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Advice to Council No: 10-03

Re: The Strategic Plan of the Commission for Environmental Cooperation 2010–2015

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 functions as the Council may direct;" and

HAVING reviewed and provided Council with preliminary verbal comments at an in-camera session in Guanajuato, Mexico on the Strategic Plan of the Commission for Environmental Cooperation 2010–2015, Final Draft dated 29 July 2010, and having subsequently conducted a public consultation into the Plan;

SUBMITS the following observations and comments for Council's consideration:

Public Participation: Overall, there was good participation from the public in this process. Generally, the comments were professional and well thought out. The public appreciated the opportunity to provide comment on the Draft Strategic Plan. JPAC emphasizes the importance of open dialogue with the public as it contributes to the mutual goals of both the CEC and the public-at-large. The public strongly agrees, as does JPAC, with the importance of public participation in improving the effectiveness of the programs of the CEC.

Several of the public submissions commented positively on the work done to date on the Strategic Plan and congratulated Council on the clarity of the priorities contained within the document. The three strategic priorities are sound and set a framework for progress that will serve North Americans and their shared ecosystem well.

NAPECA: The public welcomed the return of the granting mechanism to support local groups in their efforts to improve the environment and conserve ecosystems in North America through the North American Partnership for Environmental Community Action (NAPECA). JPAC concurs with the public that this is a very important link with the

communities of North America for the CEC to action. In concurrence with public comment, it is JPAC's advice that the new program must adopt the highest standards of transparency and independent decision-making that made the previous program (NAFEC) such a success. To that end, JPAC recommends that the grants be selected by an independent team of experts, as was done with the NAFEC.

Grasslands: Several of the public submissions applauded the renewed interest by the three North American countries in collaborating through the CEC to promote grasslands conservation at a continental scale. Some commenters considered that the focus within the Strategic Plan on the grasslands offers an opportunity for the CEC to make great strides in addressing all three of Council's strategic priorities. Grasslands are also considered important in terms of mapping, gathering, and analyzing data related to carbon accumulation.

Agriculture: In some instances the loss of native grasslands is the result of land-use changes primarily due to the intensive development of the agricultural sector (recognizing there are other factors, of course). It is JPAC's advice that the Strategic Plan be amended to include a fundamental focus on the role that the agricultural sector plays in this regard, as well as its role in other areas such as chemical use, water extraction, and the conservation of wildlife and habitat protection.

Water: Several of the public comments focused on the theme of clean water. Water quality and quantity is important in many areas of North America and JPAC considers it important that the three governments know that this is a problem in many areas, with the full recognition that there are many institutions involved here. JPAC looks forward to advising the Council on ways to address these concerns as the Strategic Plan is implemented.

Green Building: Several public commenters mentioned the theme of green building—specifically related to energy-saving building systems and other technologies applicable to the building trades that save energy while avoiding the generation of pollution. JPAC commends the Council for including a focus on environmental performance in the building sector under the "Greening the North American Economy" objective and looks forward to advising the Council on other opportunities to advance green building as the Strategic Plan is implemented.

Citizen Submission Process: Several of the public comments concerned the citizen submission process as a fundamental component of the CEC and the NAAEC. This process contributes to the effectiveness of the enforcement of environmental laws. Specifically, there was public concern around time delays regarding factual records. In light of the serious damage posed to the process by the lengthy delays in votes on factual record recommendations in recent years, it is JPAC's considered opinion that the

Strategic Plan should reflect a stronger commitment to significantly improving timeliness, especially of Council votes.

Partnering: JPAC recognizes that the Strategic Plan intends to make use of expertise through partnering with stakeholders, and recommends that the plan be clear that this includes both the private sector and civil society. Based on the submissions made by the public on the Strategic Plan, it appears that industry recognizes the professional work of the CEC to the extent that it believes it will benefit from such a partnership as well. Specifically, both the cattle industry and the automotive industry have offered to bring diverse stakeholders to the table to attempt to improve environmental performance through open and balanced dialogue. It was pointed out that the auto industry is undergoing one of the most profound restructurings in its history. Because of this there are significant opportunities to encourage the future automotive industry to take advantage of the greenest alternatives and innovations along the entire automotive supply chain. JPAC commends the commitment in the plan to build on the good work that the CEC has already initiated in the North American auto industry and the building sector and looks forward to advising Council on further ways to leverage partnerships more broadly with industry, and with civil society, as the plan is implemented.

Indigenous Communities: Taking into account valuable feedback from the public, it would seem wise to engage indigenous communities in utilizing their traditional knowledge for some of the community-level resource planning that will contribute to achieving healthy communities and ecosystems. Owing to the fact that, in all three countries there are very large indigenous populations that have been directly affected by environmental degradation, it is JPAC's advice that the Strategic Plan should consider a more direct engagement with indigenous communities. To begin to address not only the environmental justice issues that exist, but also to consider the indigenous community wisdom and knowledge that goes back many years, JPAC recommends that the Strategic Plan should strengthen the language concerning indigenous communities by contemplating the formation of a working group or partnership at the indigenous community level to contribute to the achievement of the objectives and the strategic intentions of the Plan.

