



**COMMISSION FOR ENVIRONMENTAL COOPERATION**  
**Joint Public Advisory Committee Session No. 00-02**

**11–13 June 2000**  
**Dallas, Texas**

**Summary Record**

The Joint Public Advisory Committee (JPAC) of the Commission for Environmental Cooperation (CEC) held a regular session on 11–13 June 2000 in Dallas, Texas, in conjunction with the 7th Regular Session of Council. A joint workshop with the CEC Working Group on Environmental Enforcement and Compliance was held during this session as well as a plenary discussion on Future CEC Initiatives and Emerging Environmental Trends in North America organized with the United States National Advisory Committee (NAC) and Governmental Advisory Committee (GAC).

This Summary Record reports on each agenda item, records all decisions made by the Committee and identifies action items and responsibilities. (See Annex A for the agenda, Annex B for the list of participants, Annex C for Advice to Council 00-03, Annex D for Advice to Council 00-04, Annex E for Advice to Council 00-05, Annex F for Advice to Council 00-06 and Annex G for Advice to Council 00-07.)

Previous summary records, advice from JPAC to Council and other JPAC–related documents may be obtained from the JPAC Liaison Officer or through the CEC’s web site at <<http://www.cec.org>> under the JPAC header.

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**Sunday, 11 June**

**Welcome and Report by the Chair**

The Chair of JPAC, Regina Barba, opened the meeting and welcomed everyone to Dallas. She introduced two new members, Serena Wilson from the United States and Cam Avery from Canada. She noted the absence, with reasons, of Mary Simon and John Wirth.

She then introduced the Secretariat staff in attendance and encouraged the public to meet with them over the next two days for more information about the program areas and the specific projects.

## **Approval of the Agenda and Welcoming Remarks**

The agenda was approved with the addition of an item on a potential JPAC Advice to Council on the North American Regional Action Plan (NARAP) on lead and the implementation of the NARAP on PCBs.

Mr. Gregg Cooke, Environmental Protection Agency Regional Administrator (Region 6), then welcomed everyone to Dallas and highlighted the CEC's important role in addressing border issues.

The Alternate Representatives were asked to address the meeting. William Nitze, representing the United States, welcomed everyone on behalf of the Environmental Protection Agency. He acknowledged the difficult issues to be addressed during this Council Session. He took it as a sign of a healthy process that the deliberations of Council are attracting public attention, reminding the participants that the level of transparency built into the CEC process is unique among international organizations.

Norine Smith, representing Canada, thanked the Chair for inviting the Alternate Representatives to be present. She endorsed the comments of her colleague, Mr. Nitze, expressing her view that the CEC's work was making an important impact in North America. She noted her particular interest in children's health and the environment and emphasized that the CEC provides a unique opportunity to address issues of asthma and respiratory disease on a trilateral basis. She also highlighted the Sound Management of Chemicals (SMOC) program and the Pollutant Release and Transfer Register (PRTR)/*Taking Stock* and the NARAP on mercury as very important initiatives. Finally, regarding the citizen submission process, she was looking forward to engaging JPAC and the public during this meeting to arrive at a mutual solution.

José Luis Samaniego, representing Mexico, reflected that this Council Session provided a good opportunity to review the path the CEC has traveled since its inception, as both the United States and Mexico will change their administrations this year. He expressed his enthusiasm for the institution and the progress that is being made. He noted that the challenge of institutionalizing public participation and merging trade and environment issues carried a lot of promise. Progress has been made on many fronts—particularly in providing information to the public through initiatives such as developing a trilateral database on biodiversity, for example.

## **Report by the Executive Director and Question Period**

The Chair introduced Janine Ferretti. Ms. Ferretti informed the meeting that a full written report is available on activities of the CEC over the past year. She would limit her comments at this session to matters on JPAC's agenda.

She began by underscoring the importance of public input and feed back into the development of the CEC work program. She thanked JPAC for having prepared a document outlining how the Secretariat had incorporated public comments from the previous year into the 2000–2002 Program Plan. She noted that the joint session involving JPAC and North American Working Group on Enforcement and Compliance Cooperation later in this meeting provided a good

opportunity for the public to have input into the Law and Policy Program Area. The joint JPAC/National and Governmental Advisory Committee plenary meetings on critical and emerging trends in North America are also useful in identifying ways of assisting the CEC in integrating environmental futures into short-term policy planning cycles.

Regarding matters related to Articles 14 and 15 of the North American Agreement on Environmental Cooperation (NAAEC), she informed the meeting that the Secretariat staff would be providing an overview of how the submission process operates as well as a status report on the submissions currently under consideration by the CEC. She also urged an open discussion, during this Council Session, on outstanding procedural matters.

On a variety of administrative matters related to JPAC's agenda, she informed the meeting that following the JPAC Advice to Council on the *Draft Guide on Elements for Improving Environmental Management Systems*, a revised document was produced for review by Council. Regarding methods for project evaluation, she advised attendees that the Secretariat would be presenting a document at this meeting whose objective would be to improve Secretariat program performance, and said she was looking forward to feed back from JPAC.

On the important issue of the future of North American Fund for Environmental Cooperation (NAFEC), she drew the attention of those at the meeting to the strong public support for this program as a way to engage grassroots participation in the CEC. She expressed her hope that a way would be found to move forward and continue a level of support for the program.

Regarding Article 10(6), as recommended by JPAC, the Group of Trade and Environment Officials met in December with outside experts. Progress was made and the issues discussed were: the precautionary principle/approach and links to trade, supporting "win-win" environment and trade links, investment and environment, and assessing the environmental effects of trade. She said that a report of the public meeting had been posted on the CEC web site. The officials agreed to further discussion on the role of precaution in domestic environmental and human health-related laws and the role of environmental labeling and certification in supporting environmental goals. A joint informal meeting between the Group and the NAFTA Committee on Standards-related Measures was scheduled for 23 June 2000.

The negotiations toward a North American Agreement on Transboundary Environmental Impact Assessment are still ongoing. Since 1997 the Parties have been engaged in an effort to complete a legally binding agreement consistent with their obligations under Article 10(7). Some progress has been made at the state/provincial level to build good neighbor agreements based on reciprocity, transparency and participation in the processes for proposed projects with environmental consequences in border regions.

Finally, Ms. Ferretti announced that the State of the Environment Report will be ready for Council to review in the near future and the Secretariat is hoping to release it in September 2000.

The Chair opened the floor to questions.

Gordon Hanson, Coordinator with the Coast Salish Sea Council, expressed his support for the interest the CEC was showing in involving First Nations (Indigenous) people in its work. He noted that Indigenous peoples have much to contribute, based on their knowledge and stewardship of the land and its resources. He asked the Executive Director if the CEC was planning to develop a protocol for working with Indigenous peoples to nurture this important relationship.

