

Terms of Operation – Working Groups
Commission for Environmental Cooperation
(Approved 6 August 2012)

Introduction

Under Article 9(5)(a) of the North American Agreement on Environmental Cooperation (NAAEC) the *Council of the Commission for Environmental Cooperation (CEC or the Commission)* “may establish, and assign responsibilities to, ad hoc or standing committees, working groups or expert groups.” Moreover, Council Rule of Procedure 7.1 states that “the Council may establish and assign responsibilities to ad hoc or standing committees, working groups or expert groups as it may require to fulfill its mandate,” “the Council shall establish the terms of reference, guidelines and budget for the committees and groups”, and also that “the Council may request the Executive Director to assist in carrying out these functions.” Further, NAAEC Article 11 stipulates that “the Secretariat shall provide technical, administrative and operational support to the Council and to committees and groups established by the Council, and such other support as the Council may direct.”

The CEC Council has indicated its intention to clarify the rules under which all NAAEC Article 9(5)(a) Working Groups are to operate in order to advance and be aligned with the priorities, objectives and actions decided upon by the Council through the Strategic and Operational Plans.

Scope

1. These Terms of Operation apply to all groups established under Article 9(5)(a). For purposes of these Terms of Operation, the term “Working Groups” applies to any group established under Article 9(5). These Terms of Operation are controlling and intended to supersede any previous terms of operation or similar instrument adopted by the Council or otherwise.
2. These Terms of Operation set forth the intended operating rules for all 9(5)(a) Working Groups and subcommittees.

Mandate

3. The Strategic Plan and the Operational Plan approved by the Council constitute the Council’s strategic mandate and are to guide the strategic objectives, project and activity objectives and expected results of the trilateral work pursued by the Parties through the Working Groups.¹

¹ Responsibility for trade & environment-related cooperation, including implementing NAAEC Article 10(6), falls under the purview of the most relevant Working Group.

4. Working Groups are accountable to the Council but may provide advice to the Council on issues related to their respective mandates through the General Standing Committee (GSC).
5. In developing and implementing project-level activities, Working Groups are to be guided by the Project Selection Criteria included in the Strategic Plan.

Establishment of Working Groups

6. Working Groups are to be established and terminated by decision of the Council including through the Alternate Representatives as necessary to fulfill the strategic and operational plans approved by the Council.
7. The General Standing Committee is to consult with the Executive Director on the establishment of Working Groups in order to assess the human and financial resources required to support the operation of Working Groups and the availability of such resources at the Secretariat.

Membership and Structure

8. Working Group members are to be appointed by a Party, depending on the purpose of the Working Group and direction of the Council. If a Party appoints a Working Group member, it is to notify the other Parties and the Executive Director, and include in the notification the member's contact and biographical information.
9. Each Party is to designate from its Working Group membership:
 - a) One Working Group member to lead that Party's Working Group participation. This representative should be a senior governmental official with decision-making abilities and the authority to represent the respective government and provide direction to the Secretariat.
 - b) One Working Group member to act as an alternate to the Party's Working Group lead. In this capacity, this representative is to serve the same functions as the Working Group lead, for the duration of time serving in the lead's place.

Chairs

10. Working Groups shall be chaired by a member of the Working Group that has been designated as a lead by their Party.
 - a) The role of the Chair is to rotate among Party leads.
 - b) The term of the Chair is to align and rotate with that of the Council Chair unless otherwise decided by Working Group members.

- c) Members may appoint Co-Chairs by consensus. In the event a Chair is unable to perform its responsibilities, the Chair's Alternate is to assume the role of the Chair.

11. The Chair is to preside over meetings of its respective Working Group.

Subcommittees

12. Working Groups may establish *ad hoc* subcommittees to implement project or task-level work consistent with the respective body's mandate. An *ad hoc* subcommittee may include Working Group members, invited experts, or stakeholders. Subcommittee membership is to be based on an assessment of project or task descriptions by the Working Group and in consultation with the Secretariat's Executive Director and notification to the General Standing Committee.

13. *Ad hoc* subcommittees do not have standing authority and may be terminated at any time per the decision of the Council or the parent Working Group. The mandate of an *ad hoc* subcommittee is limited to the specific projects or tasks assigned. An *ad hoc* subcommittee terminates upon the completion of its projects or tasks and within the duration of any given Operational Plan, unless otherwise decided by the Council.

14. An *ad hoc* subcommittee is accountable to its parent Working Group and is to report out to this Working Group on the implementation of specific projects or tasks. The Working Group remains accountable for projects or tasks that have been delegated to an *ad-hoc* subcommittee.

15. Support extended by the Secretariat for the achievement of results will be guided by Article 20 and will be at the discretion of the Executive Director.

16. Working Groups may not establish *standing* subcommittees.

Meetings

17. Meetings are to be called and scheduled by the Chair in consultation with the Secretariat and members of the Working Group, as necessary and consistent with the Working Group's mandate.

