



## COMMISSION FOR ENVIRONMENTAL COOPERATION

### Joint Public Advisory Committee Session No. 99-03

27–29 June 1999

Banff, Alberta, Canada

### Summary Record

The Joint Public Advisory Committee (JPAC) of the Commission for Environmental Cooperation (CEC) held a regular session in Banff, Alberta, on 27–29 June 1999, in conjunction with the 1999 Regular Session of the Council of the CEC. A round table on the CEC three-year program plan was also part of the meeting and took place on the morning of 28 June.

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 and Annex C for a summary of the round table discussions.)

Previous summary records, advice from JPAC to Council and other JPAC-related documents may be obtained from the JPAC coordinator's office or through the CEC's Internet homepage at <<http://www.cec.org>> under the JPAC header.

### Sunday, 27 June:

#### Welcome and Report by the Chair

The Chair of JPAC, Jon Plaut, opened the meeting and welcomed everyone to Banff. He explained the schedule for the next three days and provided the public with some background information on JPAC activities since the last Council Session. He then introduced Mr. Jonathan Scarth, a new member appointed by Canada.

#### Approval of the Provisional Agenda

The agenda was approved.

#### Report by the Interim Executive Director

The Chair, on behalf of the Committee, extended a very warm welcome to Ms. Janine Ferretti and expressed great pleasure at her recent appointment as Executive Director.

Ms. Ferretti thanked JPAC and noted that the Secretariat appreciates and benefits from JPAC's work in stimulating public discussion and reaching out to a wider public, such as the recent meeting with Indigenous peoples in Anchorage, Alaska. She then presented her report. Highlighted topics included:

- Implementing the *Shared Agenda for Action* in partnership with JPAC, government and organizations in civil society.

- Efforts to leverage additional financial resources from other organizations to help implement the North American Regional Action Plan on DDT to providing resources for capacity building actions in Mexico for DDT phase-out.
- The completion of the Secretariat Article 13 report, *Ribbon of Life*, on the upper San Pedro River.
- An update on the work of the Submissions on Enforcement Matters (SEM) Unit within the Secretariat to reduce the backlog of citizen submissions under Article 14 and address recent submissions.
- The completion of a Secretariat report on opportunities to increase cooperation with North American centers of excellence.
- A survey of initiatives and options concerning cooperation on transboundary environmental emergency management.
- The release of *On Track? Sustainability and the State of the North American Environment*.
- The challenge of continuing to develop public confidence in NAFTA and efforts to identify mechanisms for the CEC to cooperate with the NAFTA Free Trade Commission.
- Despite concerted efforts, the Parties have thus far been unable to conclude a legally binding agreement on transboundary environmental impact assessment.
- Steps are being taken to improve communication and public participation, including the development of a draft framework for public participation, now being considered by Council, and plans to develop a communications strategy for the CEC.

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

The Coordinator of the Mexican National Advisory Committee (NAC), Mateo Castillo, congratulated Canada on the location of the meeting, noting the beauty of the site provided food for both the mind and soul. He provided information on a recent report submitted by their committee to the Mexican government, which included two important recommendations. The first concerned genetically modified products and associated risks for agriculture. It is the view of his committee that this is clearly an environment and trade issue with transborder implications and the Mexican NAC feels very strongly that this topic should be addressed in the CEC's three-year program plan. The second concerned the urgent need to develop standards for environmental laboratories as a prerequisite for successful monitoring. He further noted that the Mexican NAC continues to be proactive and, for example, will cooperate on matters related to the coastal regions of Mexico. The next meeting is scheduled for 23–24 September where they will concentrate on developing a national agenda and establishing priorities to recommend for the program plan.

The Chair of the United States National Advisory Committee, Sanford Gaines, applauded JPAC's persistent efforts to maintain and enhance public participation, with specific mention of the public involvement in the process to amend the Guidelines for Citizen Submissions under Articles 14 and 15 of the North American Agreement on Environmental Cooperation. He also welcomed JPAC's Advice to Council on several other issues which coincide with their

committee's concerns—namely, the urgent need to conclude an agreement on transboundary environmental impact assessment and urging improved institutional cooperation between the CEC and the NAFTA Free Trade Commission.

The Chair of the Canadian National Advisory Committee, Stewart Elgie, echoed the sentiments expressed by his US colleague. He noted his committee's appreciation with the vigor of JPAC's efforts regarding Articles 14 and 15 as a model for public outreach. He informed JPAC that within his committee's work plan, there would be a focus on transboundary endangered species and habitats. They have named this effort the "Sound Management of Species and Habitat." They will also be working on environmental standards with a view to identifying potential pollution havens, and will provide input concerning dispute avoidance related to Chapter 11 of NAFTA. Finally, he expressed his pleasure at the appointment of Janine Ferretti as Executive Director.