Ms. Ferretti replied that last year was a watershed for the CEC in developing a relationship with Indigenous peoples. She and Jon Plaut, then JPAC Chair, participated in a panel discussion on tribal peoples, the environment and NAFTA in Seattle, where a very interesting discussion took place on the role of Indigenous peoples and natural resource management. There was also a JPAC also held a meeting in Anchorage, Alaska, and a session in Guadalajara where the convergence of the interests of Indigenous peoples and the CEC's efforts in the sound management of chemicals and biodiversity were further explored.

### **Report by National and Governmental Advisory Committee Representatives**

John Knox, Chair of the United States NAC, explained the role of the Committee. The Committee met three times last year to: 1) prepare for the Council Session; 2) discuss trade and environment issues, particularly NAFTA environmental effects and the meeting of trade and environment officials around Article 10(6); and 3) to review matters related to Articles 14 and 15, emphasizing the importance of transparency and public participation. Specifically, they cautioned Council not to micro-manage the Secretariat's responsibilities, that the Council should publicly explain reasons for acting or not acting on a Secretariat recommendation, and that factual records related to Articles 14 and 15 submitted to Council should be published.

William Andrews, Chair of the Canadian National Advisory Committee, related an anecdote. While sitting on the tarmac at the Dallas airport, he struck up a conversation with people from Louisiana who were returning from a cruise between Alaska and Vancouver. They discussed wildlife, regional conservation concerns, the impact of air transport and airport expansions on wildlife habitat, air and water quality and children's health. All of these issues had come up during the vacation these individuals had just completed. He saw this as a fascinating example of what the CEC is all about—tying such issues together on a regional level. On Articles 14 and 15, he reiterated the Canadian NAC's insistence that the process must be transparent and timely. Confidentiality must be kept to a minimum.

Mateo Castillo, Coordinator of the Mexican National Advisory Committee, reviewed the mandate of the Mexican NAC and its work with local committees for sustainable development. He also reviewed the results of the joint JPAC/Mexican NAC plenary session on critical and emerging trends held in March 2000 in Guadalajara. Five matters were identified: soil and erosion, land-use planning, water, climate change, and environmental ethics. This year, they are focusing their advice to their government on capacity building in environmental management for small and mid-sized businesses, land-use planning, critical environmental trends, Articles 14 and 15, and evaluation of CEC projects. Two more meetings are planning for 2000 in Xalapa (25–26 August) and Monterrey (10–11 November).

Robert Varney, representing the United States Governmental Advisory Committee, made the following comments:

- He thanked JPAC for their stance on Articles 14 and 15, reiterating the US GAC's view that more experience is needed before amendments are considered.
- He emphasized the importance of working on transportation corridors and the need to partner with additional groups to increase funding.
- More outreach is needed on Strategic Directions for the Conservation of Biodiversity work, particularly to follow up on the good work done with Indigenous peoples at the workshop in Guadalajara. There should also be efforts to involve state-level governments.
- He expressed concern for the limited funding available to implement the NARAP on mercury, noting that this is a very resource-intensive exercise.
- He recognized the exemplary work of Andrew Hamilton, the CEC Senior Scientific Advisor.
- He expressed hope that dioxins will receive attention in the Sound Management of Chemicals project.
- He stressed the importance of the *Taking Stock* report and its continuing improvement.
- He acknowledged the progress being made on transboundary environmental impact assessment and level of border states and provinces and urging increased efforts.
- He pointed to the great potential for environmental management systems, but said that ISO 14000 and other systems do not emphasize compliance and are not a substitute for enforcement.
- He said he was very pleased that labeling is being emphasized in the green goods and services work as a way to assist the public in making informed decisions.
- He noted that the CEC has a role to play in harmonizing standards for public health and labeling in North America.

### **Workshop on Citizen Participation in Enforcement Activities**

The Chair welcomed the North American Working Group on Enforcement and Compliance Cooperation (EWG) to this joint session with JPAC. She explained that the objective of the Workshop was to heighten public awareness and share information about mechanisms for public participation in environmental law enforcement and compliance promotion. In particular, the discussions would focus on enforcement relating to wildlife and natural resources.

The discussions were intended to provide valuable insights and assistance to JPAC in its review later in the day on potential advice it might wish to transmit to Council on enforcement cooperation.

The Chair explained that there would be panel presentations by country—each followed by a question and comment period. She then introduced Darlene Pearson, Head of the Law and Policy Program Area, who provided some background information. Ms. Pearson noted that the papers presented by the panel members during the workshop were available as handouts.

Speaking in the first panel of speakers were from Canada—Martha Kostuch, Friends of the Oldman River, Alan Penn, Grand Council of the Crees (of Quebec), and Dave Wotton, Assistant Deputy Minister, Manitoba Conservation, who then made their presentations.

Ms. Martha Kostuch presented five means available for citizens to participate in enforcement activities: 1) the NAAEC citizen submission process; 2) administrative legal actions; 3) private prosecution; 4) access to information; and 5) monitoring and reporting. She also provided the audience with examples of her own experience in using these means.

Mr. Alan Penn discussed the James Bay and Northern Québec Agreement signed in 1975 between the federal government, the Province of Québec, Hydro-Québec and the Crees and Inuit in the northern part of Québec. Mr. Penn highlighted the social context in which the implementation of the agreement took place and explained how this instrument has not met the expectations of the Crees in relation to participation in wildlife management and environmental protection.

Mr. Dave Wotton described the Canadian environmental law enforcement continuum that allows for varying degrees of opportunity for public involvement. The five main processes for public participation are: 1) regulatory development; 2) compliance promotion; 3) compliance verification; 4) investigation; and 5) post-investigation prosecutions.

#### Comments on these presentations

Jon Plaut, JPAC member, stressed that environment is underfunded. While it may be useful to have private remedies, as long as government underfunds, lack of enforcement will always be an issue.

Martha Kostuch agreed that citizen participation should not replace government enforcement. It is important to remember, however, that lack of funding is not always the reason for lack of enforcement by government. Sometimes it is an issue of will.

Tom Sampson, from the Coast Salish Sea Council, expressed his concern that legislation has turned First Nations people in Canada into criminals. First Nations are still economically dependent on wildlife resources, but access is being denied. Even when treaty rights supposedly protect this access, these rights are not respected. Consultation occurs only at the crisis stage. All new legislation and regulations should respect aboriginal needs and treaty rights.

Stewart Elgie, from the Sierra Legal Defense Fund, commented on the low levels of enforcement from underfunding or lack of political will as reported in a recent Canadian parliamentary report. For example, in 1998, there were 3000 violations of Ontario's water laws and standards and only one prosecution. He noted that enforcement is appallingly low in Canada. Even with access to information laws, it is very difficult for the public to determine which companies are involved. There is a difference between formal rights and actual rights of access to information. The Canadian NAC recommended that a study be conducted on how the three countries were complying with the mandatory duties under Article 6 of the NAAEC. These provisions were intended to empower the public. He stressed that citizen suit provisions are very important. In Canada, these provisions were added to the Canadian Environmental Protection Act in 1999.

