of Mexico City (MAMC)

Because of its location, the MAMC presents climatic conditions which favor the increase in the concentration of pollutants, particularly in ozone, which trigger the declaration of environmental emergencies. In order to address such emergencies, several authorities are implementing actions aimed at reducing

the emissions of contaminants. The industrial facilities of the MAMC, under the supervision of Profepa, are among those targeted by such actions.

Whenever an emergency is deemed as Phase I, facilities must reduce by 30 to 40% those productive processes that discharge contaminants into the atmosphere. In Phase II such processes

are reduced by 70%, while in Phase III production activities stop altogether. In the event that environmental emergencies are declared, the teams of inspectors from the Profepa assess the compliance status of the 599 facilities with greater potential for polluting.

The purpose of the program is to verify that industrial facilities have actually curtailed their production levels. During the course of last winter (1995–1996) two environmental emergencies were declared, during which 814 visits were performed in 792 facilities; 349 of such facilities were not operating and 405 had complied with the mandatory slowdown in their production processes; as for the remaining 38, they were subjected to a comprehensive inspection process which resulted in the detection of 29 irregularities and the imposing of the applicable sanctions.

Throughout the period from spring to autumn of this year, two environmental emergencies were declared, the first one in October and the second one in the first days of November. During these emergencies, 685 inspection visits were performed in the same number of facilities; 665 facilities had complied with the cutback in their production processes, while 20 had not and thus were subjected to legal assessment in order for the appropriate sanctions to be imposed.

The results obtained pursuant to inspection and surveillance actions undertaken in the Metropolitan Area of Mexico City are worth mentioning, for this area is identified as having the highest level of recurrent environmental problems in terms of atmospheric pollution.

Of the 13,108 inspection and surveillance visits performed throughout the nation during the course of 1996, 2,800 were carried out in the MAMC (381 in large facilities, 363 in medium-size companies, 1,164 in small-size enterprises and 892 in micro businesses).

In terms of compliance with the law, the findings were the following:

Compliance with the law	Number of facilities	Percentage
Serious irregularities	13	0.46%
Slight irregularities	1,828	65.29%
No deficiencies found	959	34.25%
Total	2,800	100%

In addition, the following sanctions were imposed: 13 facilities were shut down and 1,828 facilities were given fines; the remaining 959 were not sanctioned.

d) Impoundment and Removal of Highly Contaminating Vehicles

This program has been set up in the Metropolitan Area of Mexico City with the joint cooperation of the Secretariat for Communications and Transport, the Federal District Department, the Government of the State of Mexico and Semarnap, through the Profepa which acts as the coordinating agency.

The program has been in place since the winter of 1992–1993, and operates from 1 December to 31 March of each year, with 30 checking posts along the access roads into Mexico City, at bus stops and at other strategic sites within the Metropolitan Area. The posts are assigned in the following way: 11 are under the control of the Secretariat for Communications and Transport, 14 belong to the Federal District Department and the remaining 5 are under the responsibility of the Government of the State of Mexico. In the course of the winter of 1995–1996, 14,010 seizures of motor vehicles were performed, of which 9,069 concerned non-approved vehicles and 4,941 related to approved ones.

e) Inspection of New Motor Vehicles at Assembly Plants

The purpose of this program is to inspect motor vehicles at assembly plants in order to ensure that regulations and standards regarding the emission of gases, combustion particles and noise are complied with before the vehicles are out in the market for sale. During 1996, 24 facilities which assembled 157 types of engines were inspected.

Part B International Trafficking in Flora and Fauna

BACKGROUND In Mexico, the exploitation of the wild flora and fauna dates back to the pre-Hispanic cultures. Traditionally, numerous wild species have been exploited, mainly by indigenous groups and rural communities, for medicinal, religious and subsistence purposes.

As a member State of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) since 1991, Mexico has registered flows of imports, exports and re-exports of flora and fauna specimens, as well as their parts or derivatives.

Part II, Biodiversity of the LGEEPA, deals with the regulation of wildlife, and establishes the applicable provisions regarding the following issues:

Criteria for the preservation and exploitation of the wild flora and fauna. These criteria deal, among other issues, with the respect towards the continuity of the evolution process of species; the survival of those species which are endemic, endangered or driven to extinction; the fight against the illegal trafficking of species; and the promotion and development of related research.

Hunting restrictions. This instrument aims at the preservation, promotion, propagation, distribution, acclimatization and refuge of specimens. The issuance of regulations on these matters require that they be supported and justified by specific research.

Exploitation of wildlife species. These provisions make it mandatory that a specific authorization be obtained prior to engaging in the sustainable exploitation of terrestrial and aquatic wildlife species, or of their genetic material.

Import and export of wildlife species. These activities also require that an authorization be obtained before specimens may be transported across border lines.

On the other hand, the issues regarding the preservation of species are also contemplated under the Federal Hunting Act and the CITES. The purpose of the Federal Hunting Act is to guide and warrant the preservation, rehabilitation and promotion of the wild fauna which roam freely within the domestic territory, by regulating exploitation. According to the provisions contained in section 2 wild fauna is defined to include those animals that live in freedom, with no control from human beings, and those domestic creatures that, as a result of being



abandoned, turn wild and are thus exposed to being captured and appropriated.

The Act contains provisions regarding wildlife protection, acclimatization, propagation, hunting and refuge areas. It also deals with the exercise of hunting rights and administrative violations. In particular, sections 24 and 25, pertaining to the transportation of wild animals, their products and remains, make it compulsory to obtain the relevant permit, notwithstanding the fact that other legal provisions regarding animal health and sanitation must be observed as well.

Moreover, in regard to the trafficking of species, section 26 prohibits the export of hunted animals, either alive or dead, as well as that of their parts and derivatives. However, an exception is contemplated for those hunted animals, or parts thereof, obtained by foreigners residing in the country, and applies only to the quantity authorized under the corresponding permit.

Additionally, the CITES is a part of the leading legislation, thus being incorporated into the several laws, regulations and provisions specialized on species that are threatened, endemic, endangered, or under special protection.

The protection of species is regulated by trade legislation on such species, in accordance with specific appendices. Appendix I includes all those endangered species that are or may be affected by trade. Such trade is subject to particularly stringent regulations, and authorized under exceptional circumstances only, including prior grant and presentation of an import permit and either an export permit from the country of origin or a re-export certificate.

Appendix II comprises all those species which, although not necessarily now threatened with extinction may become so, as well as those species not affected by trade but which must be subject to regulation in order that their trade may be brought under effective control. The import of these species requires the prior presentation of either an export permit from the country of origin or a re-export certificate.

Finally, Appendix III pertains to all those species which any Party to CITES identifies as being subject to regulation under its jurisdiction for the purpose of preventing or restricting their exploitation and require the cooperation of other Parties in order for their trade to be controlled. The presentation of both a certificate of origin and an export permit is required prior to importing such species, whenever their trade originates in a member State which has caused the inclusion of the species referred to in the Appendix.

