



Comité consultatif public mixte (CCPM)

Comité Consultivo Público Conjunto (CCPC)

Joint Public Advisory Committee (JPAC)

## **ADVICE TO COUNCIL: N° 95-5**

### **Re: Procedures for Submissions on Enforcement Matters under Articles 14 and 15**

JPAC was given a mandate by Council to supervise and guide the global public consultation process on the guidelines.

JPAC was asked to organize the public consultation in all three countries and have a report available to Council within ninety days of June 1, 1995.

The criteria developed for the consultations by JPAC were intended to reach as broad a representation of all sectors of the public as possible.

- Members of the public could present their comments in writing or verbally at the public meetings.
- Particular attention was given to ensuring that the entire process was conducted in as transparent and open a manner as possible.
- JPAC listened without limit of time to all persons attending the meetings.

The JPAC requested public comment regards the *Procedures for Submission on Enforcement Matters under Articles 14 and 15 of the North American Agreement on Environmental Cooperation*. Public comments were received in two forms, written and verbal. Public Consultations were held in Ottawa, Washington DC and Mexico City.

JPAC provided the General Standing Committee and Alternates with a full set of all written comments received from the public, and a lengthy matrix-style document which collates the public comment into a comparative document permitting an improved understanding regards similarities and differences between the three countries regards these proposed procedures. Working suggestions for changes in the text were provided to the Secretariat and the General Standing Committee.

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### **General comments:**

1. The format in which the Procedures are presented is excellent in that it is generally clear to a diversity of citizens in all three countries.

1. Spanish and French translation requires far greater attention to detail in syntax, grammar and technical words which have either country-specific legal definitions or idiomatic meanings that differ between countries.

**Issues of substance:**

1. The Procedures should include a statement that these are not Legal Rules of Procedure, and are not intended to change the Agreement; they are Guidelines for use by citizens and will be reviewed in 18 months and modified if necessary based on experience.
2. The Procedures should reflect the intent of the Agreement and not a more restricted interpretation.
3. JPAC intends a broad definition of the word *harm* as reflected in the Agreement, to include harm to the environment.

**Definitions and clarifications:**

1. The text must include an introductory section which presents again the specific language of the Preamble and Articles 1 & 2 of the Agreement, and an annex of definitions and a table of contents.
2. The text must be complemented with a diagram outlining the steps and timeline for handling the Procedures.
3. Some terms should be clarified, for example the word “person”, the word “harm” and the word “environment”, because of possible restrictive legal effects. JPAC intends these words to be broadly interpreted.

**Procedures:**

1. All steps in the Procedures relating to Notice which implies a response by the Secretariat or Governments, should include a specific time framework in calendar days.
2. The Submitter should be kept informed of the status of the factual submission.

**General Conclusions:**

1. JPAC reaffirms the responsibilities of the Secretariat in carrying out their mandated roles as set forth in the Articles, including Article 14.
2. Public Consultations were a remarkable learning process for the members of the JPAC, and show us a clear need in the publics of all the three countries for greater education in regards all aspects of the economic, environmental, natural resources and cultural history of each other's countries, plus a realistic understanding of the different governmental and legal systems. Thus, public access to Resource Centers of information must continue to be of high priority for the CEC.

August, 24, 1995