There are no such provisions in the proposed Species at Risk legislation. Access to courts, as a last resort, is a very important part of the democratization of the environment.

Steve Wilson of the Na Na Kila Institute reminded the workshop that unemployment rates on First Nations' reserves in Canada are ten times the national average. First Nations people are very dependent on natural resources. They feel the effects of degradation first and hardest. Mr. Wilson also pointed out that recent case law in Canada would assist aboriginal nations in addressing the effect of environmental degradation on the community. Nor is capacity building to assist First Nations to better understand resource management part of Canada's tool kit. He expressed concern over some of Mr. Penn's observations about land settlements in which he said the James Bay Agreement was not an answer to resource management and allocation issues. In British Columbia, First Nations are hoping the treaty-making process will be an appropriate means to incorporate cultural values and concerns into an overall settlement.

Alan Penn replied that the problems he was describing are directly related to the level of competition from other users (industry, commercial fishing, sports hunting and fishing) and the lack of regulatory presence in the James Bay Territory. His point was that a treaty alone does not guarantee protection and that broad advisory structures as they are designed in the James Bay Agreement are ultimately not the proper ones to address the issue of competition of access to resources. Treaty provisions must be respected and enforced by the competent authorities.

Cliff Wallis of the Canadian Nature Federation asked Ms. Kostuch if, given what she described, was there any point in getting involved in government consultation processes.

Ms. Kostuch replied that this has to be evaluated on a case-by-case basis. There has been some progress and success, for example, in the work on air shed management in Alberta. Where collaboration is not successful, however, citizens should use all other non-violent means.

Yves Corriveau, from the *Réseau québécois des groupes écologistes*, pointed to the new tendency for government to transfer control under the guise of self-regulation. This is an increasing problem in Québec's agricultural industry and is threatening the usefulness of the Article 14 and 15 citizen submission process.

Ms. Kostuch responded that the recent decision by Council on hog farms in Quebec points to a conflict of interest issue for a Party. Canada in this case was both the accused and the decision-maker. Ms. Kostuch was of the opinion that the Parties are now reinterpreting the provisions in secret, and that Canada is at the forefront of this issue.

The second panel of speakers was from Mexico: Jorge Villarreal González, *Asociación Nacional de Ganaderos Diversificados Criadores de Fauna*, Hiram Villarreal Santos, *Patronato del Lago Guerrero* and Víctor Ramírez Navarro, *Subprocurador, Procuraduría Federal de Protección Ambiental* (Profepa).

Mr. Víctor Ramírez Navarro spoke about Profepa's approach to encourage social participation in the enforcement of environmental laws in Mexico. This approach to law enforcement not only rests on the strict application of the rule of law, but also considers efficiency in order to balance

environmental protection and economic productivity, as well as participation of civil society. In this perspective, Profepa attempts to coordinate with different levels of government, both state and municipal, private sector organizations, civil organizations and NGOs, etc. In this context, the two main mechanisms for citizen participation are: 1) a complaint mechanism that allows a citizen to denounce any damage done to the environment (*denuncia popular*); and 2) participation in monitoring and surveillance activities through participatory agreements with Profepa.

Mr. Jorge Villareal González gave details about the work performed by his organization in the field of enforcement through the monitoring and surveillance agreement they signed with Profepa. The goal of his organization is to support cattle raisers to become the guardians of law enforcement on the land they manage. To do this, the *Asociación Nacional de Ganaderos Diversificados Criadores de Fauna* has developed five types of programs: 1) education and training; 2) surveillance; 3) training in law enforcement; 4) advice and counsel on legal requirements; and 5) outreach.

Mr. Hiram Villareal Santos spoke about the enforcement activities carried out by the two organizations he represents, both of which have also concluded an agreement with Profepa. First, Mr. Villareal explained how the *Patronato Lago Guerrero* succeeded in increasing the number of bass by publishing fishing rules and developing the practice of “catch and release.” He also described how the other organization he represents, *Habitat y Palomas del Noreste*, works for the preservation of dove habitats through a coordinating agreement with both the federal and state levels of government and through inspection and surveillance activities.

Irma Cobos, from *El Colegio de México*, commented on the fact that most of the submissions filed under Article 14 and 15 process are more often denouncing the governments of Mexico or Canada than that of the US. She suggested that this shows that citizen participation is more effective in the US compared to Mexico and Canada.

Sandra Martínez, from *Red Fronteriza de Salud y Ambiente*, noted the importance of public participation in the enforcement of environmental legislation. One of the important challenges faced by the public, however, is obtaining the necessary information to participate effectively in public policy or enforcement.

Gustavo Alanís, from *Centro Mexicano de Derecho Ambiental*, asked Mr. Ramírez if he felt that Mexican law allowed government to negotiate enforcement recourses directly with individuals or corporate interests. He himself does not think this is permitted.

Mr. Ramírez replied that the law permitted negotiating conditions for enforcement, not the law itself.

A final speaker echoed the views of Sandra Martínez, adding that pollution is increasing and it is very difficult for citizens to intervene. Not only is it difficult to get information, but the public is also denied information. She noted that citizen participation depends on information. Many NGOs have highly qualified people competent to analyze and work with technical data, but when working against corporate interests, they are denied the necessary information.



The third panel was from the United States: Edward Fritz, Texas Committee on Natural Resources, Jim Angell, Earthjustice Legal Defense Fund; and Thomas Riley, Deputy Chief, US Fish and Wildlife Service.

Mr. Thomas Riley described six areas open to the public to work with the US Fish and Wildlife Service (US FWS) in law enforcement: 1) third party law suits included in various environmental laws; 2) notice in the federal registry to comment on new regulations; 3) citizen assistance in reporting crimes and other violations of the laws; 4) information which US FWS provides through its Public Affairs Office; 5) participation in public panels and presentations; and 6) process of question and answer and information available to the public through the agency Web site.

To portray the importance of citizen law suits, Mr. Edward Fritz described one particular case launched by Texas environmental groups he was involved with against the US Power Service denouncing clearcutting practices. On a first court order in 1988, the US Power Service was ordered to stop this practice because it was threatening the red cockade woodpecker, in violation of Endangered Species Act provisions. And in 1997, in a second court decision, an injunction ordered the federal agency to stop clearcutting altogether in order to protect national forests. In Mr. Fritz's opinion, law suits are an effective means for citizens to stop certain forms of activities having adverse environmental effects.

Mr. Jim Angell spoke about the importance of the citizen role in law enforcement, particularly through law suits. He stated that governmental agencies cannot be relied upon to enforce the law faithfully and fully for various reasons, such as lack of funding, budgetary incentives not to enforce, or political pressures from financial interest groups, the local population or politicians. Mr. Angell gave examples of cases where Earthjustice launched suits against public agencies that were unwilling themselves to properly enforce the law. However, he cautioned that this is an expensive and risky process so one has to pick one's battles. The best solution is policy and political change.

