



COMMISSION FOR ENVIRONMENTAL COOPERATION
Joint Public Advisory Committee Session No. 99-02
8 May 1999
Summary Record

The Joint Public Advisory Committee (JPAC) of the Commission for Environmental Cooperation (CEC) held a regular session in Anchorage, Alaska, on 8 May 1999. This session featured a round table on the CEC Three-year Program Plan and included the participation of the attending public, a representative of the US General Standing Committee, Mexican and Canadian National Advisory Committees, the United States Governmental Advisory Committee and CEC Secretariat staff. The session immediately followed a joint meeting with the North American Working Group on the Sound Management of Chemicals (SMOC) and JPAC, also held in Anchorage, on 7 May 1999. A summary record of this joint meeting will be prepared by SMOC.

This Summary Record reports on each agenda item, records all decisions made by JPAC and identifies action items and responsibilities. (See Annex A for the agenda, Annex B for the list of participants, Annex C for a summary of the round table discussions, Annex D for Advice to Council 99-03, Annex E for Advice to Council 99-04, Annex F for Advice to Council 99-05, Annex G for Advice to Council 99-06, Annex H for Advice to Council 99-07, Annex I for Advice to Council 99-08 and Annex J for Advice to Council 99-09.)

All 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 Internet home page at <http://www.cec.org> under the JPAC header.

Morning:

Welcome and Report by the Chair

The chair of JPAC, Jon Plaut, opened the meeting, welcoming the attendees to Alaska. He reported that Regina Barba, Jacques Gérin and Jonathan Scarth were absent, having notified the Secretariat of the reasons for their absence. He then announced the resignation of Jesús Druk, a member for Mexico, and welcomed the new member for Canada, Liette Vasseur.

He reported on matters since the last regular session of JPAC, which included a meeting with Arctic Council representatives to discuss issues of mutual concern, the decision by the Alternate Representatives to explore further amendments to the Guidelines for Citizen Submissions under Articles 14 & 15 of the North American Agreement on Environmental Cooperation (NAAEC), and the lack of progress in discussions between trade and environment officials regarding NAAEC Article 10(6).

It was agreed that Regina Barba would attend the next meeting of the Alternate Representatives 26–27 May in Cancun, Mexico, on behalf of JPAC so as to maintain an involvement in discussions regarding Articles 14 and 15 and other matters.

Action: JPAC

Approval of the Provisional Agenda

The Upper San Pedro Initiative was added to the agenda.

Report by the Interim Executive Director

Hernando Guerrero made the presentation on behalf of the Interim Executive Director. Highlights included:

- The negotiators for Transboundary Environmental Impact Assessment (TEIA) were unable to reach an agreement.
- A proposed strategy and action plan for the conservation of North American birds will be available for the Council session in June.
- A NAAEC Article 13 report on the Upper San Pedro River will be submitted to Council at the end of May.
- The SMOC program will be making its recommendations for developing regional action plans (NARAPs) for dioxins and furans, hexachlorobenzene, lindane and lead. The CEC is also making progress to leverage funds from international agencies to assist with the implementation of the NARAP on DDT.
- Trade and environment officials met again in early April—NAAEC Article 10(6).
- A survey of initiatives and options regarding cooperation on management of environmental emergencies in North America will be submitted to Council at the end of May.
- A report on opportunities to increase CEC cooperation with North American centers of excellence will be available in late May.
- The draft State of the Environment (SOE) report will be sent to the Parties and JPAC just prior to the Regular Session of Council in June.
- A summary report prepared for the CEC, entitled *North American Aboriginal Peoples and the Environment: A Compilation of Sustainable Development Projects with Aboriginal Participation*, has been translated and is now available to the public.
- The position of program manager for the Law and Enforcement Program has been filled.

Report by National and Governmental Advisory Committee Representatives

The chair of Canada's National Advisory Committee, Stewart Elgie, advised JPAC that the committee was coming to the end of its first 3-year term and that changes should be expected in the fall. He expressed his appreciation for JPAC's Advice to Council regarding Articles 14 and 15 and his concern that this advice was not being followed. In response to questions from JPAC members, he agreed that Canada's severe budgetary reductions for environmental matters over the past few years have resulted in a decrease in capacity. He suggested that JPAC bring this to the attention of the Parties.

