



ADVICE TO COUNCIL: NO. 01-07

Re: Citizen Submissions on Enforcement Matters under Articles 14 & 15 of NAAEC

The Joint Public Advisory Committee (JPAC) of the North American Commission for Environmental Cooperation (CEC);

IN ACCORDANCE with its mandate to provide advice to Council under Article 16(4) of the North American Agreement on Environmental Cooperation (NAAEC);

MINDFUL of the bold step made by Council at its June 2000 Council Session toward resolving controversies that have plagued the CEC in previous years by adopting Council Resolution 00-09 – Matters Related to Articles 14 and 15 of the Agreement;

FURTHER encouraged by the positive response at the June 2001 Council Sessions to its Lessons Learned report on Citizen Submissions under Articles 14 and 15 and the JPAC Process for Public Review of Issues Concerning the Implementation and Further Elaboration of Articles 14 and 15;

REGRETTING, however, having to later register its disappointment, by way of a letter to Council dated 27 September 2001, about continuing delays in voting on the five pending submissions;

NOW HAVING BEEN APPRISED that Council will be asked to consider:

- a limit on the Secretariat's discretion to determine the scope of a pending submission as a condition for a vote to proceed with the development of the factual record; and
- that the Secretariat submit a work plan to Council prior to undertaking the development of this factual record.

IS COMPELLED to express its frustration at being forced once again to advise on issues related to Articles 14 and 15, because past agreed-upon procedures are being ignored or circumvented.

REGISTERS its strong and considered objection to such a proposal on the basis that this would:

- violate Council's reaffirmation in Council Resolution 00-09 of its commitment to improve transparency;

- circumvent the process established in Council Resolution 00-09 concerning the implementation and elaboration of the Articles 14 and 15 of the NAAEC;
- constitute a constructive amendment to the guidelines and, therefore, should first be submitted to JPAC and public review;
- constitute a flagrant disregard for one of the recommendations of JPAC's Lessons Learned Report with respect to supporting the independence of the Secretariat in the Articles 14 and 15 process;
- increase the workload of the Secretariat and the burden on the submitters to produce more detailed documentation; and
- undermine the credibility of the process by involving an interested Party in the development of the Secretariat's work plan.

REQUESTS that Council demonstrate good faith and vote on the pending submissions in the spirit of the renewed commitment to the Articles 14 and 15 process expressed in the 2000 Council session and guided by the lessons learned articulated in JPAC's report to Council in 2001.

APPROVED ON 23 OCTOBER 2001