The Chair of the US Governmental Advisory Committee (GAC), Robert Varney, encouraged Canada and Mexico to establish their governmental advisory committees, noting the important roles local, state and tribal governments have to play in environmental management. He congratulated Mary Simon on the success of the meeting in Anchorage, Alaska, and complimented JPAC on the sensitivity the members displayed in absorbing the concerns expressed by the Indigenous participants. He noted that JPAC's Advice to Council have served excellently in tracking the recommendations from the Independent Review Committee and stated that the CEC, due to JPAC's urging, is now engaged in strategic planning. He recommended that better reporting and tracking mechanisms for CEC projects, including NAFEC, be developed. He expressed his committee's frustration at the lack of progress toward achieving an agreement on transboundary environmental impact assessment. He suggested the need to push for harmonization of databases and standards as an important step in reaching the goal of appropriate environmental and public health regulations. Regarding the Sound Management of Chemicals program (SMOC), he expressed appreciation for efforts to include state and provincial governments; however, he underlined the need to accelerate the selection process and to establish more aggressive time frames. To help raise the profile of the CEC, he proposed that a North American environmental conference focusing on the CEC's accomplishments and CEC-funded projects be held in conjunction with the annual Council sessions. Finally he thanked JPAC for the overall quality of its work and the frank, honest, open and non-political way in which it operates.

### **Discussion of Draft Advice to Council 99-10 on the Promotion of the Involvement of Indigenous Peoples in the CEC Program Plan and Activities**

Mary Simon reviewed the steps that had been taken since the meeting in Anchorage, Alaska, when she was asked to oversee the preparation of this draft Advice. She noted that the focus of the advice was to seek practical means to involve Indigenous peoples in the work program, including the Conservation of Biodiversity program. A lengthy discussion followed. No agreement was reached but the matter will be reviewed at the JPAC regular session in September.

**Action: JPAC**

### **Preparation for the Joint Council and JPAC Session of 27 June**

It was agreed that each member would speak on a specific topic. The Chair had prepared notes to

assist in this process. The topics were: the three-year program plan; Articles 14 and 15; environmental management systems and compliance; Sound Management of Chemicals; the draft framework for public participation; transboundary environmental impact assessment and San Pedro; NAAEC Article 10(6); cooperation between the CEC and the FTC; regional solutions to global issues; the report of the Independent Review Committee; and institutional relationships within the CEC.

JPAC then had an in-camera session with Council.

### **Briefings from the CEC Program Managers in Preparation for Future Advice to Council:**

#### **NAFTA Environmental Effects and Byproduct Synergy**

The program manager, Sarah Richardson provided an overview of work to date and future activities. Regarding NAFTA Effects, it was agreed that some guidance was required in the identification of priority issues to be analyzed pursuant to the call for papers in order to maximize the opportunities for high-quality input. Ms. Richardson will prepare a list of priorities for review by JPAC.

**Action: Secretariat/JPAC**

#### **Emerging Trends**

Scott Vaughan, the program manager, noted that focus of the work at this point would be to identify probable environmental problems within a ten- to twenty-year time frame. While this is beyond the CEC planning cycle, it will help build a sense of where we are now and develop a baseline for measuring change. Water and transportation/air quality issues have been identified by the Parties as priority areas.

A discussion followed. Other possible trends were discussed, such as endocrine disrupters, genetic engineering and biosecurity and decentralization of fuel generation. JPAC will consider communicating a broader range of priorities to Council upon further input from the emerging trends working group.

**Action: CEC Working Group/JPAC**

#### **Strategic Directions for the Conservation of Biodiversity**

The program manager, Hans Herrmann, provided an overview of the program. He explained that this is an initiative that is being built around public involvement. The objective will be to identify priority ecoregions and prospective partners. JPAC expressed its strong support for this initiative and will work to assure suitable public involvement.

**Action: JPAC**

#### **Environmental Cooperation in the NAFTA Transportation Corridors**

Nick Nikkila, the program manager, explained the role of the CEC, the work program and expected results. He expressed his enthusiasm for JPAC's direct involvement, as planned for its December 1999 session. JPAC recommended the work plan move beyond 'highway building' and also look at rail and marine transportation issues.

**Action: JPAC**

**Update on Various Issues****The Sound Management of Chemicals**

Andrew Hamilton, the program manager responsible for the Sound Management of Chemicals initiative, reviewed the draft resolutions that were before Council on furans and dioxins, hexachlorobenzene and environmental monitoring and assessment, which JPAC supports.

**Action: Council**

**NAAEC Article 10(6): NAFTA Chapter 11**

The Chair reported that during the in-camera session earlier today, JPAC had again urged Council to act.

**Action: Council/JPAC**

**NAAEC Article 28: Rules of Procedure**

The Chair reported that there is not yet a draft available for JPAC to review.

**Action: Council/JPAC**

**Methods for CEC Project Evaluation**

JPAC has not yet received a document from the Secretariat. It was reported that the Council had once again asked for JPAC's assistance in this matter.

**Action: Secretariat/JPAC**

**NAFEC Recommendations on Green Goods and Services**

It was agreed that JPAC would monitor the transformation of these recommendations by the Secretariat into activities within the next Program Plan.

**Action: Secretariat**

**CEC Executive Director Nomination**

This matter has been concluded with the recent appointment of Janine Ferretti as Executive Director for a three-year term. In response to a question on the status of directors, it was observed that as a result of the Deloitte and Touche report, the Executive Director is no longer bound by a strict interpretation of a rule of national balance.

