

COUNCIL SESSION 94-2

October 27, 1994 - Montreal, Canada

Summary Record

Designated alternates of Council met in Montreal on October 27, 1994 for a special session. The list of delegates and the agenda will be found as Annexes "A" and "B" respectively. Mr. Miguel Limón (Mexico) chaired the meeting.

REPORT OF THE WORK GROUP MEETING

Council was apprised of the technical discussions of October 26 and presented with recommendations concerning Annex "A" of the *JPAC Rules of Procedure*, the *Confidentiality Agreement* and the *Employee Declaration Concerning Disclosure and Use of Information*. The approved texts will be found as Annexes "C", "D" and "E" respectively. Council was also advised that the official version (in the three official languages) of the four sets of Rules will be circulated shortly to the Parties and the Secretariat.

Council was apprised of the status of the review of the *1995 Program and Budget*. To facilitate the review process by Council, program proposals have been regrouped under the following categories:

- **Approved:** Those proposals for which an agreement has been reached.
- **Approved Subject to project confirmation:** Those proposals for which an agreement has been reached on the theme and for which the Secretariat will present supplementary information for the confirmation of individual projects.
- **Deferred:** Those proposals not discussed by the work group.
- **Not accepted:** One proposal which was not accepted for the moment.

Council was also informed of the need to confirm the contribution level and to agree on a process to ensure that outstanding decisions are made prior to December 1, 1994. Council agreed to review the proposals as grouped following the report on the Implementation of the 1994 Program.

IMPLEMENTATION OF THE 1994 PROGRAM

Presentation:

In his report to Council the Executive Director elaborated on the approach taken for the implementation of the 1994 Program. He recalled that many of the initiatives of the 1994

Program are preliminary activities for the 1995 Program and future work of the Commission. Most of the current effort is directed at hosting a series of brainstorming and planning meetings and in preparing specific methodological reports. For the brainstorming meetings the Secretariat is seeking a balanced representation including representatives of the Joint Public Advisory Committee (JPAC) and the Governments.

Conclusion:

Council took note of the approach taken and the progress achieved, offered to assist the Secretariat in the identification of potential participants and recalled the importance of the three official languages as a means of facilitating participation in the activities of the Commission. Council also recalled that the output of the activities and reports must be formulated in such a manner as to not prejudice decisions by Council on the follow-up activities.

1995 PROGRAM AND BUDGET

Discussion:

Acknowledging the progress made at the work group level the previous day, Council agreed to make as much progress as possible towards an approved program and budget. To that end it was agreed to review, in turn, the proposals of each category identified by the work group.

Note: The October 5 version of the document was used for this discussion.

Decision:

After discussing the proposed activities under the broad categories defined by the work group, Council concluded as follows:

- **Approved Proposals:** Council approved the following proposals incorporating modifications agreed to by consensus:

P95.1	Environmental Standards - Comparative Study
P95.2	Environmental Evaluation methodologies
P95.3	Public Access to Information
P95.4	Public Participation In Decision-making. (Note: proposal P95.4 is to be combined with P95.3)
P95.5	NAFTA Environmental Effects
P95.6	Environmental Impact Study: Comparative Review
P95.7	Transboundary Environmental Effects
P95.8	Pollutant Prevention Studies
P95.9	Enforcement Cooperation
P95.12	Comparative Environmental Laws and Regulations
P95.13	NACEC Library and Public Information Centre
P95.15	NACEC Annual Report
P95.16	Factual Submissions
P95.17	NACEC Roster of Experts
P95.18	Constituency Meetings
P95.19	Public Awareness of North America as an Ecosystem
P95.23	State of the North American Ecosystem

- **Proposals Subject to Confirmation:** Council concluded that the proposals in this category constitute a group and would be funded in aggregate for \$ US 2M. The Secretariat will keep the Parties apprised of the different activities under this cooperative activity area, seek their comments and observations and incorporate them before proceeding unless a discussion by Council is deemed necessary. Parties agreed to provide general criteria to be used in the development of specific activities. Proposals in this category are:

P95.26	Sustainable Development Policy Instruments
P95.27	Cooperation in Conservation of Ecosystems Shared by Endangered, Threatened or Exotic Species
P95.28	Cooperation in Regional Ecosystem Planning and programming
P95.29	Capacity Building in Scientific, Technological and Monitoring Services

- **Proposals for which the Decision was postponed:** The following proposals were not reviewed but will be decided upon before December 1:

P95.11	Trade and Environment Issues -Selected Sectors
P95.14	NACEC Ecosystem Electronic Database
P95.20	North American Ecosystem Mapping
P95.21	Highly Migratory Species
P95.22	Cultural and Ethnic Aspects of Environmental Protection
P95.24	Natural Resource Accounting and Reporting
P95.25	Management Education in Comparative Industrial Environmental Practices
P95.30	Technical Cooperation in Strengthening Government Training and Institutions
P95.31	Training and Courses in Inspection and Monitoring