Kevin Scott, Defenders of Wildlife, expressed his embarrassment, as a Canadian, at the weakness of Canada's proposed endangered species legislation. The act has no accountability built into it and no provisions for citizen suits. He asked Mr. Angell if the US endangered species legislation would work without citizen suits.

Mr. Angell replied—no. He added that citizen suit provisions assist in ensuring full implementation of legislation.

Mr. Scott then asked JPAC to bring to the attention of Council the fact that without citizen suit provisions in Canadian endangered species legislation, transboundary species are not being afforded the best possible protection.

Brian Horejsi agreed that citizen suit provisions are the greatest tools for public involvement. They force government to provide resources and expertise and promote integration of the best available science. He supported Mr. Scott's request that JPAC urge Canada to introduce citizen suit provisions in its endangered species legislation.

Tom Sampson from the Coast Salish Sea Council drew attention to the problem of invasive species and how this is not being properly regulated. For example, there are no requirements for the cleaning of ships' hulls. Ship traffic is an important introduction point for invasive species. Another example on the Pacific coast is the lack of effective compliance with regulations on bilge water and fuel dumping from tourist cruise ships. When caught, the violators pay the fine imposed on them but then continue dumping substances into the water. This is increasingly a problem. A final speaker noted that highway and road construction was under-regulated. For example, the new roads that support the timber industry destroy biodiversity. These roads are poorly built, often under totally unregulated conditions.

### **Joint/US National and Governmental Advisory Committee Plenary Session on Critical and Emerging Trends in North America.**

The Chair opened the plenary session by explaining that a similar session had taken place with the Mexican NAC at JPAC's last session in Guadalajara. The topic is of great interest to the public and the exchanges will provide invaluable information to assist JPAC in preparing its Advice to Council later in the year. She then introduced Greg Block, Director of the CEC Secretariat, replacing Scott Vaughan, CEC Program Manager of the Environment, Economy and Trade Program Area, who was delayed by weather. Mr. Block reviewed the objectives of the work program for the Emerging Trends project, identifying some of the key trends and indicators that have emerged from an initial scoping exercise.

The Chair then asked John Knox, Chair of the US NAC, and Robert Varney, Chair of the US GAC, to make introductory remarks following their meeting in April in Washington, D.C.

John Knox began by asking Mr. Block what the future of this project was past December 2000. Mr. Block replied that the intention is to identify trends to inform the Parties and the public. The role of the CEC is to bring issues forward which then could be taken up by public policy. It is a proactive, rather than reactive approach. For the CEC itself, the results of the project will inform the future development of the work program. One possible outcome is the use of modeling for alerting policy makers to issues such as water scarcity and urban use demands. The CEC will also use results for targeted outreach and information sharing and to complement its work on the environmental assessment of trade impacts.

The Chair added that the work provides information to governments to assist in developing precautionary measures, for example, in areas of biosecurity and transportation by identifying key indicators. Jon Plaut, a JPAC member, noted that there is a very healthy dynamic tension created between prediction and specific outputs and the CEC can influence decisions in areas such as transportation corridors.

John Knox continued by suggesting that the work should focus not only on ecological trends, but also look at trends in environmental management of ecological problems. For example:

- enforcement of environmental laws and evaluation of trends toward greater openness and sharing of information that is useful for public debate;
- examination of different tools to move beyond the command and control model of market-based systems; and

- increased international cooperation in addressing these issues at the regional and global level, e.g., the sharing of groundwater between jurisdictions.

Robert Varney then added the following areas that the US GAC considered as important:

- loss of habitat and species from urban growth and the limited effectiveness of land use regulations, suggesting that now the battle is being lost;
- water regulation and use, including the ecological impacts of water use—for example, how drawing down affects habitat and species;
- bioaccumulation of toxins;
- cumulative impacts of pollutants and the lack of scientific data to better understand how the ‘soup’ of pollutants interact with each other, particularly in low income areas where environmental justice is an issue; and
- energy conservation, which cuts across all these areas, including the cost effectiveness of international, national and local strategies—suggesting that this is the new frontier for a cleaner environment.

He concluded by encouraging the CEC to place a greater focus on conservation.

Werner Braun, of the US NAC, added that there should be a move away from a linear model to a three-dimensional one to look at issues such as the bioaccumulation of toxins. Pollution does not respect geographic boundaries and dealing with long-range transfer requires a new way of thinking.

Richard Tobe, of the US GAC, urged the CEC to become more involved in issues related to the conservation and use of freshwater. Once a trend is identified, follow up and action are then required. Other trends include the decreasing power of the CEC budget at the same time as the organization is getting better at its work, and the trend within Council to make trade-offs on agreements. He concluded by suggesting the JPAC can play an important role in maintaining stability within the CEC during the transition that will occur with the US and Mexican presidential elections this year.

Comments from the public included:

- More emphasis should be placed on environmental impacts from small businesses, such as dry cleaners and photo processors.
- Small businesses should be encouraged to adopt environmental management systems by reducing the difficulty in achieving certification and focusing on best management practices.
- The reuse of lands in urban centers versus the trend toward urban sprawl should be addressed.
- Senior citizens should be regarded as a vulnerable population affected by environment issues.
- Continued emphasis should be placed on improving public participation in all work of the CEC.

Robin Rosenberg, from the US NAC, added that there is so much to do and there are so many priorities. The CEC cannot be everything to everyone and should focus on distinguishing itself as

a forum for public participation through the citizen submission process under Articles 14 and 15 and in the degree to which it deals with the trade and environment nexus.

Melvin Moon, from the US GAC, encouraged the CEC to develop the capacity to look at emerging trends from the perspective of Indigenous peoples. They can provide information on trends and indicators, as was demonstrated at the CEC Biodiversity Workshop in March in Guadalajara. He suggested developing a registry of Indigenous peoples working on resource issues.

Public comments continued:

- Water issues are extremely important, especially for the poor.
- Water has been an emerging issue for 30 years. Current water management policies are not sustainable. For example, water from the Great Lakes is treated as an export commodity. The CEC should intervene and be a vehicle to inform a wider public.
- Water exports and climate change are becoming interconnected. Canada should be encouraged to implement its commitments under the Kyoto protocol.
- The trade and environment link should be the CEC's niche. The export of natural gas and petroleum, for example, results in environmental degradation. Forest product exports degrade the environment and affect the sustainability of communities.
- It is all about "trade off." The CEC has to reconcile cost-cutting and environmental integrity.
- It is very difficult to know where to start. A solid methodology is needed to allow the precautionary principle to be applied. The CEC should continue to work closely with the public to define and prioritize issues, keeping in mind cost, time and impact.
- It is very important to address transportation. New roads or the widening of existing roads both have serious environmental and social impacts. The CEC should also make sure that information reaches the public who needs it the most. The role of the CEC is to provide information and then the public and NGOs can take over.