A representative of the Mexican National Advisory Committee, Raúl Tornel, reported that the role and code of ethics for the committee are now complete. Meetings are planned throughout the country in order to shift from a centralized approach to one that provides information and receives input from all regions.

The chair of the US Governmental Advisory Committee (GAC), Robert Varney, urged that Mexico and Canada establish their Governmental Advisory Committees as there is a very important role for state and local levels of government to play in environmental management.

Regarding the joint meeting with the SMOC working group, he benefited from learning more about the impacts of contaminants in the north. He congratulated JPAC on its openness in Mérida and hoped for the same in Banff. He stressed that it is important for the CEC to increase work in issues of water quality and quantity and NAFTA transport corridors, and that it should develop a better system for reporting results. He expressed his enthusiasm for the work that NAFEC is supporting at the grassroots level but noted again that a better system for reporting was needed to benefit from and transfer results. The US GAC strongly supported JPAC's position on Articles 14 and 15 and is also very disappointed in the failure of the TEIA negotiations. High level involvement and a deadline are required to bring the matter to a close. Finally he complimented the Secretariat on the quality of its staff.

Report on 7 May Agenda by Mary Simon

Mary Simon reported on the joint SMOC/JPAC meeting concerning Indigenous peoples and expanding the involvement of the North American public. Her report contained several ideas and directions for achieving this involvement, which will be considered by JPAC.

Action: JPAC

At the request of the chair, she also made a brief presentation on the Arctic Council and discussed its efforts to develop a sustainable development program to complement the work already underway on environmental protection. As the senior arctic official for Canada, she noted that Canada's approach addresses projects related to capacity building and entrepreneurship at the community level and is based on a long-term vision for the Arctic. Canada feels strongly that the Arctic Council has a role in improving the living conditions in the north.

Afternoon:

Round Table on the CEC Program Plan for 1999–2001

Chairman Plaut opened the round table. The Secretariat provided a brief overview of the 1999–2001 Program Plan. (See Annex C for the Report to Council on the summary of round table discussion.)

Action: JPAC/Secretariat/Council

Discussion of the Advice to Council on the Sound Management of Chemicals Program

The discussion focused on moving forward as quickly as possible with the development of NARAPs on the four candidate substances, the involvement of Indigenous peoples, the flow of information within and among governmental agencies, trilateral standards for replacement chemicals, moving beyond a chemical-by-chemical approach, and accountability and implementation. (See Annex E for Advice to Council 99-04 on this matter.)

Action: Council

Discussion of the Advice to Council on the Involvement of Remote Communities in the CEC Program

JPAC agreed that it would be desirable for the CEC to develop a policy or strategy on the involvement of Indigenous peoples in CEC activities. It was agreed that Mary Simon would lead the development of a proposal from JPAC on this matter for the June Council session. It was also agreed that capacity building efforts should be increased, noting that financial and human resources could be limiting factors. It was also noted that the National Advisory Committees can

provide points of entry for the public. (See Annex F for Advice to Council 99-05 on this matter.)

Action: Council/JPAC/NACs

Discussion of the Advice to Council on the Draft Framework for Public Participation in CEC Activities

On behalf of JPAC's working group on this matter, Donna Tingley reported on the integration of public comments and the production of a new Revision 3 of the Draft Framework. Several matters remained for the full committee to discuss. Final changes were agreed to and the document will be sent to the Secretariat for finalization along with an Advice to Council recommending it be adopted. (See Annex G for Advice to Council 99-06.)

Action: Secretariat/Council

Discussion of the Advice to Council on the Independent Review Committee Report

Draft Advice 99-03 was reviewed and adopted. (See Annex D.)

