

**COUNCIL SESSION 96-10
November 5, 1996**

Summary Record

Designated Alternate Representatives met via teleconference on November 5, 1996, for a special session. The agenda can be found as Annex "A".

Item 1 - Identification of participants and approval of agenda

Mr. William Nitze chaired the meeting. Mr. Anthony Clarke and Mr. José Luis Samaniego represented Canada and Mexico, respectively. Mr. Jonathan Plaut, Chair of JPAC, and Mr. Victor Lichtinger, Executive Director of the Secretariat, also participated in the teleconference. Mr. Marc Paquin acted as Secretary. Other officials were in attendance.

The Chair requested that items 7 and 8 be moved to the top of the agenda. The agenda was approved as modified further to the Chair's request.

Item 7 - 1996 Contribution - Schedule of Payments

Canada reported that it will pay its remaining balance (\$US 1,535,000) by December 1996. Mexico has just paid approximately \$US 2,000,000, leaving a small unpaid balance. The US has already paid its 1996 contribution in full. The Secretariat informed the Parties that its current cash resources will cover operations until February 1, 1997.

The Executive Director informed the Parties that the Third Quarter Financial Report will be sent to them very shortly and that a small surplus is expected at the end of 1996. The Executive Director also mentioned that the Secretariat is awaiting sales tax reimbursements from the Government of Canada and Quebec.

Action: Canada/Mexico/Secretariat

Item 8 - 1997 Contribution - Schedule of Payments

Approval of the draft resolution was postponed until Mexico finalizes its schedule of payments for 1997. Mexico will develop its schedule of payments which will then be incorporated into the draft resolution for adoption by the Parties. Canada and the US agreed to make quarterly contributions to ensure sufficient cash flow to the Secretariat.

Action: Parties

Item 2 - Remarks by Chair of JPAC

The JPAC Chair reported on the success of the public consultations held in 1996, including the public portion of the Council Session in Toronto. A report prepared following the public meetings has been distributed to all participants, the Parties and the Secretariat. Concerning the next JPAC meeting, which is to be held on November 7-8, 1996, the JPAC Chair presented the agenda and reported that the meeting will be focused around the discussion paper "Future Directions - JPAC Strategic Planning Proposal". Discussions will consider the proposed Annual Program and Budget for 1997, the NAFEC Administration and Funding Guidelines, the Guidelines on Enforcement Matters under NAAEC Articles 14 and 15, the approval of JPAC Public Consultation Guidelines, the terms of office for JPAC Members and, information about the election of the new JPAC Chair.

The Parties initiated a discussion concerning the possibility of financial support for the JPAC Chair. This issue will be discussed by the JPAC Chair and the Executive Director on November 6, 1996.

The US asked the JPAC Chair to give some thought to voluntary initiatives that could be developed in cooperation with the business sector. In response, the JPAC Chair referred to the Cooperation in Environmental Enforcement project; the Environmental Management projects beyond compliance programs with the CEC or between industry groups; the Pollution Prevention Fund for Small-and-Medium Sized Enterprises and, the actions under ISO 14000.

Item 3 - Remarks by the Executive Director

The Executive Director introduced Marc Paquin as the new Secretary to Council. He then commented on the proposed 1997 Program and Budget and reported that current projects are progressing well. He informed the Alternate Representatives that a meeting of experts is being organized to assist the Secretariat in defining the scope of the Article 13 Report. A concept paper is being prepared for discussion at the meeting. The Alternate Representatives will be sent a copy of it as well as other materials relevant to the meeting. The Executive Director invited the Alternate Representatives to send an official to the meeting.

With respect to the streamlining of the NAFEC Guidelines, the Executive Director reported that the Grant Committee met in Montreal to suggest revisions to the Guidelines. Their proposals were transmitted to JPAC for discussion at its November meeting. The Secretariat will transmit the JPAC recommendation on the Guidelines once finalized.