Peter Berle, a JPAC member, remarked that one of the important contributions the public can make is to help make decisions on priorities. The CEC cannot do everything. The prospect of getting more money for the CEC now is limited. JPAC can provide advice on how to allocate resources and the public can help us do this.

The Chair concluded by thanking the participants and observing that it is a real struggle to find a balance between the three countries and identify trinational priorities. There is a need to distinguish between matters that are priorities and those that are urgent. We need to look at solutions, not just listing problems.

**Briefing on the Articles 14 and 15 of the North American Agreement on Environmental Cooperation and Question Period with the Public**

The Chair introduced the discussion by stating that JPAC needs to hear from the public on this matter at this time. JPAC has developed some preliminary views on the question of how Council should deal with matters of interpretation and other issues, but also needs to hear from the public. She also thanked the NACs, and in particular the US NAC, for their recent advice. It is now time to work on solutions, not just reiterate problems.

Carla Sbert, legal officer in the Submissions on Enforcement Matters Unit, presented an overview of the citizen submission process and a status report of pending submissions difficult to interface with the public. She informed the meeting that the Council had just now instructed the Secretariat to make public the factual record regarding the British Columbia Hydro submission.

Peter Berle, a member of JPAC's Working Group on Articles 14 and 15, noted that there is nothing comparable anywhere in the world to this process, but it is not without controversy. The idea that anyone can come forward and present a challenge is very unsettling for governments. The process is still in its infancy, but certain issues keep reappearing:

- What is meant by other remedies? How difficult should it be for submitters? JPAC believes that there should be no increase in barriers to reach the submission process.
- Government invokes confidentiality to keep secret their responses. JPAC believes in transparency and openness.
- Findings should be made public. We took it for granted that records would be released. Therefore, the decision just made on BC Hydro is important.
- The Secretariat should have the independence it needs to collect data and ask questions of government. The Parties want to more control over the factfinding. JPAC believes there should be no restrictions.

He then stated that the proposal by the Parties to create a separate working group to deal with issues of interpretation is universally decried. Articles 14 and 15 provide a unique opportunity to counter critics of trade liberalization. It is a way to deal with social ferment against free trade. To further restrict public access is to attract the ire of the public.

Donna Tingley, also a member of the JPAC Working Group on Articles 14 and 15 reminded the participants that there had been a stand off between the Council and JPAC on the so-called Revision 1 process. Now this new proposal to establish a working group to deal with issues of interpretation is creating a good deal of discomfort and strong opposition has been expressed. There is an inherent institutional conflict of interest, making the public increasingly uncomfortable. She expressed her hope that the public would provide ideas for moving ahead framed by transparency and the independence of the Secretariat.

Daniel Basurto, also a member of the JPAC Working Group, provided a personal view from a Mexican legal perspective. He explained how he had used the citizen submission process as an example in a law school project. One of the conclusions that emerged was that the concept of environmental damage and harm is very different in the Mexican legal system. In that sense, some

common interpretative work is required. A consensus or common understanding of key terms to accommodate the different meanings within the legal and cultural systems of the three countries is necessary. For example: “transparency,” “independence,” “objectivity,” “discretion,” and “exhaust” are all terms which mean different things in the Mexican legal system. He concluded by suggesting that the objective of submissions should be to promote enforcement not punish industry or governments.

The Chair remarked that it is the Alternate Representatives—the bureaucrats—who are interpreting, not the Council itself. She asked for assistance from the public to develop recommendations for how Council can move forward and create a process that is clear and predictable for everyone. “Let us now turn the anger into something positive,” she said.

Gustavo Alanís, from the *Centro Mexicano de Derecho Ambiental*, suggested it would be very useful to have the Alternate Representatives here to explain exactly what is going on. There has been much uncertainty created. We do not even know what they are discussing right now. We have heard that now they have set aside the idea of a working group. Is this true or not? I would like to ask them why they pursue their insistence on changes? He urged JPAC to be vigorous and clear. We do not want changes to the guidelines. All the discussions are taking place in secret. The guidelines were set up to assist the public to make submissions. Now more burdens and prerequisites are being inserted to discourage submitters. Equity and transparency are not being implemented. There is a great deal yet to learn before changes can even be considered.

Cliff Wallis, from the Canadian Nature Federation, expressed his anger and frustration, stating that if this is the promised environmental balance, then we have been sold a bill of goods. If these meetings are the only access for the public to the process, then it is very disappointing. He then made a proposal for Council. If the Secretariat recommends the preparation of a factual record, then do it. If Secretariat recommends against it, then make the reasons public. This would be respecting the independence of the Secretariat and keeping the public informed.

Maxilio Sánchez, from the Environment Health Coalition, stated that he was here on behalf of his colleagues who are ill and dying. “The authorities in Mexico closed the door in our face when we asked for help and remediation. We then prepared a submission through the CEC and I thank the CEC for hearing us. We know that a factual record is not a solution, but it will help shed light on the environmental and human health disaster facing us. I am sick, my children are sick because of lead poisoning. We seek dialogue and to work together to find a solution.”

Martha Kostuch, from Friends of the Oldman River, noted that their case was an example of all the problems a submission can encounter. She said she could not overstate how much the credibility of the CEC is at stake. She met the Alternate Representatives for the first time today, when they appeared before us earlier as a group. It is not the role of Council to interpret—it is the role of the Secretariat. It would be wrong for JPAC to participate in any committee of Council set up to interpret Articles 14 and 15. We must try to block the creation for this working group. She singled out Canada for leading the demise of the process and encouraged other members of the public to communicate their views to their government leaders.

Serena Wilson, a member of JPAC, intervened to say that the NAAEC clearly gives the authority for interpretation to Council. The focus here should be why issues have been reopened. She suggested a working group is not necessary.

Jon Plaut, another member of JPAC, agreed with Ms. Wilson. Further, he reminded the participants that JPAC has stated repeatedly that there should be no changes at this time. The United States has not even had the experience of a case. But it is a hard call for JPAC—do we absent ourselves in protest or stay inside and try to keep the public informed.

Martha Kostuch continued that in their case, experts were hired by the Secretariat to interpret (a) if there was a general failure to enforce environment laws [yes], and (b) was the Sunpine case relevant [no]. This was not a matter of interpreting Articles 14 and 15. Then the Alternates decided the other way without us present. There was a huge conflict of interest. The party who is accused—without the accuser present—interpreted the accusation against them in a way to defend itself. This is not democracy. The Secretariat should independently interpret legal issues in a submission—this is not the role of Council.

Agustín Bravo, from the *Centro de Derecho Ambiental del Noreste de México*, expressed the concern of environmental groups that Council cannot just claim confidentiality as a way to keep the public out. In Mexico, the CEC is the court of last resort. The process should be strengthened by more public participation and increased budgets.