**Observers' Comments**

Christina Elwell, from the Sierra Club of Canada, suggested that the restructuring of electricity within North America should be viewed as an emerging trend. She suggested an Article 13 report looking not only at impacts but also at barriers.

Don Wedge, from STOP, expressed his shock that the identification of priorities within the emerging trends work was made by governments. He expressed support for the continued consensual nature of JPAC.

Elaine Kennedy, from the Cornwall and District Environment Committee, expressed concern that the issue of harmonization of databanks and standards is still at the 'talking' stage. She suggested that the lack of progress is a result of turf wars by government and scientists. She recommended that grass roots organizations assist in breaking down these barriers. (A JPAC member suggested, at this point, that one way grass roots organizations in Canada could help would be to push the remaining provinces to sign on to the NAAEC.)

Ruth Madsen, from the Thompson Institute of Environmental Studies, commented on the discussion around the draft Advice on the involvement of Indigenous peoples. She reiterated the importance of their involvement in the CEC. While there may be different socio-political context in the three countries, this should not be a reason for inaction, she said, adding that the CEC process will only be improved by the active involvement of Indigenous peoples. On the matter of transportation corridors, she expressed concern that the work as it is now conceived will contribute to the expansion of existing mega-corridors. She cautioned the CEC that enlarging these corridors would not contribute to sustainability.

Luis Ernesto González, from the Mexican embassy in Canada, agreed with the identification of water and transportation/air quality as priorities for emerging trends work. While these may not be new topics, there is a wide scope for expanding the traditional view of these issues. He also strongly supported adding genetically modified organisms (GMOs) as an emerging trend, using corn as an example.

Michael Gregory, from Arizona Toxics Information, also strongly urged the CEC to begin working on GMOs. Labeling is one area where the CEC could assist. He also noted that there is also a very real problem—not just within agriculture—but with wild species. He encouraged JPAC to pursue this. He also supported the recommendation to look at rail systems within the work on transportation corridors. Finally, in his opinion, a new and dangerous emerging trend is the worldwide clampdown on moving environmental information into the public domain. A notable exception is the *Taking Stock* reports and he would encourage an expansion to trinational reporting.

Mauricio Maldonado Sánchez, from the *Asociación Jalisciense de Apoyo a Grupos Indígenas*, urged JPAC to pursue the matter of Indigenous peoples' participation. Each country has its own process, but that should not preclude the CEC from developing a strategy and action plan. The situation in Mexico is not as ill-defined as was expressed by the Mexican members of JPAC, he said. The Mexican Constitution recognizes the existence of Indigenous peoples, communities and associations. It should not be overly difficult to develop a participatory process. He also noted the present CEC process had no difficulty coping with 'sectors' such as business and industry, so this should not be used as an excuse to exclude Indigenous peoples. A strategy is required, not just at the level of the work program. The Mexican members should reflect on this so that in September a well thought-out proposal to enrich the CEC can be presented, he said.

Gustavo Alanís Ortega, from the *Centro Mexicano de Derecho Ambiental (CEMDA)*, expressed concern that despite the results of the public workshop on Articles 14 and 15 and JPAC's Advice on the matter, Council is still proceeding with amendments. He asked for JPAC's reaction to this. (A JPAC member replied that the issue had been discussed with Council at the morning's in-camera session. JPAC is confident that its advice, and the views of the public have been taken into account and that the changes being proposed are relatively benign.)

José Jorge Núñez Alba, from *Gestión Ambiental*, drew JPAC's attention to the threat to biodiversity posed by the salt extraction project being promoted by the Mexican government and Mitsubishi in the calving grounds of the gray whales. Canada and the United States should take an active role in opposing this project and view these whales as part of North America's biodiversity. This project is totally extractive and will not contribute any benefits to the region. He also commented that there are pesticides still being imported and used in Mexico that have been banned elsewhere. This should also be of concern to Canada and the United States because they are then being transported by air and water into the rest of North America.

Andrzej Zeromski, from the University of Guadalajara, noted that there is a rift between theory and practice within the work on NAFTA effects and emerging trends. It is politicians who are now making technical decisions, he said, adding that planning for the future will require some revolutionary and strategic thinking.

Adam Greene, from Environmental Affairs with the US Council for International Business, commented on a number of topics. First, he felt that there is a failure to recognize the successes achieved thus far by the CEC in facilitating cooperation and enhanced enforcement. He was hopeful that cooperation with the Free Trade Commission would develop and noted that this separation of trade and environment is not NAFTA-specific; it is also an internal reality within the United States. He noted that the slow start of the CEC was a result of the work program being much too broad. Success began when the program was narrowed and he is now cautioning that it seems to be expanding again. Finally, in response to a question from a member of JPAC regarding NAFTA's Chapter 11, he suggested the topic is surrounded by much speculation since none of the cases have come to fruition. Without an actual adjusted impact, he suggested it may be premature to tackle substantive issues. The challenge of balancing the right to regulate with private property protection has been inherited by NAFTA.

### **Monday, 28 June**

#### **JPAC Round Table with the Public: Future CEC Program Initiatives**

The Chair opened the round table. Secretariat staff provided overviews of the CEC program areas. (See Annex C for the Report to Council summarizing the round table discussion).