The Executive Director reported on the reception at the CEC for North American participants to the IUCN Conference in Montreal and the CEC staff's appreciation of a visit by Julia Carabias, the Mexican member of Council, to the CEC during the Conference. Mr. Lichtinger also reported that the Secretariat has offered the CEC facilities for a Rio+5 meeting of the councils on sustainable development from the North American Region. The Secretariat is preparing a publication that relates the regional perspective of CEC activities to the objectives of UNCED.

The Executive Director asked the Parties if they wished to consider the report as a formal statement of the Council, or draft a preface message from the three ministers.

The Executive Director reported that the Sound Management of Chemicals meeting held in Mexico City last week represented a significant milestone in this project. He also informed the Council that the Secretariat has received complaints because the documentation was made available to the public only four days before the meeting. The Executive Director stated that, unless the Council was opposed to the idea, he would extend the comment period to allow broader participation. The Executive Director will notify the working group and will make the necessary arrangements for this extension period.

A draft agenda has been completed for the "Dialogue on Environmental Law" meeting in December 1996 and is ready for comments. The Executive Director asked the Parties to suggest names of senior officials that could participate in the meeting.

The Executive Director asked Mr. Greg Block to report on the status of the Cozumel submission. Mr. J.L. Samaniego requested a status report on the development of the process and Mr. Block reported that the Mexican government has been very cooperative and that the Secretariat is taking special care in considering the format of the factual record. Mr. Block reported that information is being collected and that a draft factual record would not be ready before 1997. Mr. Block also reported that the Secretariat is very close to making a determination under Article 14(2) on the Old Man River submission.

Item 4 - Approval of Summary Records

Parties approved the Summary Records for Sessions 96-08 and 96-09.

The draft Summary Record of the 1996 Council Regular Session was discussed and all proposed changes, except to items 9.5 and 12, were agreed upon by the Parties. The Secretariat will listen to the tapes of the Session to clarify items 9.5 and 12.

Action: Secretariat

Item 5 - Next Regular Session of Council

The US proposed June 18-20, 1997, as the dates for the next Annual Regular Session of Council. They also informed the Parties and the Secretariat that the planned venue for the meeting is currently Burlington, Vermont.

Canada and Mexico will verify the availability of their respective member of Council on these dates.

Action: Parties

Item 6 - Items Carried-over from Session 96-07**Item 6.1 Headquarters Agreement (Canada)**

The Executive Director introduced Manuel Pacheco, the Administrator of the Secretariat. The Secretariat is awaiting a letter of clarification from the Government of Canada with respect to two articles in the Agreement: one respecting taxes and the other respecting the retroactivity of tax refunds owed to the Secretariat. Once finalized, copies of the Agreement and of the accompanying letters will be sent to each Party in the three languages. The adoption of the draft resolution authorizing the Executive Director to sign the Headquarters Agreement has been postponed to the next Alternate Representatives Session.

Action: Canada/Secretariat

Item 6.2 Agreement with Quebec

The Executive Director reiterated that this item was dependent on the signature of the Headquarters Agreement with Canada.

Item 6.3 Tax Reimbursement Agreement with the US

The Secretariat reported that the US State Department has received supplemental information, and that the Secretariat is hopeful the Agreement will be completed before January 1997.

Action: US

Item 6.4 Privileges and Immunities: Action Plan

The US stated that the Headquarters Agreement will resolve most of the issues under this item. Canada reported that it will develop, in cooperation with the Secretariat, a process for passport annotations for Canadians and send briefing letters to airport customs (particularly Toronto and Montreal). It was agreed that because entry into Mexico has not been a problem to date for Secretariat employees no action is required in this respect by Mexico at this time.

Action: Canada

Item 6.5 NAAEC - Language Accuracy

Canada shared with Mexico and the US a proposed revised French version in March 1996. Mexico and the US are to finalize their review of that proposed revised French version. It is hoped that the revised French version will be adopted by resolution at the December session of Alternate Representatives in Montreal. It would then be the object of an exchange of diplomatic notes between the three countries.

Canada and US have completed their proposed changes to the Spanish and will forward them to Mexico. Mexico will hold discussions with the relevant Mexican authorities on how to proceed with the revision of the Spanish version.