Yves Corriveau from the *Réseau québécois des groupes écologistes*, expressed great concern about the discretionary role of Ministers. Political discretion should not be a factor in this process. Council's recent decision on their case [Quebec Hogs] discredits the process. The reasons were totally inappropriate. It was an arbitrary decision, which compromises future discussion on free trade.

Another speaker expressed a personal view as an activist, that this is the CEC's greatest tool for public support. The timely distribution of information to people who need it the most and the NGOs are here to help—not hinder. More secrecy will engender doubt. Effectiveness is your greatest strength.

Mateo Castillo, Coordinator of the Mexican NAC, informed the meeting that the Mexican NAC held a workshop on 6 June on this matter. Government representatives attended. At that meeting it was made clear that the role of the public and the public right to know can be governments' greatest strength or its Achilles heel.

César Luna, from the Environmental Health Coalition, stated that as petitioners, they have much to share. All the petitioners should be brought together to develop solutions. "It is not rocket science. We are not being heard and the big problem is government accountability. We are pleased, of course, that our submission [Baja California lead smelter] finally made it through, but we are not declaring victory. People are being affected while government focuses on detail."

David Schorr, from the World Wildlife Fund US, thanked JPAC for its openness. He reminded the participants that the World Wildlife Fund was a supporter of NAFTA because it believed in

agreement's promises to balance environment and trade. "We are now wondering if we were wrong, and why governments are claiming surprise at the public outcry." There is not need for further amendments. It is not enough, however, for Council to do nothing at this meeting. They have to be forceful and clear to (a) end the practices that have given rise to doubt (b) stop any further negotiations, especially since they told the public in Banff they had stopped (c) provide guarantees that the Secretariat will be given 'room to run' independently, and (d) put an end to back room negotiations when legitimate issues arise.

Karel Mayrand, a consultant from Montreal, stated that Council was making a strategic mistake. JPAC provided very strong advice last year not to proceed with amendments and have consistently sent that message up to today. Six months after Seattle, while politicians are trying to promote trade liberalization, is not the time for uncertainty. Undermining public confidence at this time is an error.

The Chair closed the session by assuring the participants that all this would be discussed, in detail, by JPAC who, working by consensus, would reach a decision on how best to proceed.

### **Administrative Matters**

#### **a) Discussion of a Potential Advice to Council on Enforcement Cooperation**

Darlene Pearson, Head of the CEC Law and Policy Program, provided details on how comments had been incorporated to produce a revised draft *Guidance Document: Improving Environmental Management Systems*, which has now been approved by the government members on the CEC Enforcement Working Group. She was congratulated by members of JPAC on incorporating JPAC's concerns. There was one additional change recommended on page 6 to delete the words "in every case," which was accepted.

After discussion, it was agreed by JPAC to provide Advice to Council recommending approval of the Guidance Document with instructions to the Enforcement Working Group to test its functionality within the next two years and report back to JPAC. (See Annex D for Advice to Council 00-03)

**Action: JPAC**

#### **b) Discussion on the Methods for Project Evaluation**

After discussion by members of JPAC's Working Group on Project Evaluation, who had studied the document in advance of this meeting, it was agreed that significant improvements had been made from an earlier version. Some concerns were raised about internal and external monitoring. It was agreed that JPAC would send an Advice to Council encouraging further development of the document and provide direction on monitoring and JPAC's role. (See Annex H for Advice to Council 00-07)

**Action: JPAC**



**c) Discussion of a Potential Advice to Council on the North American Fund for Environmental Cooperation (NAFEC)**

Janice Astbury, NAFEC Coordinator, reviewed the NAFEC evaluation report, and the conclusion was that without more financial support, the program's impact is becoming more and more limited, however, it would be a tragedy to get rid of it now if it could be revived.

There was very strong support from the JPAC members for NAFEC. It was agreed, however, that it would be irresponsible simply to recommend to Council to reinstate the financial support without providing some solutions to the overall resource problems. Possible sources could include setting clear phase-out schedules for existing programs and, rather than funding a separate children's health and the environment initiative, to integrate this as a focus into existing CEC projects. It was also noted that once proper project evaluation methods were in place, it would make the task of allocating resources and planning much more efficient.

It was agreed to send an Advice to Council. (See Annex E for Advice to Council 00-04 and Annex F for Advice to Council 00-05)

**Action: JPAC**

**Observers' Comments**

Diane Campeau, from the *Fondation les Oiseleurs du Québec*, commented that she represented a group that had not been successful in receiving a NAFEC grant, but that this did not detract her from fully supporting the program. It is a very important process that opens the doors for North American Cooperation by forcing us to develop a great regional perspective.

Patricia Williams, from the Silver Council, expressed her support for the concerns raised by the US NAC.

**Tuesday, 13 June**

Because of the tight time frame due to changes in the Council's schedule, it was not possible to continue with the agenda as planned at this point. The Chair decided to use the time available to review with the public some of the matters that had been discussed with Council the previous day at the in-camera session.

Regarding children's health and the environment, Council would be passing a resolution which would include the direction to include this as a focus within the CEC work program rather than fund it as a separate initiative. It would also include the convening of a government meeting with representative from a variety of ministries. (See Annex F for Advice to Council 00-05)

**Action: Council**

JPAC had recommended that Council approve the draft *Guidance Document: Elements for Improving Environmental Management Systems*. (See Annex D for Advice to Council 00-03)

**Action: Council**

Regarding lead, JPAC encouraged Council to approve developing a NARAP. Council advised that lead is not yet ready for consideration. Lead will, however, be integrated into work on children's health. JPAC is not satisfied with this response and will provide further advice to Council seeking action. (See Annex G for Advice to Council 00-06)

**Action: JPAC**

Regarding the new process for Articles 14 and 15, some careful thinking is required. JPAC members are voluntary and extra time demands can be problematic. JPAC was supportive of the proposal for it to become an active part of the process to ensure public participation and to advise Council, as discussed in camera with Council and as set forth in Council Resolution 00-09. This new process raises many questions. It was agreed this would be further discussed by JPAC at a lunch meeting (summary of that discussion is included below in this record)

All other agenda items were postponed to the next JPAC meeting.

**Action: JPAC**

### **Observers' Comments**

Tom Sampson, from the Coast Salish Sea Council, reminded the participants that poverty and poor health go hand-in-hand. The economic status of aboriginal people in Canada is reflected in health problems. Where income is limited, aboriginal people still rely on local food production. If the food contains toxic pollutants, the only other option is low-quality store-bought food, which also has health implications. He said, "We see diabetes increasing at an alarming rate. Sometimes I get the feeling that people at these meetings are more concerned about what Ministers might think than what the issues are. Criticism is not directed to the Ministers personally—it is directed to the system. It is the system that is killing us. I thought JPAC was to represent our views. If you can't deliver that message then this is the wrong forum. I am not worried about the Ministers, I am concerned about your attitude. You are there to echo our views."