RESPONSIBILITIES FOR ENFORCING COMPLIANCE WITH STATUTORY PROVISIONS ON WILDLIFE ISSUES

Pursuant to section 32 bis, subsections IV, V and XX of the Organic Law for the Federal Public Administration, Semarnap is responsible for: setting forth the standards for the sustainable exploitation of natural resources and the terrestrial and aquatic resources of the wild flora and fauna; imposing the restrictions regarding the circulation or transit of wild flora and fauna specimens, originating from abroad or destined to foreign markets, within the domestic territory; and ensuring, in conjunction with the federal, state and municipal authorities, that the laws, regulations, standards or programs regarding terrestrial and aquatic wildlife, are complied with.

On the other hand, section 57, subsections VII and VIII of the Bylaws of Semarnap, empowers the Wildlife General Division of the INE to authorize the research, reasonable exploitation, capture, collection, use, possession, handling, import, export and circulation or transit of wild flora and fauna specimens within the domestic territory, as well as those subject to a special protection regime whenever they originate from or are destined to foreign markets.

Likewise, under section 62, subsections I, IV and XII, that the Profepa is responsible for: ensuring that the applicable legal provisions relating to terrestrial and aquatic wildlife are complied with; establishing the mechanisms, instances and administrative procedures aimed at fulfilling the established goals; cooperating with the federal, state and municipal authorities in the enforcement of the legal provisions pertaining to the environment; and bringing to the attention of the Federal Prosecutor those illicit actions, omissions or facts implying that an offense has been or is about to be committed, in order to protect and safeguard the environment and the natural resources.

Finally, section 73 provides that the General Division for the Inspection and Control of Forests, Wild Flora and Fauna has the duty to secure compliance with statutory provisions relating to terrestrial and aquatic flora and fauna.

VERIFICATION OF COMPLIANCE WITH ENVIRONMENTAL LEGISLATION

In the period between July 1995 and August 1996, the following flows of international trade in wild flora and fauna, duly endorsed by CITES certificates issued by the INE, acting as the Mexican Management Authority, were registered:



Wild Flora	
Description	Quantity
Exports of live plants	393,264 plants
Imports of live plants	12 plants
Exports of flora parts	30,400 units
Exports of wood	100 tons
Exports of wood	1,475,347 m ³
Re-exports of wood	50.74 m ³

Wild Fauna		
Description	Status	Number
Live mammals	Imports	812 animals
	Exports	51 animals
	Re-exports	37 animals
Live birds	Imports	7,150 animals
	Exports	47 animals
	Re-exports	7 animals
Live reptiles	Imports	729 animals
	Exports	18 animals
Cowboy boots made of exotic skins	Re-exports	57,350 pairs
Other wild fauna parts	Re-exports	700,600 units
	Exports	504 units
	Imports	1,501,902 units

For the purpose of verifying compliance with wild flora and fauna regulations, 2,069 inspections were carried out during the course of 1996; 1,009 administrative proceedings were launched as a result of uncovered offenses; 26,623 specimens were seized and fines in the amount of 670,990 pesos were levied.

Here are the details of the inspections conducted for wild flora and wild fauna:

Compliance with the law	Wild flora	Wild fauna
Number of inspections	240	1,829
Administrative proceedings	172	837
Specimens seized	15,499	11,124
Products seized	461	8.5 kg of skins 118 kg of meat
Derivatives seized	13	3,139
Pieces of equipment seized		738
Monetary sanctions	39,715 pesos	831,275 pesos

As previously mentioned, Profepa has delegation bureaus in each of the 31 States of the Mexican Republic. Each Delegation Bureau has a Sub-delegation for Natural Resources which is directly responsible for the undertaking of Inspection and Control activities over the trade of wild flora and fauna specimens, their parts and derivatives.

In addition to the regular staff of the State Delegation Bureaus, Profepa has a special team of 80 inspectors posted at 44 seaports, airports and border crossings, who are responsible for carrying out phytosanitary inspections on imported wood as well as visual inspections of all export and import shipments of wildlife specimens.

INFORMATION SYSTEMS The profepa now relies on a computerized system, known as SIRENA, which contains the data base where information on offenders, wildlife species and subspecies and their parts and derivatives is stored, along with that relating to their origin, trafficking routes and the methods used for capturing or collecting specimens. The information is geographically linked to a system containing cartographic data covering the entire country, which may be automatically accessed at any given time.

As well, the Profepa and the Ecology Institute, A.C. in Jalapa, Veracruz, have entered into an agreement for the purpose of setting up a permanent training center for inspectors in the headquarters of the Ecology Institute. As a result of this, the support of specialized inspectors in every wild flora or fauna category under commercial pressure is now at hand.

The Profepa carries out special operations, investigations and monitoring throughout the Republic on a permanent basis, with the aim of fighting the illegal trafficking of wild species of flora and fauna, their parts and derivatives.

Part A What's New?

During 1996, the United States, through the efforts of the Environmental Protection Agency (EPA), the Department of Justice, the Fish and Wildlife Service of the Department of the Interior, the National Oceanic and Atmospheric Administration of the Department of Commerce, and other national and state enforcement officials, has continued its tradition of vigorously enforcing its environmental and wildlife protection laws. It has also sought to promote compliance with those laws by the regulated community and others. State, local and tribal governments continue to initiate most enforcement actions and have been active in enforcing their respective environmental and wildlife protection laws.¹ They have also worked cooperatively with the national government on enforcement, especially under those statutes in which they share concurrent jurisdiction with the national government or administer nationally approved programs.

EPA has reaffirmed that formal law enforcement will continue to be the central and indispensable element of its efforts to ensure compliance.² While there has been an increase in the use of compliance promotion and assistance activities since the 1994 reorganization, this year EPA initiated the highest number of criminal actions ever. The total FY96 dollar value of criminal, civil judicial and administrative penalties assessed in actions brought by the national government was approximately \$173,000,000; the dollar value of injunctive relief was \$1,430,000,000; and the dollar value of Supplemental Environmental Projects (SEPS) was \$66,000,000. In addition, state agencies assess a large amount of penalties.³ National and state enforcement case settlements increasingly require violators to pay for the cleanup and protection of the environment. In addition, penalties are included to level the economic playing field. It is EPA's policy to ensure that responsible citizens and companies who make the necessary expenditures to comply with the national laws are not placed at a competitive disadvantage compared to those who do not.