Action: Parties

Item 6.6 CEC Rules - Spanish Version

The Parties will provide comments on the Spanish version of the CEC Rules.

Action: Parties

Item 6.7 Model Rules for Dispute Settlements

The US presented three preliminary questions concerning the Model Rules: 1) Should the ABA text serve as the discussion text? 2) When should the discussions begin? 3) Should the environment and labor rules be discussed together? The Parties agreed that January 20, 1997, be the tentative date for a first negotiating session.

Action: Parties

Item 9 - 1997 Program and Budget

The Secretariat was commended for consolidating its projects to a total of 17 from 26 the previous year. The Parties will review the proposed Program and Budget more thoroughly, and agreed to take the necessary steps to be in a position to approve most, if not all, of the 1997 Program and Budget more thoroughly at the next Alternate Representatives Session in December 1996. Mexico suggested two possibilities for the expansion of the Program, i.e. Hazardous Waste Management and National Programs for Management of Wild Flora. Canada found the 1997 Program and Budget to be a good reflection of the priorities identified at the 1995 and 1996 Council Regular Sessions. The Executive Director expressed satisfaction concerning the Parties' comments and explained that the Secretariat had attempted to reflect cost allocation as accurately as possible. He reported that complete information on current projects should be ready for the December Alternate Representatives Session.

Action: Parties/Secretariat

Item 10 - Annual Report

Parties discussed the potential format of the enforcement section of the Annual Report and agreed that it would not be presented as a separate annex. The need to develop a long-term strategic plan for the Annual Report and the importance of having an organized compilation of CEC and Working Group reports accessible to the public were also discussed. The JPAC Chair mentioned that JPAC will discuss ways to strengthen the Annual Report at its November 1996 meeting.

Action: Parties

Item 11 - Trade and Environment

Canada reported that it has distributed a proposed agenda to the Parties for a possible meeting of Environment and Trade Ministers concerning this item. A teleconference between Environment and Trade officials of the three countries will take place before the December Alternate Representatives meeting. The Parties will consider new areas where the Secretariat can contribute to the Trade and Environment issue.

Action: Parties**Item 12 - CEC Working Groups**

The Parties agreed to send a letter to the Executive Director to provide guidance and clarity with respect to working groups established by Council. A final draft of the letter is close to completion.

Action: Parties**Item 13 - Term of Office for JPAC Members**

The JPAC Chair described the value of reappointing or extending at least some of the JPAC members to provide for the maintenance of institutional memory through a “staggered approach”. The Parties agreed that continuity is critical for JPAC and they agreed to the “staggered approach” in principle. The issue will be discussed at the November 7-8, 1996, JPAC meeting. A JPAC recommendation will then be forwarded to the Parties for a decision.

Action: JPAC/Parties**Item 14 - Other issues**

No other issues were discussed.

Item 15 - Next Sessions

The next Alternate Representatives Session will take place at the offices of the Secretariat in Montreal on December 16-17, 1996.

Adjournment

The Session adjourned at 5:20 PM on November 5, 1996.

Prepared by Marc Paquin
November, 1996

ALTERNATE REPRESENTATIVES SESSION 96-10

ANNOTATED AGENDA

To be held via conference call on November 5, 1996
from 2:00 to 5:00 PM (Eastern Time) / 1:00 to 4:00 PM (Mexico's time)

CHAIR: W. Nitze (USA)

- Item 1 Identification of participants and approval of Agenda
- Item 2 Remarks by the Chair of JPAC
- Item 3 Remarks by the Executive Director
- Item 4 Approval of Summary Records
 - Session 96-08 of Alternate Representatives
 - Session 96-09 of Alternate Representatives
 - 1996 Regular Session of Council
- Item 5 Next Regular Session of Council
- Item 6 Items carried over from Session 96-07
 - Item 6.1 Headquarters Agreement (Canada)
 - Item 6.2 Agreement with Québec
 - Item 6.3 Tax Reimbursement Agreement (USA)
 - Item 6.4 Privileges and Immunities
 - Item 6.5 NAAEC - Language Accuracy
 - Item 6.6 CEC Rules - Spanish translation
 - Item 6.7 Model Rules for Dispute Settlements
- Item 7 1996 Contribution - Schedule of Payments
- Item 8 1996 Contribution - Schedule of Payments
- Item 9 1997 Program and Budget
- Item 10 1996 Annual Report
- Item 11 Trade and Environment
- Item 12 CEC Working Groups
- Item 13 Term of office for JPAC Members - transition
- Item 14 Other Issues
- Item 15 Next Sessions