The Chair replied, on a personal note, that yes, JPAC's mandate is to present public views. The Ministers here are environment ministers. Poverty, Indigenous peoples, remote communities are not just within the mandate of these ministers. It is a much larger development program. In Mexico, we knew we were entering an unequal model when we joined NAFTA. The CEC process is limited to the mandates of environment ministers—but this does not mean I do not agree with you.

Mateo Castillo, Coordinator for the Mexican NAC, asked why the Guidance Document on Enforcement Compliance was not sent to the certification agencies in each country. The

document could be strengthened if it became a legal requirement as an annex, for example, in each country's legislation.

Steve Wilson, of the Haida Nation, stated that it is Indigenous peoples who are hit first and hardest by environmental degradation. He described the pulp and paper industry in his territory and the impacts on fish. As citizens, his people have spent a fortune in the courts. They are acting as an environment minister. Now, after 25 years, the government is finally responding. Indigenous people have much to offer. He suggested that the structure for participation is troublesome: "You should also be careful not just to choose politicians to come to meetings, but also people with traditional knowledge to offer."

The Chair agreed that Indigenous peoples in Mexico and elsewhere often live in abject poverty. We need to find ways to work on poverty issues.

Kelley Tucker, with the American Bird Conservancy, explained that despite what officials may say, lead is still an issue in Canada and the United States. Migratory birds have a lead and pesticide load. Birds are sentinels and what happens to them indicates what is happening in other parts of the environment.

The Chair thanked the members, the staff, the interpreters and the participants for their comments, then adjourned the session.

As indicated above, JPAC then held a discussion over lunch, which is reported below.

### **Follow-up of the Council/JPAC Private Session of 13 June**

A detailed discussion took place on how JPAC intends to implement Council Resolution 00-09—Matters Related to Articles 14 and 15 of the Agreement. In the interests of transparency, the following summarizes the essence of that discussion. Important points were the following:

- It is important to ensure that we all share the same understanding of the Resolution and JPAC's role to assure consistency in any information that any of the members exchange with the public before a mechanism has been developed and reviewed by the public. Confusion at this point must be avoided.
- It was suggested that there are two tasks:
  - a) to design a mechanism to implement the Resolution, and
  - b) as stated in the Resolution, develop a report on lessons learned, based on a review of the public history of submissions, including all actions taken to implement those articles.
- To this end, the JPAC Working Group on Articles 14 and 15 (Daniel Basurto, Peter Berle, Donna Tingley) will prepare a draft mechanism for review by all the members. It will contain a short preamble outlining the role of JPAC. Ms. Tingley accepted the responsibility of preparing the first draft. Once JPAC has approved this draft, it will be released for public

comments. It is hoped that we can organize a public workshop on this draft during the next JPAC regular session on 13–14 October in Washington, DC.

- The need for ethical guidelines was also discussed to deal with issues such as when a member feels a potential for conflict of interest or what should be the limits on public disclosure of information. It was agreed that this certainly needs to be talked through, but it is perhaps premature to have any formal set of guidelines. Several members volunteered to collect examples of guidelines to be shared with the members. This is something that could be part of the public review of the draft mechanism.

**Action: JPAC Working Group, JPAC**

- A second working group (Cam Avery, Steve Owens, Blanca Torres) was established to develop a work plan on how to proceed with the review of the public history of submissions, including how to obtain information directly from the Secretariat and the submitters.

**Action: JPAC Working Group, JPAC**

- It is also very important to remember the following:
  - a) the process contemplated by the Resolution is triggered by Council whatever the point of entry of an issue for interpretation.
  - b) JPAC will not be dealing with the submissions' process. This remains a Council/Secretariat responsibility.
- JPAC must remain fully transparent at all times. An expectation has now been created that JPAC will act to represent the public on future matters of interpretation. Put another way, the responsibility for interpretative matters related to Articles 14 and 15 is now being shared between the Council and JPAC.
- Questions will arise as the mechanism is designed. JPAC is a group of volunteers. How much additional work will this entail? How will we get together? What additional human and financial resources will be required? What is the issue-raising mechanism? Will Council forward all the matters that are in play at this time? Many of these questions cannot be answered until there is a sense of what may be referred to JPAC by Council. Therefore, any preliminary design must be very flexible.
- The JPAC Liaison Officer undertook to discuss with the CEC Executive Director the matter of access to additional resources.

**Action: JPAC**

Prepared by Lorraine Brooke

APPROVED BY JPAC MEMBERS ON 8 AUGUST 2000



**Commission for Environmental Cooperation**  
**Joint Public Advisory Committee Session 00-02**

**11–13 June 2000**

Sheraton Grand Hotel DFW Airport (Dallas)  
4440 W. John Carpenter Frwy.  
Irving, Texas 75063  
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**Provisional Agenda**

**Chair: Ms. Regina Barba**

**Sunday, 11 June 2000**

- |             |  |
|-------------|--|
| 8:30–9:00   | Welcome and Overview by the JPAC Chair <ul style="list-style-type: none"><li>a) Approval of the Provisional Agenda</li><li>b) Remarks by Gregg Cooke, EPA Regional Administrator</li><li>c) Report from the Alternate Representatives</li><li>d) Report from the CEC Executive Director and Question Period</li><li>e) Report by National and Governmental Advisory Committee Representatives</li></ul>                  |
| 9:00–10:30  | Workshop on Citizen Participation in Enforcement Activities, organized by the North American Working Group on Environmental Enforcement Compliance Cooperation (EWG) and the JPAC  |
| 10:30–10:45 | Break  |
| 10:45–12:30 | Workshop on Citizen Participation in Enforcement Activities (cont'd)   |
| 12:30–13:30 | Lunch  |
| 13:30–15:00 | Joint/US National and Governmental Advisory Committee Plenary on Critical and Emerging Trends in North America   |
| 15:00–15:30 | Break  |
| 15:30–18:00 | Briefing on the Articles 14 & 15 of the North American Agreement on Environmental Cooperation and Question Period with the Public  |
| 18:00–20:00 | Welcoming Reception  |
| 20:00–21:30 | Administrative Matters * <ul style="list-style-type: none"><li>a) Discussion of a Potential Advice to Council on Enforcement Cooperation</li><li>b) Discussion on the Methods for Project Evaluation</li><li>c) Discussion of a Potential Advice to Council on the North American Fund for Environmental Cooperation (NAFEC) Evaluation</li><li>d) Preparation for the Council/JPAC Private Session on 12 June</li></ul> |
| 21:30–21:45 | Update on Various Issues * <ul style="list-style-type: none"><li>a) Article 10(6) of the NAAEC: NAFTA Chapter 11</li><li>b) Article 28 of the NAAEC: Rules of Procedure</li><li>c) Negotiations Toward a North American Agreement on Transboundary Environmental Impact Assessment</li><li>d) State of the Environment Report</li></ul>  |

\* Session opened to the public as observers.