- **Decision-Making:** Council concurred with the following approach to review the proposals for which a decision is outstanding:
 - an ad hoc working group of the Parties will work with Secretariat;
 - proposals will be reviewed by the most expeditious means;
 - by November 23, Council will be informed of recommendations on the outstanding proposals;
 - all decisions will have been made by December 1, 1994;
 - the Secretariat will facilitate the process.
- **Project not approved at this time:** Council concurred with the recommendation of the working group not to approve the following proposal at this time:

P95.10	Trade and Environment Policy Development
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- **Contingency Fund:** Council agreed with the proposal for a contingency fund of 500K\$ US with the Executive Director having discretion to use the funds for operational matters associated to the program delivery and seeking approval of Council for program matters.
- **Contribution Level:** Council reiterated its decision for a contribution level of \$ US 9 million to be shared equally amongst the Parties.

Presentation:

The Executive Director tabled a draft of the first quarterly financial report covering the period 1 July -30 September, described its features and identified the areas of greatest variance. A final version of the report will be circulated later in November. The projected under-expenditure for the budget year is expected to be in the order of \$ US 700,000. which could be added to the \$ US 9 million contribution level already approved for 1995. The Executive Director further observed that the United States has contributed its full amount, Mexico has made its initial contribution and Canada has not made any contribution. Considering the magnitude of the accounts payable the Secretariat will face a cash shortage by the end of November. A proposal in the form of a draft resolution was tabled to clarify the contribution schedule for each program year.

Conclusion:

Council concurred with the proposal to reallocate the unused funds (approximately \$ US 700K but not exceeding 40%) from 1994 to the 1995 budget of approximately \$ US 9.7 M with any required adjustment being made by the Secretariat once the amount transferred is ascertained.

Council also approved, with minor modifications, resolution 94-2 on the Funding of the Commission (the final text will be found as annex "F").

STAFFING REPORT**Presentation:**

The Executive Director reviewed the progress made in the recruitment of personnel for the Secretariat and made reference to his note of August 31 which requested a temporary modification of Rule 20 (now 15) by reducing the notification period from three (3) to one (1) week. He indicated that the outstanding tax issue affecting Canadians is creating a difficult situation.

Conclusion:

Council noted the progress made and will make efforts to reduce the response time associated to the review of the notification notes made in conformity with Rule 15. To facilitate the process the Secretariat will incorporate a "no objection" block to the note and will provide the covering fax, an indication of the responsibilities to be assigned to the individual.

PLANNING OF THE NEXT REGULAR SESSION OF COUNCIL**Discussion**

The preliminary discussion on the preparation of the next regular session centered around the most appropriate timing, the substantive content and the planning process. The October 25 note from the Executive Director concerning logistical aspects of Council meetings was also briefly discussed.

Conclusion:

Council concluded that the April-June 1995 period should be used as a planning assumption. It was also concluded that in developing the meeting program care should be taken to stimulate discussions that will reinforce the cooperative character of the Commission. Council observed on the need to respect the notification and publication delays stipulated in the Council Rules of procedure. Finally, in terms of process, Council agreed on the following:

- the Secretariat will organize a brainstorm session with persons designated by each Party;
- the Executive Director will prepare an options document to be considered by the Designated Alternates; and
- Parties will provide comments to the Executive Director on his October 25 note.

CLOSURE

In his concluding remarks the Chairperson congratulated all those involved in the preparation of the 1995 Program and thanked all participants for their contribution. In return, Canada and United States noted that it was likely the last meeting in which Mr. Limón participated and thanked him for his contribution over the last months and for having accepted to chair this session.

Prepared by: Gilles Lamoureux
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Commission de coopération
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Conseil