ALTERNATE REPRESENTATIVES SESSION 96-10
ANNOTATIONS TO THE AGENDA

Item 1. Identification of participants and approval of Agenda

- a) Provisional Annotated Agenda C/C.01/96-10/AGEN/01

Item 2. Remarks by Chair of JPAC

A regular agenda item to allow the Chair of JPAC to update Council Representatives on Committee activities.

ACTION: Information

DOCUMENTS:

- | | |
|---|-----------------------|
| a) Preliminary Agenda for JPAC Regular Session 96-05 | J/96-05/AGEN/01/Rev.1 |
| b) List of Participants for JPAC Regular Session 96-05 | J/96-05/LIST/01 |
| c) Future Directions - JPAC Strategic Planning Proposal | J/96-05/DISC/03/Rev.1 |
| d) JPAC Budget Proposal | J/97-00/PLAN/01 |
| e) Public Meetings Budget Proposal | J/97-00/PLAN/02 |
| f) JPAC Public Consultation Guidelines Proposal | J/96-05/DISC/02/Rev.4 |

Item 3. Remarks by the Executive Director

A regular agenda item to allow the Executive Director to update Council Representatives on Secretariat activities

ACTION: Information

DOCUMENT: No document

Item 4. Approval of Summary Records

ACTION: Review and approval of Summary Records for Sessions 96-08, 96-09 and the 1996 Council Regular Session (96-00).

DOCUMENTS:

- | | |
|---|--------------------|
| a) Session 96-08 draft Summary Record | C/C.01/96-08/SR/01 |
| b) Session 96-09 draft Summary Record | C/C.01/96-09/SR/01 |
| c) Council Regular Session 96-00 draft Summary Record | C/96-00/SR/01 |

Item 5. Next Regular Session of Council

In accordance with Council Resolution 96-10, Regular Sessions of Council will be held in the month of June each year.

ACTION: Preliminary information from the Host Country concerning the date and venue of the next Regular Session of Council (97-00).

DOCUMENTS:

- | | |
|---|----------------------|
| a) Council Resolution 96-10 | C/96-00/RES/07/Rev.3 |
| b) Council Regular Session Draft Summary Record, p. 6 | C/96-00/SR/01 |

Item 6. Items Carried-over from Session 96-07

This agenda item is to allow consideration of the items that were deferred at the June 28 Session (96-07).

Item 6.1 Headquarters Agreement (Canada)

Canada and Secretariat will report on progress, outstanding issues and time frame to finalize the amended HQ Agreement. Diplomatic Notes on the issue of taxation reciprocity were exchanged between Canada and Mexico on August 6 and 15, 1996. The final draft of the amended HQ Agreement will be circulated to Mexico and the U.S.. Through the adoption of a resolution, Council is asked to authorize the Executive Director to sign, on behalf of Council, the amended HQ Agreement further to written acceptance by each Party.

ACTION: Discussion and approval of the Resolution

DOCUMENTS:

- a) Draft Resolution and covering memorandum C/C.01/96-06/RES/01/Rev.01
- b) Approved Council Resolution 1:4
- c) Session 96-07 Final Summary Record, p. 3 C/C.01/96-07/SR/final
- d) Final draft of the Headquarters Agreement with Canada C/C.01/96-10/DISC/01

Item 6.2 Agreement with Quebec

Canada and the Secretariat will report on progress, current issues and time frame to conclude the process of negotiation of an Agreement with the Quebec Government. The finalization of this Agreement is dependent on the signature of the Headquarters Agreement with Canada.