Action: Council

Briefings:

Negotiations of the North American Agreement on Transboundary Environmental Impact Assessment (TEIA)

In order to document JPAC's disappointment on the failure of this process and to urge Ministers to intervene, the members agreed to prepare an Advice to Council. (See Annex H for Advice to Council 99-07.) It was also agreed that individual JPAC members should use every opportunity to lobby for the successful conclusion of this process.

Action: Council of Ministers/JPAC

Cooperation with North American Centers for Excellence

This matter was reported on earlier in the meeting in Hernando Guerrero's presentation on behalf of the Interim Executive Director.

Upper San Pedro River Initiative

This initiative will assist in organizing cooperative action across the United States and Mexico border to work toward managing and protecting important bird habitat. The work program incorporates scientific research, governmental cooperation, and public participation. JPAC should take notice of the very positive momentum created by this initiative and the excellent use of NAAEC Article 13.

North American Cooperation on Environmental Emergencies

This matter was reported on earlier in the meeting in Hernando Guerrero's presentation on behalf of the Interim Executive Director.

Next JPAC Meeting in Conjunction with the Council Session in June 1999

The Agenda was reviewed and areas where JPAC would focus its efforts were discussed.

Update on Various Issues

NAAEC Article 10(6): NAFTA Chapter 11

As reported earlier, no significant progress is being made. The members agreed to send an

Advice to Council on this matter. (See Annex I for Advice to Council 99-08.)

Action: Council of Ministers/JPAC

NAAEC Article 28: Rule of Procedure

There are no new developments to report. There is still no text from Council to review.

Action: Council/JPAC

Methods for CEC Project Evaluation

The guidance has not yet been received from the Secretariat.

Action: Secretariat/JPAC

JPAC Advice to Council on Regional Solutions to Global Issues for the Next Millennium

The chair reported on the discussions with the Secretariat. The Secretariat reported that it has already identified air quality/transportation and water as issues and is anxious for public involvement. More details will be available in the summary of the State of Environment report, which will be sent to JPAC for comments in June. It was agreed to send an Advice to Council. (See Annex J for Advice to Council 99-09.)

Action: Council/Secretariat/JPAC

NAFEC Recommendations on Green Goods and Services

It was agreed that as they stand, the recommendations cannot go directly to Council. The Secretariat should analyze them and their possible contributions to the CEC Work Plan

Action: Secretariat

Public Workshop on Environmental Management Systems and ISO 14001

Raúl Tornel attended the workshop on 13 April 1999 in Washington, DC, on behalf of JPAC. He presented a verbal summary of the written report he submitted to JPAC.

CEC Executive Director Nomination

The chair reported that the interviews are complete. All that remains is for the Ministers to make the selection.

Action: Council

JPAC Member Appointments and Rotation

Liette Vasseur has been appointed for Canada. Daniel Basurto replaces Jesús Druk on the JPAC working group on emerging trends.

Observers' Comments

Written comments were received in advance of the meeting:

On behalf of the native village of Kotzebue, Alaska, Alex Whiting provided comments concerning the fact that Indigenous peoples in the Arctic may be more at risk to exposure to contaminants through food consumption because of their reliance on traditional foods.

José Erique del Valle of Techos de Mexico, provided comments about the importance of implementing local, provincial/state and national regulations as well as specific programs and projects related to sustainable tourism in North American natural areas.

The three issue studies in the recently released CEC report, *Assessing Environmental Effects of the North American Free Trade Agreement (NAFTA): An Analytic Framework and Issue Studies*, were subjected to critical analysis by three groups of students under the direction of Professor Charles Hall at the College of Environmental Science and Forestry at the State University of New York (SUNY):