There has been increased national interest and legislation enacted assuring that small businesses are treated fairly in enforcement of and compliance with national regulations.³ EPA reflects this emphasis in its 1996 "Policy on Compliance Incentives for Small Businesses," which is intended to promote environmental compliance among small business by providing them with special incentives to participate in compliance assistance programs or to conduct environmental audits, and then to promptly correct violations. To facilitate dissemination of compliance information to businesses, EPA has established its four Compliance Assistance Centers, made the 18 Industry Sector Notebooks available on the Internet, and distributed various guidance documents as needed.

EPA's ability to measure the results of the United States' compliance and enforcement program is evolving. More detailed information is being gathered on the types and quantities of chemicals reduced and the qualitative benefits to human health and ecosystem protection as a result of enforcement actions. Collection of this type of data was piloted in 1995 and is now established as a standard reporting requirement.

The Office of Environmental Justice in EPA's Office of Enforcement and Compliance Assurance leads national efforts to ensure that no one suffers disproportionately from the effects of environmental violations and highlights the importance of including environmental justice considerations in enforcement and compliance decisions.

Among other things, the Fish and Wildlife Service increased interaction and cooperation with its law enforcement counterparts in Mexico and Canada. This resulted in increased enforcement and wildlife inspection activity. Also, cooperative training sessions were conducted with Environment Canada and Mexico's Profepa on illegal trade in birds and fur and the use of forensics in such investigations.

¹ An environmental or wildlife protection law enacted by a state, local or tribal government must provide at least as much protection as the corresponding national law.

² "Operating Principles for an Integrated EPA Enforcement and Compliance Assurance Program" issued 27 November 1996 provides an up-to-date summary of the EPA program.

³ For additional data on national and state enforcement actions and other information, please see References section at the end of the report.

⁴ Small Business Regulatory Enforcement Fairness Act (SBREFA) enacted 29 March 1996.

Part B Transboundary Movement of Hazardous Waste

BACKGROUND

Definition

In the United States, the Resource Conservation and Recovery Act (RCRA) defines the term “hazardous” for purposes of the hazardous waste export and import requirements. A waste can be hazardous if it exhibits one of four characteristics (ignitability, corrosivity, reactivity and toxicity) or if it is listed as a hazardous waste by the Environmental Protection Agency (EPA). The RCRA regulations exclude certain waste material if it is used as an ingredient to make a product or used as an effective substitute for a commercial product (i.e., it is “reused”).

Conventions/International Agreements

In 1992, the Organization for Economic Cooperation and Development (OECD) adopted a decision establishing a control system for the transboundary movements of wastes destined for recovery operations among OECD member countries. It supersedes requirements of the Basel Convention applicable to these wastes. The rule establishes a waste management scheme of notifications, consents, tracking documentation, and contracts with different controls depending on whether the wastes are classified as “green,” “amber” or “red.” There are different requirements and controls for each level of waste. Effective 11 July 1996, new RCRA regulations implemented the requirements of the OECD decision.

The United States has bilateral agreements with Canada and with Mexico, which govern the transboundary shipment of hazardous waste. Trade with these two countries proceeds under the terms of these bilateral agreements and complementary RCRA requirements, but not the OECD requirements. These agreements will qualify as valid pre-existing agreements under Basel Convention if and when the United States becomes a party.

Legislation/regulations

Section 3017 of RCRA provides that “no person shall export any hazardous waste ... unless ... the government of the receiving country has consented to accept such hazardous waste” and the exporter meets specified requirements. The relevant regulations establish a system for tracking the required notifications and reporting for export of hazardous waste. Importers of hazardous waste must observe notice and comment requirements of international agreements for waste streams from foreign sources for wastes regulated under RCRA. They must also comply with special manifest requirements under RCRA.

In March of 1996, EPA entered into a Memorandum of Understanding (MOU) with the Customs Service to facilitate the enforcement of national environmental laws and regulations, international environmental agreements, and cooperation between the agencies with regard to materials imported and exported. The agreement includes provisions regarding training of Customs inspectors and staff and procedures for delivery to EPA of manifests and other documentation that the Customs Service receives from importers and exporters.

COMPLIANCE PROMOTION AND ENFORCEMENT ACTIVITIES AND ISSUES

National context

Although the vast majority of US imports of hazardous waste are from Canada or Western Europe, some hazardous waste is received from Mexico as well. In addition, the United States imports hazardous waste generated from maquiladoras in Mexico. The maquiladora⁵ program generally requires that such waste be returned to the United States if the United States was the source of the raw materials.

Commencing in 1996, the United States began developing an improved database known as the Waste International Tracking System (WITS). This system currently tracks imports of RCRA hazardous wastes and PCBs and runs on a desktop computer. Also, the United States is participating in a pilot program with Environment Canada, British Columbia, and a private company to evaluate the potential uses of Electronic Data Interchange (EDI) for the transmission of information.

Importance of Interagency and International Cooperation

The enforcement of national and state laws concerning the transport of hazardous waste and other dangerous substances involves cooperation between a number of agencies, including the US EPA, US Department of Justice, US Customs Service and US Department of Transportation, various state agencies, task forces, and regional enforcement networks. EPA provides support to the US Customs Service in the training and detection of illegal waste shipments. Various national and state agencies have also worked to develop international cooperation and outreach, including coordinated border crossing inspections and information exchanges with Canada and Mexico. Another important component of the US enforcement program is the working relationship that has been developed with the International Criminal Police Organization (INTERPOL) and its 173 member nations.

⁵ A “maquiladora” is a facility operating in Mexico under Mexico’s “in-bond” program, pursuant to which a company may import raw materials for use in manufacturing or assembly processes without paying import tariffs under Mexican law, provided the resulting finished products and hazardous wastes are returned to the country of origin of the raw materials.



Compliance Promotion Efforts

In March 1996, a compliance promotion effort in the United States and Mexico border area began at the request of Mexico's Procuraduría Federal de Protección al Ambiente (Profepa). EPA sent letters to 70 US parent corporations of maquiladoras located in Chihuahua encouraging them to comply with Mexican regulations governing the transboundary shipments of hazardous waste. Hazardous waste transporter training courses were also conducted at Mexican facilities in Chihuahua. In several other ongoing border pollution prevention efforts, EPA has teamed up with the Texas National Resource Conservation Commission (TNRCC) and Profepa to conduct site assessments and follow-up visits to determine opportunities to implement pollution prevention and clean technology for Mexican industrial facilities.

The newest cooperative effort to protect and improve the environment of the US-Mexico border area is the Border XXI Program. Border XXI is a cooperative effort of the US and Mexican national, state and local governments to identify environmental objectives for the border region through the year 2000, as well as mechanisms and strategies for fulfilling those objectives.

COMPLIANCE VERIFICATION PROCESS

Compliance Monitoring Based on Record Keeping and Reporting

National compliance monitoring is based on the US record keeping and reporting requirements for exports of hazardous waste and, to a limited extent, for imports. EPA's Office of Enforcement and Compliance Assurance maintains an import/export information management system to track submissions of notifications of intent to export, acknowledgments of consent, and annual reports. Most of the import/export enforcement actions taken by the United States were developed after detecting violations of these documentation requirements.