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- e) Signature of Canadian Provinces to the Canadian Intergovernmental Agreement on the American Agreement on Environmental Cooperation
  - f) JPAC Member Appointments and Rotation
  - g) JPAC Member Appointments to JPAC Working Groups
- 21:45–22:00 Observers' Comments

**Monday, 12 June 2000**

- 8:00–9:00 Council/JPAC Private Session
- 9:00–19:00 Council Regular Session (See the Council Session Program)

**Tuesday, 13 June 2000**

- 8:00–9:45 Administrative Matters \*
- a) Discussion on a Potential Advice to Council on the 2001-2002 CEC Work Program Outline including the Children's Health and the Environment Issue
  - b) Preparation for the Council/JPAC Private Session on 13 June
- 9:45–10:00 Observers' Comments
- 10:00–11:00 Council/JPAC Private Session
- 11:00–11:30 Break
- 11:30–12:30 Administrative Matters \*
- a) Follow-up of the Council/JPAC Private session of 13 June
  - b) Discussion on the JPAC Program 2001-2003
  - c) Next JPAC Regular Session in 2000
- 12:30–13:00 Observers' Comments
- 13:00 End of JPAC Regular Session
- 13:00–14:00 Lunch
- 14:00–15:00 Council Press Conference
- 15:00–16:00 Private Session JPAC/Alternate Representatives

\* Session opened to the public as observers.



**COMMISSION DE COOPÉRATION ENVIRONNEMENTALE  
COMISIÓN PARA LA COOPERACIÓN AMBIENTAL  
COMMISSION FOR ENVIRONMENTAL COOPERATION**

Septième session ordinaire du Conseil  
Séptima sesión ordinaria del Consejo  
Seventh Regular Session of the Council

**Liste de participants présents  
Lista de participantes presentes  
List of participants who attended**

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11, 12 y 13 de junio de 2000, Dallas, Texas, USA  
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**ADVICE TO COUNCIL: NO. 00-03**

**Re: Guidance Document for Improving Environmental Performance and Compliance:  
10 Elements of Effective Environmental Management Systems**

The Joint Public Advisory Committee (JPAC) of the Commission for Environmental Cooperation (CEC).

IN ACCORDANCE with its mandate to provide advice to Council.

RECALLING JPAC's past Advice 00-02 on the Draft Guide;

HAVING received and reviewed the revised document, JPAC notes with satisfaction that its recommendations and other concerns expressed by the public and JPAC members were taken into account and particularly appreciates the efforts made to reflect the specific context and views of the enforcement agencies in Canada, Mexico and the United States;

JPAC, THEREFORE, recommends in accord with discussions held directly with the Council that:

- a) the Guidance Document be approved by Council; and
- b) the Enforcement Working Group (EWG) test the functionality of the Guidance Document within the next two years and report back to JPAC.

APPROVED BY THE JPAC MEMBERS

6 July 2000



**ADVICE TO COUNCIL: NO. 00-04**

**Re: The North American Fund for Environmental Cooperation (NAFEC)**

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

IN ACCORDANCE with its mandate to provide advice to Council;

HAVING received and reviewed the draft Internal Review of the North American Fund for Environmental Cooperation (NAFEC);

FURTHER, HAVING had an opportunity to discuss the recommendations contained in this report at a JPAC Regular Session where strong support from the public for continuing and strengthening the NAFEC was received;

RECOGNIZING the important role of the NAFEC in promoting grass roots participation in the work of the CEC, resulting in broader public appreciation for the goals of the North American Agreement on Environmental Cooperation (NAAEC);

AWARE, that the CEC is experiencing budgetary constraints;

JPAC, NEVERTHELESS, strongly recommends that:

- a) the NAFEC be given permanent standing in the CEC work program, and
- b) it be maintained at the level of US\$500,000 while efforts are made by the CEC and the Parties to secure additional funding.

**APPROVED BY THE JPAC MEMBERS**

6 July 2000



**ADVICE TO COUNCIL: NO. 00-05**

**Re: Children's Health and the Environment**

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

IN ACCORDANCE with its mandate to provide advice to Council;

HAVING reviewed the documents prepared for, and resulting from the CEC-sponsored symposium on Children's Health and the Environment in North America which was attended by a JPAC representative;

FURTHER taking into account the strong public support for the CEC to further focus its work on children's health;

UNDERSTANDING that the CEC is experiencing budgetary constraints;

JPAC, THEREFORE, recommends that Council direct the Secretariat to integrate children's health and environment issues into the existing work program of the CEC.

FURTHER noting that matters related to children's health and the environment are not the sole responsibility of ministers of the environment;

JPAC also recommends that the Parties organize a joint meeting of Canadian, Mexican and United States environment and health minister to consider ways of supporting further initiatives.

APPROVED BY THE JPAC MEMBERS

6 July 2000





**ADVICE TO COUNCIL: NO. 00-06**

**Re: A North American Regional Action Plan (NARAP) for Lead**

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

IN ACCORDANCE with its mandate to provide advice to Council;

RECALLING JPAC's Advice to Council 00-05 on Children's Health and the Environment to integrate children's health and environment issues into the existing work program of the CEC;

HAVING heard concerns from experts in the fields of lead contamination and human health during the CEC-sponsored symposium on Children's Health and the Environment in North America and at JPAC's Regular Session 00-02 in Dallas, Texas about the effects of lead on child development;

RECEIVING further input from the public urging the CEC to take action on lead particularly because of the threat it poses for the health of children;

JPAC strongly urges Council to call for an evaluation, on a priority basis, of the technical reports prepared to support lead as a candidate substance for regional action.

APPROVED BY THE JPAC MEMBERS

6 July 2000



**ADVICE TO COUNCIL: NO. 00-07**

**Re: Advice on the Draft CEC Planning, Monitoring and Evaluation (PME) Plan**

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

IN ACCORDANCE with its mandate to provide advice to Council;

RECALLING Council's request to provide advice on how the CEC can develop a monitoring and reporting mechanism on the progress and results of CEC projects and to recommend project evaluation approaches keeping in mind the need to involve and inform the public;

HAVING received and had an opportunity to review the *draft CEC Planning, Monitoring and Evaluation (PME) Plan* prepared by the CEC Secretariat;

UNDERSTANDING that this is a work in progress;

JPAC, THEREFORE, encourages the Secretariat to continue developing the PME using the principles of Results Based Management (RBM);

MINDFUL, HOWEVER, that projects can move rapidly and directions can also vary, it is important that:

- a) continuous monitoring be implemented;
- b) this monitoring be done internally and concise RBM reports based on the performance indicators should be published on a semi-annual basis for JPAC and public review; and
- c) every 3 years, an external review should be completed to evaluate the general direction and progress of the programs of the CEC.

APPROVED BY THE JPAC MEMBERS

6 July 2000