**Action: JPAC/Secretariat/Council**

#### **Public Portion of the Regular Session of Council**

Jon Plaut chaired the public session with Council. Summaries of the round table discussions were presented by selected rapporteurs prior to opening the floor to individual presentations. (See Annex C)

**Action: JPAC/Secretariat/Council**

Following the press briefing, JPAC then had a second in-camera session with Council to discuss priorities for 2000–2002

### **Tuesday, 29 June**

#### **Follow-up of the Joint Council and JPAC Sessions and JPAC Priorities for 2000–2002**

It was agreed that the list of priorities discussed with Council should be integrated into JPAC's work plan at the appropriate times. These priorities included those listed below that were discussed by the Alternate Representatives and at the JPAC in-camera session.

A member pointed out that GMOs were not reflected on the list even though there had been several strong recommendations. It was decided that this issue would be reflected within emerging trends.

Action: JPAC

### **JPAC Member Appointments and Rotation**

A working group on Indigenous Peoples was formed with a mandate to report at the September meeting. The members are Regina Barba, Mary Simon and John Wirth.

A working group was formed on Monitoring and Assessment of CEC Projects. The members are Peter Berle, Blanca Torres and Liette Vasseur.

Member appointments to the existing working groups were completed.

### **Next JPAC Meeting**

The next meeting will be 16–17 September in Montreal.

### **Preparation of the In-camera Session between the Alternate Representatives and JPAC**

It was agreed that the following priority issues would be raised: emerging trends; strategic directions for the conservation of biodiversity; NAFTA transportation corridors; environmental management systems; monitoring and assessing the ongoing process under Articles 14 and 15, Chapter 11 of NAFTA; Article (10)6; public participation framework; priorities list for NAFTA environmental effects; improvements to the public portion of the Council session; monitoring and assessment of CEC projects; and Indigenous peoples.

### **Observers' Comments**

Elaine Kennedy thanked JPAC for organizing so much observer time. There has been a great improvement, she felt. She urged JPAC to continue efforts to increase public participation wherever possible and noted that there is expertise that can assist the CEC in ways not yet imagined. She cautioned everyone to keep a broad view and resist being drawn into the turf wars that engulf scientists, politicians and NGOs. She also asked for assistance in identifying the Alternative Representatives and describing their role in the CEC process.

Martha Kostuch, Vice-President of the Friends of the Oldman River, commented on the importance of continuing to develop public participation. All input must be considered and feedback given. She noted that the ability to make presentations to the Ministers is very important to the public and is not something that can be grouped just for the sake of expediency. Also, the rules should not be changed at the last minute. People came prepared to make three-minute presentations, then at the last minute were asked to cut them down to two minutes. The public also needs responsive feedback from the Ministers during the public session. She also requested information on the status of the TEIA negotiations (which was provided).



Michael Gregory noted that the CEC has reached a sufficient degree of maturity that there is no question but that it should continue. JPAC and public participation make this organization unique. He gave strong support to the San Pedro work, commenting that the CEC has brought an international perspective to what was a binational issue. He expressed hope that the CEC would maintain its involvement. He emphasized the need for work on the introduction of exotic species, which become dangerous pests for forestry and agriculture. Other important points of introduction are from the discharge of ballast waters in harbors and the movement of human pathogens, he said.

Martha Delgado, from *Presencia Ciudadana Mexicana*, also felt that the last-minute change to shorten the public presentations created a problem. She was not able properly to present her projects in two minutes and is now concerned that this information will be lost. (She was asked to pass on a written copy of her text to ensure its inclusion in the record of the public meeting) She also commented on the public's right-to-know and stated that environmental information should not be restricted to pollutants, but be expanded to cover raw materials, production and trade.

Don Wedge expressed sadness at the departure of Jean Richardson, stating that much history, knowledge and expertise will go with her. He felt that the JPAC members should be remunerated, considering the amount of time and effort the members are putting into their work. He suggested that there was still a problem of lack of transparency in the CEC and that JPAC might consider forming a working group on the issue. He suggested that there should be wider public involvement in, for example, discussions around a TEIA agreement to take advantage of the expertise available beyond the Parties. He expressed concern over Articles 14 and 15 and hoped that JPAC would stay vigilant. The whole issue of the role of the Alternate Representatives and the General Standing Committee needs to be discussed. Finally he applauded JPAC's progress in working with the public, the improved records and the Communiqué released after each session.

José Jorge Núñez Alba reiterated the concern about changing the rules for public input at the Council session. The public was handicapped by this and could not communicate effectively. In attempts to shorten the prepared texts, speakers naturally speed up their presentation and the interpreters cannot keep up, making proper communication impossible. He raised a concern about border waste dumps—particularly the high levels of toxic waste produced by US industries. Companies should be required to disclose the volume and method of disposal. This same requirement should extend to the nuclear facilities. He also recommended that as a trilateral resource, whales should be protected throughout their migratory range. He noted that transboundary hunting of bears in the Yukon-to-Yellowstone corridor should be reviewed. Finally, introduction of exotic species, for example the eucalyptus, by the paper industry requires review. These are predator trees for natural forests, he said.