To track the thousands of tons of hazardous waste from maquiladoras crossing the US-Mexico border each year and to further effective compliance monitoring, EPA's regional office in Dallas, Texas, developed a US-Mexico Hazardous Waste Tracking System (HAZTRAKS). The database tracks the shipment of hazardous waste from generation to disposal, reports transboundary activity, allows efficient corroboration of industry reporting, and allows the United States and Mexico to identify waste streams, detect violations, and obtain reports on the previous history of imported shipments. HAZTRAKS also provides a means to focus investigation and inspection activities based on information captured in the database. The system is being expanded to include information on shipments to and from Canada.

ENFORCEMENT RESPONSES The United States responds to different types of violations with different levels of enforcement responses. In the case of a minor violation, a response such as the issuance of a Notice of Violation and a schedule for returning to full compliance may be appropriate. If the violator fails to address the violation following an informal enforcement response, the violation might then become the object of a formal enforcement response. There are also circumstances under which a formal enforcement response is generally appropriate, including those where: the violation poses a substantial threat to health or the environment; the violator is a chronic or recalcitrant violator; or the violation represents a substantial deviation from RCRA requirements. A formal response may consist of an administrative, civil, or criminal action against the violator that results in an enforceable agreement to return to compliance. Such a response will generally include economic sanctions in the form of penalties which seek to recover the economic benefit of non-compliance plus an amount reflecting the gravity of the violation. Additional punitive measures may include, as appropriate, suspension and debarment from government contracts, pollution prevention projects, permit decisions, or receivership.

Recent Cases

- For their violations of US laws, two persons were each sentenced to one year in prison and were ordered to serve three years of supervised release for their convictions on charges of conspiring to transport hazardous waste without the appropriate paperwork, conspiring to export hazardous waste to an African country without permission of the receiving country and wire fraud. In addition, one of the defendants was ordered to pay a \$2,000 fine.
- In a case brought by the national government, Pollution Solutions of Canada, Inc. (PSOC) pled guilty to illegally transporting 625 tons of lead-laced sandblasting grit from Quebec to an unpermitted landfill in Coventry, Vermont. The company president arranged the illegal shipments with knowledge that a laboratory analysis commissioned by the Quebec government established that the sandblast residue contained a lead concentration which greatly exceeded the hazardous waste threshold. The company paid a \$60,000 civil penalty in settlement of the case.
- An international electronics company manufacturing computer parts as a "maquiladora" company pled guilty to violating California state laws for smuggling hazardous waste for disposal to a facility in California which did not have a permit. As part of the settlement, the company paid \$300,000 in fines, contributions and penalties. Those contributions supported such activities as further education and training for investigators and backup support for environmental prosecutions throughout California.

NEXT STEPS The United States, Mexico and Canada will continue to work to improve the monitoring of transborder movements of hazardous wastes and toxic substances and to promote pollution prevention and waste reduction practices. Some of the planned projects include: (1) conducting training courses in the Binational Field Sampling and Lab Capability Project training series to improve the ability to detect violations of hazardous waste management and import/export regulations along the US-Mexico border; (2) conducting training courses with *Instituto Nacional de Ecología* (INE) and Profepa on hazardous waste management; (3) determining waste disposal and collection needs of border communities along the Texas border and improving municipal waste management practices through public education, focusing on compliance assurance in order to eliminate illegal dumping; (4) repeating the successful training courses for Customs Inspectors from the United States, Mexico and Canada on detecting illegal transboundary hazardous waste and hazardous materials shipments; (5) holding a technical seminar for US and Mexican industries to stimulate participation by border industries in Mexican and US environmental auditing programs; and (6) creating an integrated working group of technical experts, academics and agency specialists of both countries who will work together to establish technological criteria for the phases of design, construction of new and monitoring of existing facilities for the storage, treatment and disposal of hazardous wastes.

Part B Air Pollution

BACKGROUND

Legislation/Regulations

In the United States, the Montreal Protocol has been implemented through the Clean Air Act (CAA). Provisions which implement, or which are related to the implementation of the Montreal Protocol, include the ban on chlorofluorocarbons (CFCs) that went into effect in the United States during 1996 and imposition of restriction on their import and export. The United States has also taken steps to reduce air pollution that go beyond the requirements of the Montreal Protocol. The Compliance Assurance Monitoring (CAM) rule is scheduled for promulgation in July 1997. It will satisfy the requirements for monitoring and compliance certification in the 1990 CAA Amendments. The rule requires sources to monitor the operation of pollution control equipment and to take corrective action when the equipment begins to operate outside a predetermined range of operating parameters. This range must be set in order to provide a reasonable assurance that the source is in compliance with emission limitations and standards. This rule will require a source owner to pay close attention to the

operation of pollution control equipment and to take corrective action if the operation begins to degrade. The CAM rule also allows a source to certify that it is in compliance with its emission limits based on the equipment parameter data, not on actual emission data.

The Risk Management Programs Rule (promulgated in June 1996) applies to stationary sources where an extremely hazardous substance is present in a process in a quantity greater than a specified threshold. It requires that owners or operators of such sources identify hazards, take steps to prevent accidental releases of these extremely hazardous substances into the air, and take steps to minimize the impacts of any releases. The rule specifies the steps to be taken to meet the requirements. Compliance is required by 21 June 1999.


COMPLIANCE PROMOTION AND ENFORCEMENT ACTIVITIES AND ISSUES

Source owners of multiple sources of air pollution are being required to identify all applicable requirements in one permit, and to report their compliance status with respect to each requirement to the EPA-approved state permitting authority. Some owners are finding that they are not in compliance with all applicable requirements as they identify their requirements and determine their compliance status. They are, therefore, reluctant to submit permit information to state agencies for fear of enforcement action. In order to provide an inducement for such sources to come into the permit program, some states are granting periods of amnesty during which sources can submit their permits and disclose noncompliance without the fear of becoming the subject of enforcement. Some state governments in the United States are enacting more general amnesty laws as an inducement for source owners to report violations. At the national level, EPA is concerned that significant violations will go unaddressed if such amnesty programs become widespread.

EPA is currently developing three compliance tools to assist in implementing the international agreements on CFCs. These are a compliance assistance outreach tool for businesses that buy, replace, or service equipment with CFCs; a database to track compliance and enforcement activities; and a national compliance strategy aimed at achieving compliance with the CFC regulations by the regulated community.