- Keegan Cox, May Lehmenstraat, Ana Pueyo, and Steve Selin analyzed “Electricity in Canada, Mexico and the United States: Some Environmental Implications of the North American Free Trade Agreement.” The students felt that the authors did a good job in assessing the qualitative environmental impacts of different electricity generation technologies. However, they felt that economic consequences were overly emphasized while environmental effects were given too little attention. In concluding their analysis, they presented a general framework of the environmental implications of NAFTA.
- Paul Hai, Alissa Morganti, Tom Schuster, Emily Spillet, and Scott Stoller, gave a critical analysis of “Feedlot Production of Cattle in the United States and Canada: Some Environmental Implications of the North American Free Trade Agreement.” They concluded that the authors’ assessment of the full environmental impacts of increased production of feed cattle was not sufficiently comprehensive. The students also suggested how a more comprehensive examination of the critical points addressed by the authors might be generated.
- Katia Avilés-Vázquez, Andrea Chávez, Pablo Donoso, Rachel Hodgetts and Dionel López gave a critical analysis of “Maize in Mexico: Some Environmental Implications of the North American Free Trade Agreement.” They felt that the author raised important issues such as soil and genetic erosion, transboundary air pollution of pesticides, irrigation, and social impacts. In their opinion, however, the author covered most of these issues incompletely while missing some important larger questions such as social, economic and energy perspectives.

Susan Headman, a representative from the Environmental Law and Policy Center in Chicago, IL, was encouraged by the discussion on SMOC issues, especially on monitoring. She urged that JPAC support the monitoring NARAP as it works its way through the process.

Maria Cortés, a representative from a Mexican farming cooperative, reported on the organic farming work of her group over the past 10 years and the development of alternatives to fair trade and certification. She noted that the group had developed some non-conventional markets. Since water quality has been a barrier to certification, she was glad to hear that water issues have been identified as an emerging trend.

Alison Armstrong, representing the Dene Nation, thanked JPAC for the level of public participation supported by the Committee. This was her first experience with JPAC and she was very encouraged by what she saw. All people living in the north are concerned with contaminants and she urged JPAC to continue its effort in pushing for better enforcement. She also predicted that the Canadian government would soon see the cost effectiveness of proper enforcement.

Joel Blachford, representing Inupiat and Yupiq whalers in Alaska, stated that since Alaskan Eskimos are not members of tribes, as are Indians, they are not recognized by the government.

He noted that it is very difficult to work for the protection of marine mammals without recognition of Aboriginal status. He felt that the US and Alaska State governments are acting too slowly and alleged that the marine mammals and fish of Cook Inlet are being poisoned.

Patricia Díaz-Romo, from Mexico, asked that international standards for pesticides be developed. She stated that people are being sprayed in the fields where they work. There is also a need for industrial standards for the retrieval of pesticide containers. She noted that people reuse them for carrying water and alleged that workers and children are being exposed in this way.

Mauricio Maldonado, also from Mexico, stated that attention to Indigenous communities is not just a romantic notion. Most of the coffee producers in Mexico are Indigenous people and they have their own organized systems of production that have to be considered in work programs for green goods and services. Also, 80 percent of the habitat designated as protected areas in Mexico are Indigenous lands and so Indigenous peoples must be involved. Indigenous peoples have their own structures of government; these need to be recognized and should be allowed to participate as traditional Indigenous governments.

A representative of the Metis Nation in Canada, Judy Farrow thanked JPAC. She stated that the people she represents feel they are the victims of events taking place far away from their lands. The Metis Nation has been involved in United Nations Environment Programme (UNEP) and she was pleased to be able to report to her organization that there is another organization (the CEC) looking at the issue of contaminants in the north. She noted that the round table discussion earlier in the day was a spontaneous outpouring that provided JPAC with a valuable opportunity. She thanked JPAC for its sensitivity and courtesy in listening.

José Cardona, from Mexico, stated that he would return and tell his colleagues that they are not alone in their efforts to achieve certification and overcome the barrier created by poor water quality. He reminded JPAC that for local farmers it is not just a matter of market production for market, but also of feeding their families.

The Chair of JPAC noted at this point that JPAC had been informed of the difficulties of some Indigenous representatives from Mexico in obtaining visas for the trip to Alaska. He expressed his concern and stated that JPAC would follow up on this matter.

Action: JPAC

Finally, Debbie Smith thanked JPAC for listening to all the presenters. She spoke on behalf of the poor in all three countries about how they are affected by pollution and contaminants and made an impassioned presentation on how they need to be considered when decisions are made.

The Chair of JPAC thanked the audience and JPAC, then adjourned the session.