Goals and Indicators: Several of the public submissions commented on the need for goals and indicators to facilitate the implementation and follow-up of the Strategic Plan. They suggested that such goals and indicators be included in the plan itself. JPAC supports this contention and respectfully submits that in addition to the strategic intentions contained in the Strategic Plan, some consideration be given to the development of integrated, trilateral strategic goals and indicators. For example, the plan should make reference to the need to develop common metrics for tracking progress on greening the economy, such as ecological footprint, material and energy flow accounts, or other appropriate measures. Such metrics would bring into focus the fundamental challenge North America faces. Given that the sustainable ecological footprint is

estimated to be about 2 hectares per person globally and the North American average is about 7.8 hectares per person (9.4 in the U.S., 7.1 in Canada and 3.4 in Mexico), greening the economy must be about greatly increasing the efficiency of material and energy use in North America.

Public Awareness: A poignant point was made by one of the public submissions concerned with the need to communicate and disseminate actions and the results achieved. While JPAC understands that a great deal of information is accessible by the public through the CEC's website, the website and the CEC are not as well-known as they could be. Scientific studies and plans are important, but without effective public communication, many of the essential participants (the public-at-large) will not be able to lend their efforts to the overall outcome. JPAC recommends an updated and expanded communications strategy be developed to promote public awareness of the work of CEC and the role the public can play to contribute to the effectiveness of CEC.

Chemicals: The public submissions highlighted the need for the CEC to continue its efforts to establish compatible approaches for identifying and tracking chemicals. One commenter recommended that the CEC support and coordinate the provision of a web-based automatic chemical assessment system. To some extent this system, or at least the beginnings of it, are already in place and are evolving into a system that is capable of being used by all three countries. The CEC's PRTR program compiles into an annual register pollutant releases to air, water, land, and transfers of toxic substances to disposal, treatment, energy recovery and recycling facilities. The lack of mention of the CEC's PRTR (or Taking Stock) initiative in the Strategic Plan has been voiced as an area of concern to JPAC members on several occasions. It is JPAC's advice that the Strategic Plan be amended to include continued support of the CEC's PRTR (Taking Stock) initiative. JPAC further advises that the plan should reference appropriate use of the precautionary principle and should place greater emphasis on pollution prevention as a primary strategy.

Climate change and energy: A particularly noteworthy comment related to climate change focused on the reduction of black carbon emissions. It pointed out that reducing black carbon emissions represents a great opportunity to link climate change with specific actions that will benefit both public health and the environment. This will also have social, wildlife and economic benefits at the local, regional and national levels. Black carbon emission reductions could have important positive impacts in mitigating climate change while improving air quality. JPAC agrees with the public suggestion to strengthen the actions presented and described in the Strategic Plan. JPAC further recommends that the plan reference the study and consideration of carbon capture and storage and place greater emphasis on the need for ongoing trinational coordination on the definition of renewable energy and a common approach to it.

Best Practices Exchange: Public interest is growing in formalizing a mechanism for the exchange of best practices, tools and resources to address the opportunities for contributing to the betterment of North American ecosystems. JPAC recommends that consideration be given towards formalizing and publicizing a trilateral best practices exchange program between all of the players (including the private sector, civil society and the public) who are stewards of the ecosystem shared by our three countries.

Resource Allocation: Very respectfully, JPAC reiterates a comment that was emphasized in the public feedback pertaining to the overall tone of the Strategic Planning document. JPAC recommends that the Strategic Plan be more directive than in the current draft—replacing, where appropriate, the word "could" with words such as "should" or, preferably, "will." This will require a careful appreciation of how to allocate the limited resources that the CEC has to work with.

Distinguishing between the CEC, the Council and the Parties: It is essential that the Strategic Plan be clear in distinguishing "the Council" from "the Parties," given the international character of the Council. JPAC recommends that the plan be amended to improve the clarity as to when the CEC or the Council, acting as trinational entities on behalf of the three Parties, is the key actor, and not simply the Parties in a larger sense. For example, whereas the current draft says, "the Parties could also continue to document, analyze, and attempt to understand the environmental effects of trade liberalization in North America," it would be appropriate to substitute "the CEC" for "the Parties." There are numerous other examples.

The Secretariat's role in preparing and submitting a proposed annual plan and budget: The JPAC recommends that the Strategic Plan be clearer on the Secretariat's role under Article 11(6) to submit the annual program and budget to the Council for approval. For example, the second paragraph in section 4 of the plan should read: "The Council provided direction for more focused and concerted operational plans in order to ensure a more effective use of the resources of the Commission in order to advance the critical matters on which the CEC can make a real difference. In submitting annual programs and budgets pursuant to this Strategic Plan, the Secretariat should conform projects and programs to the three new priorities and concentrate on those activities that will provide greater environmental results."

Definitional issues. JPAC notes that some terms used in the draft plan, such as "vulnerable," "renewable energy," "sustainable," "resilience" and "green," are subject to interpretation. JPAC recommends addressing those definitional issues to the extent feasible in finalizing the plan, and looks forward to advising the Council on promoting common understandings of such terms as the plan is implemented.

JPAC is confident that this Advice to Council is highly relevant in terms of the Council's new strategic priorities. JPAC notes that the process to complete this Advice involved an

unprecedented level of collaboration between all JPAC members and the public from each of our three countries. We are also pleased to note that JPAC is unanimous in supporting this Advice to Council document's substance and recommendations.

Approved by the JPAC members
8 October 2010