New Direction Towards More Risk-based Enforcement

The risk-based enforcement project is developing enforcement cases against the violators which create the greatest risk to human health and the environment. The project involves a number of steps. The first is to gather and assess air pollution data, asking the question, "What air pollutants pose the greatest risk to human health and the environment?" Resources both within EPA and in the scientific community will be used in this



step. After identifying the most dangerous air pollutants, the second step is to identify the sources of those pollutants. The third step is to assess the feasibility of taking enforcement action against those sources, since not all sources of the identified pollutants will be subject to emission limitations or standards. The fourth step is to initiate the enforcement actions themselves, which will involve close cooperation with state air pollution control agencies.

COMPLIANCE VERIFICATION PROCESS

Record Keeping and Reporting

National compliance is monitored utilizing state and federal inspectors who conduct on-site investigations. Their review is supplemented by analysis of source-conducted monitoring, record keeping and reporting requirements for emissions of air pollutants. Sources must notify the appropriate state and/or national agency when new construction is begun or when significant modifications are made to ensure that proper control equipment and procedures are put in place. Major sources of air pollution must obtain a Title V permit and submit semi-annual progress reports, including excess emission reports and annual certifications of compliance.

Compliance Monitoring Based on Record Keeping

To track compliance with CAA requirements, many sources must install continuous emission monitoring systems (CEMs) and in some cases, such as acid rain monitoring, this data is reported directly to a national database. Other sources of monitoring information are kept in state databases and reports are made to EPA Regional offices so that a national perspective on compliance can be obtained. The United States's main compliance database is the Aerometric Information Retrieval System (AIRS/AFS).

ENFORCEMENT RESPONSES Air enforcement staff have a number of tools at their disposal to ensure compliance and to punish violators appropriately. Criminal and civil judicial lawsuits may be prosecuted (see the examples below). Administrative penalty actions may be brought before a less formal administrative tribunal where penalties are statutorily limited to \$200,000 and the violations must have occurred within one year of the filing of the administrative penalty order (demand). These “caps” can be waived with approval of the Department of Justice. A new “field citations” program is nearing completion, which will allow inspectors in the field to issue “traffic tickets” for fines up to \$5,000 per violation. These citations may be appealed in court. Other remedies available include Notices of Violation (NOVs) and Administrative Orders (AOs). If the source does not respond to NOVs or AOs by returning to compliance, EPA will consider seeking court action to mandate a return to

compliance. As in other environmental programs, compliance must be achieved, the economic benefit of noncompliance must be recouped and punitive measures, including suspension and debarment in addition to penalties, should be taken where called for. Based on national policy, penalties may be offset by Supplemental Environmental Projects (SEPs), including pollution prevention measures.

The investigation of illegal importation of Ozone Depleting Substances into the United States has become the fastest growing part of EPA's criminal caseload. Working with the US Customs Service, the Internal Revenue Service, and the Department of Justice, this effort has resulted in 12 defendants being convicted and sentenced to more than 145 months of incarceration and several millions of dollars in fines and restitution. This national interagency effort to interdict CFC smuggling and related criminal violations of the CAA will continue to be a priority in the year ahead.

Recent Cases

- The Georgia-Pacific Corporation will be required to spend more than \$35 million in injunctive relief, penalties and SEPs to settle allegations that it illegally poured tons of volatile organic compounds (VOCs) annually into the air at its wood product factories in eight southeastern states. The settlement of this action brought by the national government will reduce ozone-forming emissions from these plants by at least 90 percent, which translates into 10 million pounds of harmful air pollution per year.
- In settlement of an enforcement action brought by the United States, the Colorado Public Service Co. will be required to spend \$140 million – the second largest expenditure in CAA history – to install “state-of-the-art” pollution controls to reduce particulate, sulfur dioxide and nitrogen oxide emissions at its facility in the Yampa Valley near Steamboat Springs, CO. This settlement will dramatically reduce acid levels and improve visibility in the scenic Mt. Zirkel wilderness area.
- Working in conjunction with officials from the US Marshals Service, US Customs, the Internal Revenue Service, INTERPOL, and Costa Rican authorities, the United States accomplished the first-ever extradition of an individual charged with environmental crimes in the United States. The individual was convicted and sentenced to one year in prison with credit for time served, a fine of \$75,000, and required to pay excise taxes owed to the United States for conspiracy, violation of the CAA, and tax evasion for his role in a scheme to import more than 19,000 thirty-pound cylinders (approximately 288 tons) of CFC-12, a refrigerant gas commonly known as Freon.

- In a settlement over alleged violations of Ohio state air pollution control requirements, a steel castings company agreed to pay \$275,000 to the state and donate \$65,000 for an urban tree planting project. Further, the company agreed, as part of a SEPs package, to install new equipment in its facility in lieu of paying additional penalties.

NEXT STEPS EPA will continue its work to reconcile and integrate data from several of its databases to evaluate and compare the environmental performance of facilities in five industrial sectors: petroleum refining, iron and steel, pulp mills, nonferrous metals, and automobile assembly. This Sector Facility Indexing Project is designed to provide more complete and accurate information in areas such as production capacity, toxicity of pollutant releases, compliance history and demographic data pertaining to each facility. In 1996, EPA also began and will continue an in-depth analysis of compliance problems at iron and steel mills, based on file data from state, local and regional agencies and inspector interviews. This study, the Root Cause Analysis, is designed to highlight recurring problems and specific patterns of non-compliance – information which will be useful in developing and improving the Agency’s compliance and enforcement efforts. Similar analyses will soon be underway in the nonferrous metals and petroleum-refining sectors.

Part B International Trafficking in Flora and Fauna

BACKGROUND This section describes the fish and wildlife enforcement program administered under the United States Department of the Interior by the United States Fish and Wildlife Service (Service) and the National Oceanic and Atmospheric Administration (NOAA) of the Department of Commerce.

Conventions/International Agreements/Legislation

The Service relies upon various environmental statutes, regulations, and international treaties to regulate the trade in flora and fauna. The pertinent statutes not discussed in the 1995 Annex I North American Report on Environmental Enforcement are: the Bald Eagle Protection Act, which prohibits all commercial activities and some noncommercial activities involving Bald or Golden eagles, including their feathers or parts; the Marine Mammal Protection Act, which establishes a national responsibility to conserve marine mammals by establishing a moratorium on the taking and importation of live marine mammals, their parts and products; and the Wild Bird

Conservation Act, which is a significant new step in international conservation efforts to protect birds subject to trade. The latter Act focuses on bird species listed in the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

The US-Canada Fisheries Enforcement Agreement, signed in 1990, established guidelines for communications, coordination, and cooperation for dealing with illegal fishing by vessels of each country in the waters of the other country.

COMPLIANCE PROMOTION AND ENFORCEMENT ACTIVITIES AND ISSUES

The Service and NOAA utilize a broad range of programs to enforce the provisions of the significant national legislation that controls the import and export of wildlife and fish or fish products. These include: the designation of specific ports of entry for wildlife; the staffing of these ports with wildlife and fisheries inspectors to monitor wildlife and fish shipments; the licensing of commercial wildlife importers and exporters; the development of a national computer system to analyze importation and exportation data; the use of international intelligence to monitor wildlife trade; and cooperation with national and international government agencies in the interdiction of illegal wildlife shipments.