ACTION: Information

DOCUMENTS:

- a) Resolution 95-4 authorizing the Executive Director to sign the Agreement with Québec
- b) Session 96-07 final Summary Record, p. 3 C/C.01/96-07/SR/final

Item 6.3 Tax Reimbursement Agreement with the USA

United States and Secretariat will report on the developments. A decision from the US is pending.

ACTION: Information

DOCUMENTS:

- a) Session 96-07 final Summary Record, p. 3 C/C.01/96-07/SR/final

Item 6.4 Privileges and Immunities: Action Plan

At the Council session of March 6-7, Alternate Representatives decided that each Party, in consultation with the Secretariat, would identify the actions that have to be taken to extend to the Secretariat and its staff, the full immunities and privileges provided under Article 44 of the NAAEC. It was further agreed that the actions would be consolidated into an action plan (by a special group created for that purpose on March 7) and that it would be reviewed at the time of the March 28 teleconference. The discussion of an action plan was deferred to the April 22, 1996 teleconference at which time Canada and United States informed Council of some of the actions contemplated. A list of actions was drafted by the Secretariat based on a teleconference of the special group held last June.

ACTION: Discussion

DOCUMENTS:

- a) Draft Summary Record 96-05, p.2 C/C.01/96-05/SR/01/
- b) Final Summary Record 96-04, p.1 C/C.01/96-04/SR/01/final
- c) Final Summary Record 96-03, p.5 C/C.01/96-03/SR/01/final
- d) Session 96-07 final Summary Record, p. 3 C/C.01/96-07/SR/final
- e) List of actions C/C.01/96-10/DISC/02

Item 6.5 NAAEC - Language Accuracy

At the time of Session 96-03, the Secretariat informed Council that it is often required to distribute copies of the Agreement to experts, consultants and the public at large and that until now the CEC has not presented an official version. Alternate Representatives concurred with a proposal to review the French and Spanish versions of the NAAEC to ensure language accuracy and to publish an official CEC trilingual text of the Agreement following an exchange of diplomatic notes between the Parties. Each Party and the Secretariat designated a representative to complete this undertaking by mid-June 1996. Canada shared with Mexico and the U.S. a proposed revised French version at the June 28, 1996 Session (96-07). Mexico and the U.S. were to review this revised French version. Mexico was to table a proposed revised Spanish version to be reviewed by Canada and the U.S.

ACTION: Discussion and approval of a new calendar and action plan for the approval of the proposed revised French and Spanish versions.

DOCUMENTS:

- a) Session 96-03 final Summary Record, p.5 C/C.01/96-03/SR/01/final
- b) Session 96-07 final Summary Record, p. 3 C/C.01/96-07/SR/final

Item 6.6 CEC Rules - Spanish version

At the time of Session 96-03 Council acknowledged the need to have an official Spanish version of the CEC Rules and asked the Secretariat to undertake this task in consultation with the Parties. A draft Spanish version of the four Rules was distributed to the Parties on May 17, 1996.

ACTION: Discussion and approval of the Spanish version of the Rules.

DOCUMENTS:

- a) Council Rules of Procedures C/C.01/96-06/DISC/01
- b) JPAC Rules of Procedures C/C.01/96-06/DISC/02
- c) Financial Rules C/C.01/96-06/DISC/03
- d) Rules of Employment C/C.01/96-06/DISC/04
- e) Session 96-03 Final Summary Record, p.5 C/C.01/96-03/SR/01/final
- f) Session 96-07 Final Summary Record, p. 4 C/C.01/96-07/SR//01/final

Item 6.7 Model Rules for Dispute Settlements

This item was added to the agenda at the time of the June 7, 1996 Session (96-06). A proposal to begin negotiations was presented by the US at the time of June 28, 1996 Session (96-07) at which time Parties were holding interagency review processes. Canada and Mexico agreed to provide their comments in the fall. A meeting was to be arranged.