Andrea Morrison, Quebec Coordinator from the Canadian Institute for Conflict Resolution, recommended that the CEC explore various options for decision making and conflict resolution, noting that consultation and consensus building are very different processes. The processes used by the CEC in each case, for example, San Pedro, should be documented. She expressed concern that there may have been an explicit policy decision to exclude discussion of process in the San Pedro report. (JPAC informed her that such had not been the case).

**Presentation of a Commemorative Plaque**

JPAC bid farewell to one of its founding members, Ms. Jean Richardson from the United States. She was presented with a commemorative plaque by the Chair, Jon Plaut. Such plaques will be presented to all departing members. In thanking her fellow members, the Secretariat staff and the public, Ms. Richardson urged JPAC to continue broadening the public it serves, to include all disenfranchised groups, and urged that the cooperation and trust that has made JPAC successful should continue to be nurtured and developed.

The Chair thanked the members, the staff, the interpreters and the public, then adjourned the session.

Prepared by Lorraine Brooke

APPROVED BY JPAC MEMBERS ON 12 AUGUST 1999



**Joint Public Advisory Committee Session no. 99-03  
in conjunction with the 1999 Regular Session of the Council**

**27–29 June 1999**

**The Rimrock Hotel, Banff, Alberta**

**Agenda**

**(Please note the events in bold are part of the 1999 Regular Session of the Council)**

**Sunday, 27 June**

- 9:00 a.m. – 9:30 a.m.** Welcome and report by the Chair, Mr. Jon Plaut \*
- a) Approval of the provisional agenda
  - b) Report by the Interim Executive Director
  - c) Report by National and Governmental Advisory Committee representatives
- 9:30 a.m. – 10:00 a.m.** Discussion of the Advice to Council on a proposal to promote the involvement of Indigenous peoples in CEC Program Plan and activities \*
- 10:00 a.m. – 11:15 a.m.** Preparation for the joint Council and JPAC session of 27 June \*
- 11:15 a.m. – 11:30 a.m.** Break
- 11:30 a.m. – 1:00 p.m.** **Joint Council and JPAC in-camera session**
- 1:00 p.m. – 2:00 p.m.** Lunch
- 2:00 p.m. – 3:00 p.m.** Briefings from CEC program managers in preparation for future advice to Council \*
- a) NAFTA Effects and By-Product Synergy by Sarah Richardson
  - b) Emerging Trends by Scott Vaughan
  - c) Strategic Directions for the Conservation of Biodiversity by Hans Herrmann
  - d) Environmental Cooperation in the NAFTA Transportation Corridors by Nick Nikkila
- 3:00 p.m. – 3:30 p.m.** Update on various issues \*
- a) The Sound Management of Chemicals (SMOC)
  - b) NAAEC Article 10(6): NAFTA Chapter 11
  - c) NAAEC Article 28: Rules of procedure
  - d) Methods for CEC project evaluation
  - e) NAFEC recommendations on green goods and services
  - f) CEC Executive Director nomination
- 3:30 p.m. – 4:00 p.m.** Observers' comments \*
- 4:00 p.m.** Adjournment
- 7:00 p.m. – 8:00 p.m.** **Official opening to the public of the 1999 Regular Session of the Council and welcoming reception**

\* Session opened to the public as observers.

**Joint Public Advisory Committee Session no. 99-03  
in conjunction with the 1999 Regular Session of the Council**

**Agenda**

**Monday, 28 June**

- 8:00 a.m. – 10:00 a.m.** Welcome and overview by the Chair
- JPAC round table with the public: Future CEC Program Initiatives
- a) Environment, Trade and Economy Program  
presentation by Scott Vaughan
  - b) Conservation of Biodiversity Program  
presentation by Hans Herrmann and Martha Rosas
- 10:00 a.m. – 10:15 a.m.** Break
- 10:15 a.m. – 12:00 p.m.** JPAC round table with the public: Future CEC Program Initiatives (cont'd)
- c) Pollutants and Health Program  
presentation by Andrew Hamilton and Nick Nikkila
  - d) Law and Policy Program  
presentation by Darlene Pearson
  - e) Other initiatives
- 12:00 p.m. – 12:30 p.m.** Lunch
- 12:30 p.m. – 2:30 p.m.** **Public portion of the Regular Session of Council**
- a) Report by the Council on the first day of its session (15 minutes)
  - b) Summary of the round table discussions presented to the Council  
by selected rapporteurs (15 minutes)
  - c) Individual presentations (60 minutes) (maximum 3 minutes per  
presentation)
  - d) Opportunity for the Council to comment on the individual  
presentations (30 minutes)
- 2:30 p.m. – 2:45 p.m.** Break
- 2:45 p.m. – 3:15 p.m.** **Press Briefing\***
- 3:15 p.m. – 3:30 p.m.** Break
- 3:30 p.m. – 4:30 p.m.** **Joint Council and JPAC in-camera session and in parallel for the  
public video on the North American Fund for Environmental  
Cooperation (NAFEC) on the presentations by NAFEC grant  
recipients**
- 4:30 p.m.** Adjournment

\* Session opened to the public as observers.