Since the early 1970s, the Service has designated only certain ports of entry for the importation and exportation of wildlife. This consolidation provides efficient service and reduces operating costs to the public. In addition to the current total of 12 designated ports, certain ports along the Canadian and Mexican border have been authorized to accept importations and exportations of wildlife from these countries.

The Service also uses various types of outreach approaches to inform and educate the general public about wildlife trafficking and the extent of the illegal wildlife trade. Such outreach projects may entail giving presentations at schools, sportsmen clubs, customs brokerage associations and nongovernmental organizations. The Service also conducts outreach programs to address a specific part of a community. For example, recognizing that the world’s wild tigers and rhinos were perilously close to extinction, the Service initiated an education program in Los Angeles concerning the dramatic increase in Asian medicinals containing parts of endangered species.

To further compliance and enforcement, NOAA Fisheries Enforcement has begun meetings with Mexico’s Profepa to explore areas of mutual concern regarding illegal fishery activities. NOAA Fisheries Enforcement and Profepa also work to enhance collaboration on a variety of subjects including: specific

enforcement problems; remote sensing and surveillance technologies; and systems to improve communications through increased information exchanges.

COMPLIANCE VERIFICATION PROCESS Compliance verification is a necessary component of monitoring the trade in fish and wildlife. The Service and NOAA have developed a specialized cadre of professional employees to handle this function. There are currently 79 wildlife inspectors and 25 fisheries patrol officers assigned to designated border ports throughout the United States.

Wildlife inspectors and NOAA fisheries patrol officers spend a significant amount of time working in the area of import-export control. They often work closely with the US Customs Service to monitor border operations. Duties include the examination of document packages that accompany shipments, the physical inspection of the contents of shipments, the proper handling of seized property and the administrative duties associated with the inspection and the clearance or seizure of wildlife imports and exports.

Complementing the fish and wildlife inspection force are the Service's 250 Special Agents and NOAA's 105 Special Agents stationed at various locations throughout the United States, Guam, and Puerto Rico. The Special Agents' activities include: protecting fisheries resources, marine mammals and endangered species and their habitat; investigating the illegal use of contaminants and toxins; investigating complex commercial conspiracies exploiting wildlife in interstate and foreign commerce; and protecting our migratory birds resources.

Most individuals who import or export wildlife or wildlife products must file a US Fish and Wildlife Service Form 3-177 (Declaration for Importation or Exportation of Fish or Wildlife) with the Service at the time of importation or exportation. Also, any wildlife imported from a country regulating its taking, possession, transportation, exportation or sale has to be accompanied by documents verifying compliance with that country's laws.

ENFORCEMENT RESPONSES In enforcing natural resource laws, the United States utilizes various enforcement response options that address a wide array of infractions—from minor violations to very serious crimes. Such responses can range from immediate action at ports of entry by Service and NOAA enforcement personnel to prosecutions for criminal violations by the Department of Justice. For example, fish and wildlife inspectors can utilize methods of dealing with prohibited imports of fish and wildlife or fish and wildlife products. These methods include: refusal of clearance, the offering of

abandonment to the importer, seizure of the contraband, bonded release of the contraband, and transfer of the import to a Customs warehouse. In certain situations, the facts surrounding such encounters are presented to Service special agents who evaluate the situation for follow up investigation. Such investigation may result in referral to the Department of Interior Regional Solicitor or NOAA General Counsel for evaluation of civil penalty proceedings or to the Department of Justice for evaluation of criminal or civil proceedings.

Recent Cases

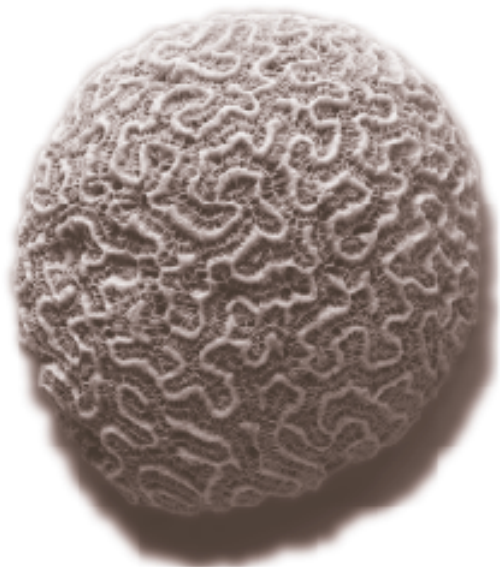
- The US Fish and Wildlife Service and the US Customs Service conducted a cooperative investigation of an operation that smuggled neotropical (also called Amazon) parrots from Central America and Mexico into the United States along the Rio Grande Valley in Texas. The investigation concluded with the Department of Justice's successful prosecution of 12 members of the smuggling ring on felony conspiracy or smuggling offenses, or endangered Species Act offenses. Together, the defendants received over 200 months imprisonment and approximately \$27,500 in fines and forfeited birds worth several hundred thousand dollars.
- The US Fish and Wildlife Service has been conducting a long-term undercover operation into organized groups which transported exotic birds or their viable eggs into the United States from Australia, New Zealand, Africa, and South America. One of the convictions resulting from the investigation was: An internationally prominent writer and lecturer on the plight of endangered parrots in the wild pled guilty to two federal felonies: conspiring to violate wildlife and customs laws and filing a false income tax return. He admitted participating in a conspiracy lasting between 1986 and 1991, to smuggle or to attempt to smuggle into the United States various species of protected macaws, parrots and conures trapped in South America. The birds included more than 50 Hyacinth macaws worth as much as \$12,000 each to collectors in the United States He was sentenced to 82 months imprisonment and fined \$100,000.
- As a result of this action brought by the national government, a Seattle-based fishing company pled guilty to violating the Lacey Act by falsifying fish tickets in an attempt to hide the company's illegal overcatch of pollock. The defendant was sentenced to pay a fine of \$100,000 and to make a 30-second public service announcement on television urging others to comply with the law.

NEXT STEPS Pressure on fish and wildlife resources is increasing nationally and worldwide. Opportunities for law enforcement to positively impact these resources are also

increasing. A primary goal of the Service enforcement initiative will be to maintain and improve cooperative enforcement efforts with over 7,500 state and tribal conservation officers to maximize effectiveness of investigations. Likewise, the Service and NOAA will continue to solidify cooperative efforts with foreign enforcement agencies, especially those representing Canada and Mexico. The Service and NOAA will continue their efforts to ensure proper utilization of our fish and wildlife resources from a conservation perspective while aggressively pursuing those who illegally benefit from illegal fish and wildlife trade.

