



ADVICE TO COUNCIL NO: 02-12

Re: Re-energizing the Transboundary Environmental Impact Assessment negotiations

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

IN ACCORDANCE with Article 16(4) of the North American Agreement on Environmental Cooperation (NAAEC) which states that JPAC “may provide advice to Council on any matter within the scope of this agreement [...] and on the implementation and further elaboration of this agreement, and may perform such other functions as the Council may direct”;

UNDERSCORING the obligation on the Council set out in Article 10(7) of the NAAEC to develop, within three years of signature, recommendations for an agreement on the assessment of environmental impacts of proposed projects likely to cause significant adverse transboundary effects;

RECALLING the Council Resolution 95-07 and the 1997 report “Draft North American Agreement on Transboundary Environmental Impact Assessment” prepared by a group of experts mandated by Council and the resulting decision by Council that the Parties would complete a legally binding agreement on TEIA in April 1998;

MINDFUL of the high level of interest repeatedly and forcefully expressed by the public for the conclusion of such an agreement and concern over lack of progress;

NOTING the statements made by the Council in the final communiqués related to its regular session in 1997, 1998, 1999 and in particular in 2001 which stated that “[...] transboundary environmental impact assessment, an informal, productive process is continuing.”

FURTHER RECALLING that JPAC has brought this matter to the attention of Council on numerous occasions through JPAC Advice to Council 99-7, 01-01, 01-02, 01-05 and 02-10 and the JPAC report to Ministers at the landmark June 1998 Council Session in Mérida, Mexico;

In order to assist the Parties in reaching conclusion on what is increasingly becoming an urgent matter as highlighted by CEC’s recent work on electricity restructuring and freshwater management in North America,

JPAC RECOMMENDS THAT COUNCIL:

- Promptly create a North American TEIA Working Group charged with the responsibility to assist Council to move forward on its obligations under Article 10(7) of the NAAEC by drafting a model regime informed by a review of existing models developed by other institutions or organizations with transboundary mandates involving environmental matters.
- The terms of reference establishing this working group should state among others that:
 - a) The North American TEIA Working Group should have four members, consisting of one senior official from each country and a JPAC representative;
 - b) Border states and provinces should be involved;
 - c) While the discussions may be largely governmental in nature and may involve privileged information, to the extent possible, the sessions should be opened to the public and reports made publicly available; and
 - d) The North American TEIA Working Group would deliver this model to Council by December 2003.

APPROVED ON 10 DECEMBER 2002