18. Meetings of Working Groups are to be planned and conducted in accordance with the CEC's Meetings Policy.

19. Working Groups are encouraged to conduct their meetings via tele/videoconference as much as possible. No more than two face-to-face meetings are to be supported in any given year, except in exceptional circumstances and unless otherwise decided by the Council.

20. Working Group leads are to convene, at a minimum, annually, in person or by video- or teleconference, to advance strategic planning.

Secretariat Support

21. The Secretariat is to provide technical, administrative and operational support to the Working Groups. Such support could include, but is not limited to:
- a. organizational and logistical support of group meetings;
 - b. interpretation and translation services for meetings;
 - c. facilitation of group discussions and decision-making;
 - d. information and technical support as required;
 - e. maintenance of group decision and action records;
 - f. contract support for specific tasks;
 - g. preparation, maintenance, and sharing of project budget, activity, and status reports;
 - h. communications support;
 - i. maintenance of project-specific and related information, tools and data on the CEC's web site(s);
 - j. planning, budget and work-plan support, including regular budget updates;
 - k. liaison with the CEC's Joint Public Advisory Committee (JPAC);
 - l. editorial, translation, and quality assurance support for the completion and production of project reports and outputs;
 - m. establishment of performance indicators and the associated measurement and reporting of results; and,
 - n. identification of potential synergies and duplication between the different Working Groups.
22. In all such activity the Secretariat is bound by the Council Rules of Procedure, the CEC financial and administrative rules, as well as any other CEC rules that may be applicable.
23. The Secretariat is to communicate and consult with the Leads of the Working Groups regarding the availability of human or financial resources in order to maximize the provision of support to the Working Groups. The Secretariat is to inform the GSC of any such communication and consultation and will address any unresolved support issues with the GSC and the Leads of the Working Groups.

Decision-making

24. Working Groups decisions are to be made by trilateral Working Group consensus. As needed, leads may convene to resolve any issue within the Working Group and make a decision by trilateral consensus. If efforts to take a decision by consensus fail, the group shall refer the matter in question to the Council's General Standing Committee (GSC) and, the GSC, as needed, will seek decision from the Alternate Representatives. A record of decision-making shall be maintained and made available in all cases.

Agenda

25. The agenda for a group's meeting is to be developed by the Chair in consultation with Working Group members and the Secretariat, and adopted at the beginning of each meeting.

Languages

26. Meeting attendees may participate in either English, Spanish or French.

Record-keeping

27. A summary of the decisions taken and action items identified at each meeting is to be maintained by the Secretariat.

Travel

28. The Secretariat is to provide support to Working Group members and for Working Group meetings in accordance with the approved CEC budget, the Operational Plan, the CEC Travel and Meeting Policies and each Party's applicable transfer payment policies.

Ethics

29. Members of Working Groups are to conduct themselves in a manner befitting the international character of the Commission and of their Council-assigned responsibilities. Members, including designated alternates, are to exercise discretion, tact, and timeliness in the performance of their duties. Members and designated alternates are to adhere to the terms of NAAEC 11(4), and shall not, on behalf of their Party, or for any purpose other than that decided by the Working Group, seek to influence the Secretariat in the discharge of its responsibilities. Members are not, directly or indirectly, to solicit or accept gifts from any source that could compromise or be perceived to compromise their independence and integrity, nor are members to direct or attempt to direct Secretariat procurement decisions.

Confidentiality

30. Working Group members are to safeguard from public disclosure any information received in their official capacity, unless such information is in the public domain or such use is authorized by the Council.

Conflict of Interest

31. Members of Working Groups are to recuse themselves from any matter that presents or might be perceived to present a personal conflict of interest and inform the Chair of any conflict or potential conflict of interest.

Transparency

32. Working Groups are to endeavor to involve stakeholders, project partners, and relevant members of the public, as appropriate. The Framework for Public Participation in CEC Activities (the “Framework”) includes general guidelines and proposes mechanisms for such public participation. Working Groups shall be mindful of the Framework when conducting their activities. Working Groups may choose to hold meetings, or parts of meetings, in public to encourage transparency and public participation. Working Groups are encouraged to consider the potential for the JPAC to assist in such public participation.

Accountability

33. Working Groups are accountable to the Council for fulfilling their mandate and doing so consistent with the relevant CEC Operational Plan(s).

Reporting

34. Chairs are to ensure appropriate annual reports are prepared, with the support of the Secretariat.
35. Results achieved and other performance indicators in support of project-level activities are to be reported to the Council via, *inter alia*, Secretariat developed quarterly financial reports (e.g. Moose) and other reports as appropriate or otherwise required by Council or the NAAEC. The Secretariat is to support the Working Groups in the assessment, measurement and reporting of such results.

Non-member Participation

36. Working Groups may seek advice and information from the JPAC, governmental, non-governmental, and inter-governmental organizations, independent experts and interested members of the public, as necessary, in order to fulfill their mandate and consistent with these Terms of Operation. Working Groups may invite non-member participants to provide information and briefings to the group. Upon notification to the Working Group Chair, Government and non-government experts may participate in such meetings as observers and provide information. Observers may not participate in Working Group decision-making.