**Joint Public Advisory Committee Session no. 99-03  
in conjunction with the 1999 Regular Session of the Council**

**Agenda**

**Tuesday, 29 June**

- 9:00 a.m. – 10:00 a.m.** Follow-up of the joint Council and JPAC Session of 27–28 June and JPAC priorities for 2000–2002 \*
- 10:00 a.m. – 10:15 a.m.** Break
- 10:15 a.m. – 10:20 a.m.** JPAC member appointments and rotation \*
- 10:20 a.m. – 10:30 a.m.** Next JPAC meetings \*
- 10:30 a.m. – 11:00 a.m.** Preparation of the joint Alternate Representatives and JPAC in-camera session \*
- 11:00a.m. – 11:30 a.m.** Observers' comments \*
- 11:30 a.m. – 11:45 a.m.** Presentation of a commemorative plaque \*
- 11:45 a.m.** End of the Regular Session
- 11:45 a.m.– 1:00 p.m.** Lunch
- 1:00 p.m. – 2:00 p.m.** **Joint Alternate Representatives and JPAC in-camera session**

\* Session opened to the public as observers.



**Joint Public Advisory Committee Session no. 99-03  
in conjunction with the 1999 Regular Session of the Council**

**27–29 June 1999**

**List of Participants**

**JPAC Members**

**Canada**

Jacques Gérin  
Jonathan Scarth  
Mary Simon  
Donna Tingley  
Liette Vasseur

**México**

Regina Barba  
Daniel Basurto  
Raúl Tornel  
Blanca Torres

**United States**

Peter Berle  
Jean Richardson  
Jonathan Plaut (Chair)  
John Wirth

**Participants/Observers**

Andrea Abel	<i>National Wildlife Federation</i>
Gustavo Alanís Ortega	<i>Centro Mexicano de Derecho Ambiental, (CEMDA)</i>
Susana Alejandre	<i>Proyecto de Fortalecimiento de la Sociedad Civil</i>
María Isabel Altamiran J.	<i>Unión de Ejidos y Comunidades de la Zona Norte del Istmo</i>
Pedro Alvarez-Icaza Longoria	<i>Instituto Nacional de Ecología (INE)</i>
Laura K. Anderson	Office of the United States Trade Representatives
Michael Andrews	The Nature Conservancy
Carolina Armijo de Vega	<i>CIRIO, Ambiente y Desarrollo Comunitario, A.C.</i>
Raúl Enrique Arriaga Becerra	<i>Instituto de Ecología, Guanajuato</i>
Antonio Azuela de la Cueva	<i>Procuraduría Federal de Protección al Ambiente PROFEPA)</i>
Humberto Berlanga	<i>Instituto Nacional de Ecología (INE)</i>
Amaya Bernardez	<i>Centro de Estudios del Sector Privado para el Desarrollo Sostenible (CESPEDES)</i>
Peter Birney	Union of New Brunswick Indians
Lee Botts	Delta Institute (The)
Andy Bowcott	Environment Canada
Norman Brandson	Manitoba Environment
Werner H. Braun	Chlorine Chemistry Council
Lorraine Brooke	JPAC Consultant
Miguel Refugio Camarillo S.	<i>Congreso del Estado de Guanajuato</i>

## List of Participants

Diane Campeau	<i>Fondation Les oiseleurs du Québec Inc.</i>
Mateo Castillo Ceja	Coordinadora de Cámaras y Asociaciones Empresariales de Michoacán
Rita Cerutti	Environment Canada
Kelley Charlebois	Alberta Environment
Theodore G. Chopin	US Army Intelligence Center and Fort Huachuca
Randy Christensen	Sierra Legal Defence Fund
Diane Clarke	Environment Canada
María Esther Cortés	<i>Colectivo Ecologista de Jalisco, A.C.</i>
Jean Couture	<i>Ministère de l'Environnement du Québec</i>
María Luisa Cuevas	GE Plastics
Shannon Curry	BEAR Society
Donald A. Davis	The Friends of Presqu'ile Park
Martha Delgado	<i>Presencia Ciudadana Mexicana, A. C.</i>
Veronique Deli	<i>Secretaría de Medio Ambiente, Recursos Naturales y Pesca (SEMARNAP)</i>
Martin Díaz y Díaz	<i>Secretaría de Medio Ambiente, Recursos Naturales y Pesca (SEMARNAP)</i>
Sarah Dover	Canadian Endangered Species Campaign
Stewart Elgie	Sierra Legal Defence Fund
Christine Elwell	Sierra Club of Canada
Douglas Farquhar	National Conference of State Legislatures
Cecilia Fernandez	Clean North/Guelph International Resource Centre
Robert J. Ford	Department of State
Lorry Frigerio	U.S. Environmental Protection Agency
Sanford Gaines	University of Houston
Ricardo Gonzalez	<i>Congreso del Estado de Guanajuato</i>
Adolfo González Calvillo	<i>Estado de Baja California</i>
Tristan Goodman	PHD Candidate University of Calgary
Adam B. Greene	U.S. Council for International Business
Michael Gregory	Arizona Toxics Information
Paul Griss	New Directions Group
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## **REPORT TO COUNCIL 99-03**

### **RE: Summary of Plenary Discussion on Future Initiatives for the Program Plan of the Commission for Environmental Cooperation**

#### **Introduction**

JPAC is pleased to present this report to the Council members of the Commission for Environmental Cooperation (CEC). It has been prepared following presentations and discussions among the JPAC members, program managers and the public during a round table on future initiatives for the CEC's Program Plan. It was held on 28 June 1999 in conjunction with the 1999 Regular Session of the Council in Banff, Alberta, attended by 75 individuals.