Comisión para la
Cooperación Ambiental
Consejo

Commission for Environmental
Cooperation
Council

Annex A

MEETING OF ALTERNATE REPRESENTATIVES

Montreal, October 26-27, 1994

Delegates

CANADA

Alternate Representative: Alex Manson

Andy Bowcott
Kathleen McGrath
Richard Saucier
Bruce Christie
Denis Langlois

MEXICO

Alternate Representative: Miguel Limon Rojas

Mario Aguilar G.
Javier Cabrera Bravo

UNITED STATES

Alternate Representative: William Nitze

William Pistor
Ann Rowley
Jorge Rangel
Susan Fleek
Dan Magraw

October 25, 1994

Annex B

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Annex B

MEETING OF ALTERNATE REPRESENTATIVES

Montreal, October 27, 1994

Provisional Agenda

- 09:00-09:15 OPENING REMARKS
 APPROVAL OF AGENDA
- 09:15-09:30 WORK GROUP REPORT
- 09:30-13:00 REVIEW AND APPROVAL OF 1995 PROGRAM AND BUDGET
- DISCUSSION OF THE FOLLOWING SUBJECTS:
 - IMPLEMENTATION OF 1994 PROGRAM
 - QUATERLY FINANCIAL STATEMENT: 1 JULY - 30
- SEPTEMBER
- CONTRIBUTIONS AND TRANFER SCHEDULE
 - REPORT ON STAFFING / RULE 15
 - PLANNING OF THE NEXT REGULAR SESSION OF COUNCIL
 - OTHER ISSUES
- 13:00-15:00 THE EXECUTIVE DIRECTOR INVITES THE ALTERNATE
 REPRESENTATIVES FOR LUNCH
- 15:00-16:30 CARRY OVER ITEMS FROM THE MORNING SESSION
- CLOSING REMARKS
- PRESENTATION ON THE FACILITIES FOR THE COMMISSION
 VISIT OF THE CONSTRUCTION SITE

NORTH AMERICAN AGREEMENT ON ENVIRONMENTAL COOPERATION

JOINT PUBLIC ADVISORY COMMITTEE

ANNEX A: STANDARDS OF CONDUCT, CONFIDENTIALITY, TRAVEL

Rule 1: Standards of conduct

JPAC members, when performing their official duties, shall at all times conduct themselves in a manner befitting the international nature of their responsibilities. In the best interest of the Commission, JPAC members shall exercise discretion and tact in the performance of their duties.

JPAC members shall not seek or receive instruction from any government.

JPAC members shall not directly or indirectly solicit or accept gifts from any source that would compromise their independence as JPAC members.

Rule 2: Confidentiality

JPAC members shall safeguard from public disclosure any information received in their official capacity from a Party, the Council, the Secretariat, or a member of the public, where the information is designated by that entity as confidential or proprietary.

JPAC members shall not use for personal gain information acquired in their official capacity, unless such information is in the public domain or such use is authorized by the Council.

JPAC members shall comply with such rules and procedures as the Council may adopt regarding the disclosure and use of information and materials of the Commission.

Rule 3: Travel

The Executive Director shall authorize official travel of JPAC members subject to budgetary constraints.

Payment for official travel expenses will be based on reasonable and documented expenditures for accommodation, meals, economy class air fares and related expenditures.

CONFIDENTIALITY AGREEMENT
COUNCIL OF THE
COMMISSION FOR ENVIRONMENTAL COOPERATION

I, _____, hereby agree that I shall protect information that I have access to that is designated as confidential pursuant to Articles 11(8) and 39 of the North American Agreement on Environmental Cooperation. In addition, I shall also comply with all other rules and procedures regarding confidential information developed by the Commission for Environmental Cooperation.

SWORN BEFORE ME

at _____, _____
(City) (Province/State)

(Country)

This _____ day of _____, 19____

(Witness - name and title)

DECLARATION CONCERNING DISCLOSURE AND USE OF INFORMATION
BY EMPLOYEES OF THE SECRETARIAT OF THE
COMMISSION FOR ENVIRONMENTAL COOPERATION

I, _____, hereby declare that I have read and understood Articles 11(8) and 39(2) of the North American Agreement on Environmental Cooperation and Rule 12 of the Rules of Employment of the Commission for Environmental Cooperation. In addition, I shall also comply with such provisions and all other rules and procedures developed by the Commission regarding the disclosure and use of information.

SWORE BEFORE ME

at _____, _____
(City) (Province/State)

(Country)

This _____ day of _____, 19____

(Witness name and title) (Employee)

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Annex F

Montreal, October 27, 1994

COUNCIL RESOLUTION: #94-2

Funding of the Commission

THE COUNCIL:

Noting that Article 43 of the North American Agreement for Environmental Cooperation stipulates that each Party shall contribute an equal share of the annual budget of the Commission, subject to the availability of appropriated funds in accordance with the Party's legal procedures;

Further noting that the same article indicates that no Party shall be obliged to pay more than any other Party in respect of an annual budget;

Considering that the Commission might face a practical difficulty with respect to the timing of the payment of a Party's equal share of the budget as it may affect its ability to retain personnel and deliver the approved program;

Further considering that an initial contribution is required prior to December 15 preceeding each program year and that the final contribution should be made by October 1 of the program year;

Hereby agree that each Party should inform the Executive Director by November 15, 1994 of the payment schedule that a Party intends to follow for program year 1995;

Also agrees that in subsequent program years, each Party will inform the Executive Director by November 15 of the payment schedule for appropriated funds that a Party intends to follow for the subsequent program year provided that a minimum of 30% of the annual contribution is made at the time of the initial payment and no more than 20% at the time of the last payment;

Further agrees that, in cases where the agreed payment schedule for appropriated funds is not followed; the Secretariat could borrow from commercial institutions to meet a shortfall and inform the Party of the interest and related costs incurred which will be added to its obligations under article 43.

Approved on behalf of Council:

Miguel Limón (Mexico)
William Nitze (United States)
Alex Manson (Canada)

Certified by:

Victor Lichtinger
Executive Director