ACTION: Discussion and approval of an action plan

DOCUMENTS:

- a) Session 96-07 final Summary Record, p. 4 C/C.01/96-07/SR/final

Item 7. 1996 Contribution - Schedule of Payments

Under this item the Parties are asked to inform the Secretariat of the expected schedule for completion of their 1996 contributions. As of October 30, the U.S. has contributed its total 1996 contribution of \$US 3,000,000. Canada has contributed \$US 1,465,000, which leaves an unpaid balance of \$US 1,535,000. Mexico has contributed \$US 2,624,000 which leaves an unpaid balance of \$US 376,000.

ACTION: Discussion

DOCUMENTS: No document

Item 8. 1997 Contribution - Schedule of Payments

Under this item, the Parties are asked to approve a schedule of payments for their 1997 contributions. In accordance with Rule 4.7 of the Financial Rules, each Party shall make its contribution to the CEC pursuant to a schedule of payments established by the Council. The first payment shall be made by December of the previous year but not later than the first month of the financial year.

ACTION: Discussion and approval of the resolution

DOCUMENTS:

- a) Draft Resolution on 1997 Contribution - Schedule of Payments
- b) Financial Rules - Rule 4.7
- c) Resolution 96-09 - 1997 Contribution

Item 9. Program and Budget

Under this item, the Parties are asked to provide comments on the draft 1997 Annual Program and Budget developed by the Secretariat. Approval of the final draft will be sought at the Alternate Representatives meeting of December 16 and 17, 1996.

ACTION: Discussion

DOCUMENTS:

- a) Draft 1997 Annual Program and Budget C/C.01/96-10/DISC/03

Item 10. Annual Report

Under this item, the Parties are asked to review and approve the draft Table of Content and proposed calendar for completion of the 1996 Annual Report developed by the Secretariat.

ACTION: Discussion and approval of the draft Table and Content and calendar for completion of the 1996 Annual Report

DOCUMENTS:

- a) Draft Table of Content of the 1996 Annual Report C/C.01/96-10/DISC/04
- b) Proposed calendar for completion of the 1996 Annual Report C/C.01/96-10/PLAN/01

Item 11. Trade and Environment

At the 1996 Council Regular Session (96-00), the Ministers agreed to seek a senior level meeting of trade and environment officials and a joint meeting of the trade and environment ministers in advance of the WTO meeting in December. An informal meeting of trade and environment senior level officials was held in Geneva.

ACTION: Exchange of information and decision on how to fulfill Council's undertaking.

DOCUMENTS:

- a) Draft Summary Record of Council Regular Session 96-00, p.3 C/96-00/SR/01
- b) Letter to Council members from Executive Director dated August 19, 1996

Item 12. CEC Working Groups

This item was added to the agenda at the June 7, 1996 Session (96-06) at the request of Mexico, as a follow-up to the Memorandum from the Executive Director on the matter dated April 26, 1996.

ACTION: Discussion

DOCUMENTS:

- a) Memorandum from Executive Director dated April 26, 1996
- b) Session 96-07 Final Summary Record, p. 4 C/C.01/96-07/SR/final

Item 13. Term of office for JPAC Members

In light of the changes scheduled to take place within the JPAC in 1997, the Secretariat and JPAC were requested to develop a proposal on a possible “staggered approach” of JPAC membership in order to ensure a smooth continuity in JPAC operations.

ACTION: Information

DOCUMENTS:

- a) Term of office for JPAC Members - Proposal J/96-05/DISC/04
- b) Draft Summary Record of the 1996 Council Regular Session (96-00), p. 6 C/96-00/SR/01

Item 14. Other Issues

Item 15. Next Sessions

This item is to identify the key agenda items of the next session and to review and approve the following proposed schedule of forthcoming teleconferences and meetings, based on the premise that the next regular session of Council will be held in June 1997.

December 16-17, 1996	Session 96-11 in Montreal
January 16, 1997	Session 97-01 via teleconference
March 6-7, 1997	Session 97-02 in Montreal
May 8, 1997	Session 97-03 via teleconference
June 1997	1997 Council Regular Session (97-00)

ACTION: Approval of dates of the next sessions and identification of the key agenda items of the next session.