The JPAC Chair for 1999, Jon Plaut, welcomed all the participants to Banff. He explained that the session would be organized around the four existing CEC Program Plan areas and encouraged presenters to focus their comments on each program area. He went on to explain that since this round table was being held in conjunction with the Regular Session of Council, the opening of the public session with Council in the afternoon would consist of a presentation, by selected rapporteurs, of the main points raised at the round table.

The appropriate CEC program managers made brief introductions in advance of each designated discussion period. The Chair encouraged the JPAC members and the program managers to interact with the public. Program managers are being given a copy of this summary to assure communication.

#### **Environment, Economy and Trade Program Area**

##### **CEC Program Manager: Scott Vaughan**

The following comments and recommendations came from the public during the presentations and discussions on environment, economy and trade:

- The CEC has an important role to play in the proper management of ecotourism in North American by contributing to the development of international standards, including the ISO 14000 system.
- Market development is an extremely complex area. Caution should be used when relying on survey results in the work on shade-grown coffee. Experience has shown that despite what consumers might say in a survey, they are very reluctant to actually pay more for organically grown products. It is also important not to underestimate the time and costs associated with market development.
- When evaluating the shade-grown coffee initiative, there is also a need to analyze the entire production process and identify any resulting social problems. Fair trade has to be considered as an element in the determination of sustainability.
- When the terms of reference for the project on trade in wildlife species are developed, great

care should be taken to avoid repeating the failed model of licensed takes of endangered species.

- With regard to water as an emerging trend, the following points require attention: the relationship of water scarcity and food scarcity, the socio-political conflicts around the use of water, and markets for water and associated infrastructure. Many other organizations are working on water issues, therefore, the CEC should contribute by building on work that is already being done and promoting the development of a North American vision for water use and management.
- Canada, as a country, has to come to terms with the regulation of water. Is bulk water considered a tradable product or not?
- In British Columbia, not everyone agrees that water should be marketed. Many NGOs have a problem regarding water as a trade good, particularly when the rationale for the activity is that there is a surplus available for trade. There is no excess water in any ecosystem. Rather, the focus should be on water quality.
- Any work by the CEC on water issues must include the extraction and export of groundwater.
- Many people and groups in Mexico are very concerned about the trend toward viewing water as a commodity. Food production is already controlled by large agricultural interests. If water is added to this monopoly, local people will suffer.
- Absent from the Environment, Economy and Trade Program Area is a methodology to include investigation into the social impacts of trade. This perspective needs to be better addressed and fully integrated into the program.
- When evaluating the impacts and benefits of organic agriculture, environmental and social costs should be included. This is a very complex, but necessary step. In the absence of international standards, so-called 'safe' products are often too expensive for the poor to acquire and thus they have no choice but to consume lower quality foods, often those that have been produced with the use of pesticides. For example, sustainably-produced Mexican coffee is an export product. It is too expensive to be consumed locally. The result is that Mexicans are consuming inferior products produced with the use of pesticides.
- When the Call for Papers is issued through the NAFTA Environmental Effects project, the matter of trade and investment should be linked to environmental performance, including enforcement. This could provide more concrete and practical advice on how to proceed with the project in the future.
- The entire matter of electricity deregulation should be built into the program. Within such an evaluation, there is a need to look at the harmonization of environmental regulations and standards within Canada and the United States, market instruments and competitive advantage, as well as the implications of Chapter 11 of NAFTA on environmental performance standards in each country.

- There is a need to consider the effects of investment on consumption patterns in North America. This is a subtle, but very important analysis that should take place to produce a broader understanding of the environment, economy and trade equation.
- Consideration of the effects of energy trading on consumption and development patterns should be built into the program. For example, the significant demographic shift toward cities in Mexico has very important environmental impacts.
- The effects of trade on the distribution of exotic species has become a continental problem. The introduction of 'pest' species is having severe impacts in agriculture and on forests.
- A great many primary products are pollutants. The program should consider trade in these products as an unregulated distribution of pollutants. One way to approach this would be a trilateral study of labeling.
- The CEC's work must lead to changes in policy. We are not seeing these concrete effects. For example, the failure of environment and trade officials to develop a mechanism for coordinating their work is seen as an impediment to policy changes.
- When assessing NAFTA effects, the primary questions should be...“is a particular environmentally sensitive sector ready for market development?” and, “is the regulatory context adequate?”

Karel Mayrand of the *Revue environnement et sécurité* was selected to make the presentation to the Ministers.