REFERENCES

- Compendium of EPA Binational and Domestic US-Mexico Activities <http://www.epa.gov/region09>.
- Compliance Assistance Centers and EPA Sector Notebooks - <http://es.inel.gov/oeca/compassi.html>
- Cradle-to-Grave Compliance Tracking of U.S./Mexican Transboundary Hazardous Waste Shipment: The Haztraks Tracking System, Joseph Schultes, USEPA Region 6, Fountain Place, Suite 1200, 1445 Ross Avenue, Dallas, Texas 75202-2733.
- Environmental Justice - www.epa.gov/oeca/oej.html
- FY 1995 Enforcement and Compliance Assurance Accomplishments Report - <http://es.inel.gov/oeca/accomplish/>
- FY 1995 State-By-State Enforcement Data Summaries, contact Karen Ashe at (202) 564-4121 at USEPA, 401 M Street, S.W., Mailcode 2222A, Washington, DC 20460.
- OECD Final Rule, 61 U.S. Code of Federal Regulations (CFR) Fed. Reg. 16290 (April 12, 1996).
- "Operating Principles for an Integrated EPA Enforcement and Compliance Assurance Program", US Environmental Protection Agency, Office of Enforcement and Compliance Assurance, November 27, 1996, 401 M Street, S.W., Mailcode: 2201A, Washington, DC 20460.
- U.S. Fish and Wildlife Service - <http://www.fws.gov>. To obtain FY 1995 Wildlife Inspection Activity, Investigative Caseload FY 1993 - FY 1995, or Annual Violation Statistics FY 1993 - FY 1995, contact: Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service, P.O. 3247, Arlington, VA 22203.



Appendices

*Annex: North American Report
on Environmental Enforcement*

Appendix A

Summary of Related International and Bilateral Agreements

Transboundary Movement of Hazardous Wastes

AGREEMENT	STATUS	SUMMARY OF OBJECTIVES / REQUIREMENTS
Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal (1989)	Canada and Mexico are parties to the Convention. United States has signed but not ratified the Convention. Canada is not a party to the 1995 amendments.	<ul style="list-style-type: none"> • Seeks to reduce the generation and the transboundary movement of hazardous waste and to ensure environmentally sound management practices. • Provides procedures for the import and export of hazardous waste (Notification and response provisions, tracking documents, duty to re-import, etc.). • Promotes technical cooperation and exchange of information. • Bans export of hazardous waste to countries that have prohibited by law or if there are reasons to believe that the waste will not be managed in an environmentally sound manner. • Provides that signatories may enter into bilateral, multilateral and regional agreements for the environmentally sound management of hazardous waste regarding transboundary movement. • 1995 amendments ban hazardous waste exports, for disposal and recycling purposes, from industrialized countries to developing countries as of 31 December 1997.
Hazardous Waste Management System of the OECD: Decisions / recommendations of the Council of 5th June 1986; 27th May 1988; 31st January 1991; and 12th March 1992.	Canada, Mexico and the United States are members of the OECD.	<ul style="list-style-type: none"> • 1986 Decision prohibits movements of hazardous wastes to a final destination in a non-member country without the consent of that country and the prior notification to any transit countries of the proposed movements. • 1988 Decision establishes a classification system for wastes subject to transfrontier movements: the International Waste Identification Code (IWIC). The IWIC can be used to designate waste subject to transboundary movement in the Prior Informed Consent (PIC) procedure under the Basel Convention. • 1991 Decision sets guidelines concerning reduction of transfrontier movements of wastes. • 1992 Decision on transfrontier movements of wastes destined for recovery operations within the OECD subjects different types of recyclable wastes to different levels of control (green list, amber list, red list). Applies to OECD countries only for hazardous and non-hazardous wastes.

AGREEMENT	STATUS	SUMMARY OF OBJECTIVES / REQUIREMENTS
Agreement Between the Government of Canada and the Government of the United States of America concerning the Transboundary Movement of Hazardous Waste (1986)	Canada and United States are parties.	<ul style="list-style-type: none"> • Provides procedures for the export and import of hazardous wastes (notification and responses provisions, readmission of exports, etc.). • Each Party will cooperate to ensure that all transboundary shipments of hazardous waste comply with the applicable legislation of each country and of the Agreement.
Annex III to the Agreement between the United States of America and the United Mexican States on Cooperation for the Protection and Improvement of the Environment in the Border Area: Agreement of Cooperation Regarding the Transboundary Shipment of Hazardous Wastes and Hazardous Substances (La Paz Agreement (1987))	Mexico and United States are signatories.	<ul style="list-style-type: none"> • La Paz Agreement provides for the establishment of an administrative structure (national coordinator, annual meetings, meetings of experts, etc.). • Annex III provides procedures for the export and import of hazardous wastes (notification and responses provisions, readmission of exports, etc.). • Each Party shall ensure that its domestic laws and regulations are enforced with respect to transboundary shipments of hazardous waste and substances and that they cooperate in monitoring transboundary shipments. • Maquiladora companies must return all generated wastes, when imported raw material is used, to their countries of origin, and the exporter country must receive the wastes in accordance with applicable national policies, laws and regulations.

Air Pollution

AGREEMENT	STATUS	SUMMARY OF OBJECTIVES / REQUIREMENTS
United Nations Convention on Long-Range Transboundary Air Pollution (LRTAP) (1979)	Canada and United States are parties to the Convention.	<ul style="list-style-type: none"> • Promotes the limitation, reduction and prevention of air pollution, including long-range transboundary pollution, and the development of policies and strategies to combat the discharge of air pollutants. • Promotes the cooperation for the exchange of information and the conduct and review of policies, scientific activities and technical measures on the discharge of air pollutants. • Has protocols aimed at reducing transboundary acid rain and smog through emissions controls on sulfur dioxide (SO₂), NO_x and VOC.
Vienna Convention for the Protection of the Ozone Layer (1985)	Canada, Mexico and United States are parties to the Convention.	<ul style="list-style-type: none"> • Parties must adopt appropriate legislative or administrative measures and cooperate in harmonizing appropriate policies to control, limit, reduce or prevent human activities that have or are likely to have adverse effects on the ozone layer. • Parties should cooperate in the formulation of agreed measures, procedures and standards for the implementation of this Convention and with competent international bodies to implement this Convention and protocols. • Parties shall facilitate and encourage the exchange of scientific, technical, socio-economic, commercial and legal information relevant to this Convention.