### **Conservation of Biodiversity Program Area**

#### **CEC Program Managers Hans Herrmann, Martha Rosas and Marcos Silva**

The following comments and recommendations from the public emerged from the presentations and discussions concerning conservation of biodiversity:

- There was a very strong call for the CEC to assess issues related to the Pacific gray whale whose migratory range includes the three NAFTA countries. There is a particular concern with plans by the government of Mexico and Mitsubishi (*Exportadora de Sal: S.A.*) to expand a salt extraction facility in the *Laguna de San Ignacio, Baja California Sur*. This lagoon is a calving ground for these whales. This area is part of a biosphere reserve and should be protected. Another element to be evaluated is the harvest of these animals by First Nations in Canada and the United States. An aspect of this should be an evaluation of the value to First Nations of ecotourism versus harvesting.
- The use of drag nets by fishermen is affecting fish habitat in the Sea of Cortez. The CEC could play a role in evaluating the problem and assist local environmental organizations to pursue policy changes.
- The CEC should consider bioaccumulation of toxics and the impacts of climate change on migratory marine species and their habitats in the Pacific region.
- There is a growing frustration with how long it takes to move analysis into policy change. The CEC should be using an ecoregional approach. The *State of the Environment report*

provides an opportunity to measure progress on the ground.

- In efforts to prioritize, given limited budgets, consideration should be given to using keystone species as indicators. One such species is the burrowing owl.
- There is a need to develop standards for evaluating and assessing issues related to endangered species, enforcement and the listing of species at risk.
- A recommendation was made that Mexico should sign the US/Canadian Memorandum of Understanding on Endangered Species that could then be used by the CEC as a framework document.
- There was a request to use the Public Advisory Committees of the Great Lakes Remedial Action Plans as a network to promote access to the concerned public.

Sarah Dover of the Canadian Endangered Species Campaign was selected to make the presentation to the Ministers.

### **Pollutants and Health Program Area**

#### **CEC Program Managers: Andrew Hamilton and Nick Nikkila**

The following comments and recommendations from the public emerged from the presentations and discussions concerning pollutants and health:

- All production and use of DDT and hexachlorobenzene must be stopped immediately. Recently, in British Columbia, a report was issued citing significant levels of DDT found in amniotic fluid. This represents yet another potential health risk.
- The public 'right to know,' must be applied to information on toxics. All information on the known or potential health effects that is available in government health, safety and regulatory agencies should be made available to the public. Care must be taken, however, to provide this information in a way that the public can understand and avoid creating false or undue alarm.
- There should be tangible and measurable results from the program. Disappointment was expressed at the limited results from the US/Canadian International Joint Commission, for example.
- It was recommended that a ban be imposed on all pesticides with hexachlorobenzene as a byproduct.
- The Mexican Government is strongly urged to require that Mexican industries provide information for the *Taking Stock* reports, which are a very useful tool for governments and the public. Without this important information, it is not possible to evaluate continental impacts of pollutants released and transferred by facilities.
- In the context of harmonization, there should be a push for all three countries to institute mandatory reporting on the adverse effects of chemicals.
- There is a need for a more holistic approach to environmental protection. This should be obvious, but it is not reflected in current governmental regulatory systems. A 10- to 15-year time frame was suggested in order to allow governments to develop the capacity to deal with

the interrelated issues of public health and environmental protection.

- More human and financial resources are needed for monitoring and research. These areas have, and continue to be, severely cut in government budgets.
- The CEC should place more effort on promoting pollution prevention.

Ruth Madsen of the Thompson Institute of Environmental Studies was selected to make the presentation to the Ministers.

### **Law and Policy Program Area**

#### **CEC Program Manager: Darlene Pearson**

The following comments and recommendations from the public emerged from the presentations and discussions concerning law and policy:

- Amendments to the Guidelines on Articles 14 & 15 of the NAAEC were questioned in view of public input and JPAC Advice.
- The development of conflict resolution mechanisms should be encouraged throughout the CEC.
- Reviewing existing laws and their effectiveness for protecting species and habitats in natural protected areas would make an important contribution towards improving enforcement.
- In 1997, a large die-off of sea turtles in the *Laguna Ojo de Liebre* resulted from the release of salt-brine waste. The company was found to be at fault, however, no fines were levied. Governments are not enforcing their own laws and NGOs have to use limited resources to file penal complaints.
- There was strong support for continuing to pursue the development of a formal relationship between the officials of the Free Trade Commission and their environmental counterparts in the CEC. This is a critical element in the trade/environment equation.
- The lack of compliance incentives at the state and federal levels was identified as a concern. Possible ways to overcome this were proposed: including the public in the working group on compliance indicators; increasing transparency so that self-audits are not removed from the public domain by confidentiality rules; treating analysis as other than a mere statistical exercise, and coupling enforcement with economic disincentives as a means of diminishing competitive advantage.
- Environmental management systems should not replace compliance enforcement.
- The CEC should look at initiatives for early credits as an incentive to reduce emissions of air pollution as permitted by the Kyoto Protocol.
- The CEC should consider acting as a third-party verifier under the Clean Development Mechanism within the Kyoto Protocol framework.
- The protections now in place in Chapter 11 of NAFTA are not adequate. The fact that, thus far, court cases have been withdrawn, is no reason to assume that the protections are satisfactory.

Mark Spalding of the Graduate School of International Relations and Pacific Studies was selected to make the presentation to the Ministers.

The Chair thanked the participants for their focused and constructive input and adjourned the round table session after assuring everyone that their input would be brought to the Council.

Prepared by Lorraine Brooke

APPROVED BY THE JPAC MEMBERS 12 AUGUST 1999