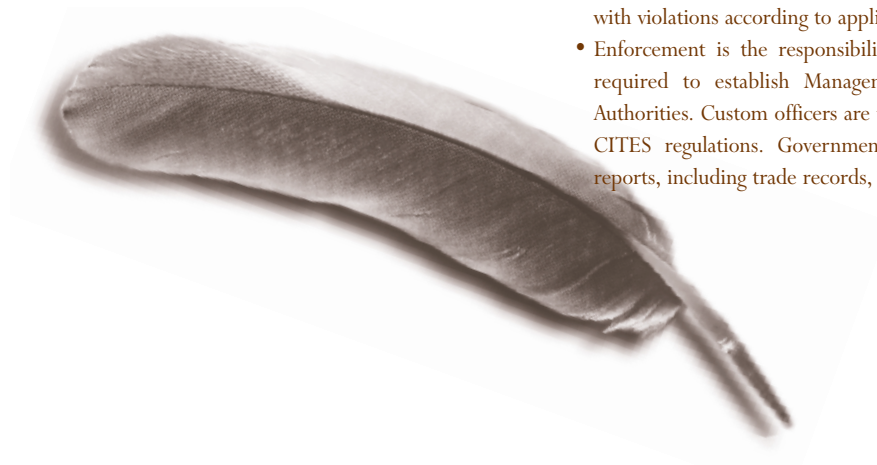


Air Pollution

AGREEMENT	STATUS	SUMMARY OF OBJECTIVES / REQUIREMENTS
Montreal Protocol on Substances that Deplete the Ozone Layer (1990) (Adopted pursuant to the Vienna Convention)	Canada, Mexico and United States are parties to the Protocol.	<ul style="list-style-type: none">• Progressive ban on import/export of identified substances that deplete the ozone layer.• Progressive reduction of consumption and production of identified substances that deplete the ozone layer.• Progressive control of trade with non-parties on substances that deplete the ozone layer.
Agreement between the Government of the United States of America and the Government of Canada on Air Quality (1991)	Canada and United States are parties.	<ul style="list-style-type: none">• Parties must establish specific objectives for emissions limitations or reductions of air pollutants and adopt the programs and other measures to implement them.• Parties shall assess proposed actions and activities that might have a significant transboundary impact, and notify and consult the other party on such projects.• Parties shall cooperate with state and provincial governments to implement the Agreement.
Agreement between the United States of America and Canada on Great Lakes Water Quality (1978)	Canada and United States are parties.	<ul style="list-style-type: none">• Seeks to strengthen efforts to address the contamination of the Great Lakes Basin Ecosystem by toxic substances which enter from air, ground water infiltration, sediments and run-off of non-point sources.• Provides for General Objectives and the adoption of Specific Objectives which represent the minimum levels of water quality desired. More stringent standards can be established by the Parties.• Parties, in cooperation with state and provincial governments, shall continue to develop and implement programs and other measures to fulfill the purpose of the Agreement and the General and Specific Objectives and shall ensure that water quality standards and other regulatory requirements of the state and provincial governments are consistent.• Provides that the International Joint Commission and joint institutions assist in the implementation of the Agreement.• Parties shall develop mechanisms for further international cooperation.
Annex V to the Agreement between the United States of America and the United Mexican States on Cooperation for the Protection and Improvement of the Environment in the Border Area: Agreement of Cooperation Regarding International Transport of Urban Air Pollution (La Paz Agreement) (1989)	Mexico and United States are signatories.	<ul style="list-style-type: none">• La Paz Agreement provides for the establishment of an administrative structure (national coordinator, annual meetings, meetings of experts, etc.).• Annex V seeks to ensure a reduction in air pollution concentrations.• Parties shall study, monitor and compile data on the emissions of selected pollutants.• Parties shall jointly explore ways to harmonize, as appropriate, their air pollution control standards and ambient air quality standards.

International Trafficking in Flora and Fauna

AGREEMENT	STATUS	SUMMARY OF OBJECTIVES / REQUIREMENTS
Framework Convention on Biological Diversity (1992)	Canada and Mexico are parties.	<ul style="list-style-type: none"> • Processes and activities which have or are likely to have significant impacts on the conservation and sustainable use of biological diversity must be regulated, managed and properly assessed. • Requires Parties to adopt national strategies, plans, and programs for the conservation and sustainable use of biological diversity. Parties are to take legislative measures or other measures to facilitate the access of Parties which provide genetic resources, particularly developing countries, to technologies making use of the resources. • Access to genetic resources may be regulated by national legislation. • Results of research and development and benefits arising from the commercial and other utilisation of resources must be shared in a fair and equitable way with the Contracting Party providing the resources, upon mutually agreed terms. • Establishes a general obligation for all Parties to provide and facilitate access to and transfer of particular kinds of technology. Transfer of technology must be provided on terms which are consistent with the protection of intellectual property rights.
Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (1973)	Canada, Mexico and the United States are parties.	<ul style="list-style-type: none"> • Establishes an international scheme for regulating trade in plant and animal species that are, or may become, threatened with extinction. • Convention has three appendices which list the regulated species. Trade in these species is prohibited or strictly controlled. • Permit and certificate must be issued by the importing or exporting country, or both, if trade in a particular species is allowed. • Convention merely directs each party to enforce the treaty and deal with violations according to applicable domestic laws. • Enforcement is the responsibility of member States, which are required to establish Management Authorities and Scientific Authorities. Custom officers are usually given the task of enforcing CITES regulations. Governments are also required to submit reports, including trade records, to the CITES Secretariat.





International Trafficking in Flora and Fauna

AGREEMENT	STATUS	SUMMARY OF OBJECTIVES / REQUIREMENTS
Memorandum of Understanding (MOU) establishing the Canada/Mexico/United States Trilateral Committee for Wildlife and Ecosystem Conservation and Management (April 1996)	Canada, Mexico and the United States are parties.	<ul style="list-style-type: none">• General objective is the conservation of species and the ecosystems on which they depend by establishing a Trilateral Committee for Wildlife and Ecosystem Conservation and Management to facilitate and enhance coordination, cooperation and the development of partnerships among wildlife agencies of the three countries.• Replaces the Mexico-US Joint Committee on Wildlife and Plant Protection (1975) and the Tripartite Committee for the Conservation for the Migratory Birds and Their Habitats (1988).
Protocol between the Government of Canada and the Government of the United States of America amending the 1916 Convention between the United Kingdom and the United States of America for the Protection of Migratory Birds in Canada and the United States (1995)	Canada and the United States are signatories.	<ul style="list-style-type: none">• Updates the 1916 Convention but reaffirms its purposes and objectives.• Seeks to ensure long-term conservation of migratory birds and migratory bird populations.• Means to pursue these objectives may include: monitoring, regulation, enforcement, compliance, cooperation, education, information, development, sharing and use of best scientific information, etc.• Provides for the use of aboriginal and indigenous knowledge, institutions and practices.• Provides a list of migratory birds included in the terms of the Convention.• Convention prohibits or restricts hunting of migratory birds and prohibits the taking of nests and eggs of migratory birds• Parties shall take appropriate measures to preserve and enhance the environment of migratory birds.• Parties can allow, through a permit system, the killing of some migratory birds that become seriously injurious.

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