Prepared by Lorraine Brooke

APPROVED BY JPAC MEMBERS ON 8 JUNE 1999



**Commission for Environmental Cooperation
Joint Public Advisory Committee Session no. 99-02**

Saturday, 8 May 1999

**Captain Cook Hotel
4th K Street
Anchorage, Alaska 99501
Phone: (907) 343-2207 • Fax: (907) 343-2211**

Agenda

Chair: Jon Plaut

- 9:00 am – 9:30 am Welcome and Report by the Chair**
- Approval of the Provisional Agenda
Report by the Interim Executive Director
Report by National and Governmental Advisory Committee Representatives
Report on 7 May Agenda by Mary Simon
- 9:30 am – 10:30 am Round Table on the CEC Program Plan for 1999-2001**
- Identification of Participants
Presentation by the Interim Executive Director
Exchange between the Participants
- Environment, Economy and Trade
 - Conservation of Biodiversity
- 10:30 am – 10:45 am Break**
- 10:45 am – 12:30 pm Exchange between the Participants (cont'd)**
- Pollutants and Health
 - Law and Policy
 - Other Initiatives
- 12:30 pm – 1:30 pm Lunch**
- 1:30 pm – 2:30 pm Discussion of the Advice to Council on the Sound Management Chemicals Program**
- 2:30 pm – 3:30 pm Discussion of the Advice to Council on the Involvement of Remote Communities in the CEC Program**
- 3:30 pm – 3:45 pm Break**



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- 3:45 pm – 4:30 pm** **Discussion of the Advice to Council on the Draft Framework for Public Participation in CEC Activities**
- 4:30 pm – 5: 00 pm** **Discussion of the Advice to Council on the Independent Review Committee Report**
- 5:00 pm – 5:30 pm** **Briefings**
- The Negotiations of the North American Agreement on Transboundary Environmental Impact Assessment (TEIA)
 - The Cooperation with North American Centers for Excellence
 - The North American Cooperation on Environmental Emergencies
- 5:30 pm – 6:00 pm** **Next JPAC meeting in conjunction of the Council Session in June 1999**
- 6:00 pm – 6:30 pm** **Update on Various Issues**
- NAAEC Article 10(6): NAFTA Chapter 11
 - NAAEC Article 28: Rules of Procedure
 - Methods for CEC Project Evaluation
 - JPAC Advice to Council on Regional Solutions to Global Issues for the Next Millennium
 - NAFEC Recommendations on Green Goods and Services
 - Public Workshop on Environmental Management Systems and ISO 14001
 - CEC Executive Director Nomination
 - JPAC Member Appointments and Rotation
- 6:30 pm – 7:00 pm** **Observers' Comments**
- 7:00 pm** **End of the Session**



Joint Public Advisory Committee Session N° 99-02

**7-8 May 1999
Anchorage, Alaska**

List of Participants

JPAC Members:

Canada

Mary Simon
Donna Tingley
Liette Vasseur

México

Daniel Basurto
Raúl Tornel
Blanca Torres

United States

Peter Berle
Jean Richardson
Jonathan Plaut (Chair)
John Wirth

Participants/Observers:

Louie Alakayak
Rocío Alatorre
Alison Armstrong
Daniel Bidal
Joel Blatchford
Victor Hugo Borja
Michel Bradley
Lorraine Brooke
John Buccini
José Cardona
José Castro
Mariano Cebrián
George Anna Clark
Patricia Cochran
Barry Commoner

Manokotak Natives, LTD
Instituto Nacional de Ecología (INE)
Dene Nation
Environment Canada, Quebec Region
Alaska Native Marine Mammal Hunters Committee
Centro Nacional de Salud Ambiental
Alaska Native Health Board
JPAC Consultant
Environment Canada
Círculo de Producción y Comercio Responsable
Instituto Nacional de Ecología (INE)
Centro de Investigaciones de Estudios Avanzados
Espacio de Salud, A.C.
Alaska Native Science Commission
Queen's College

María Esther Cortés	<i>Colectivo Ecologista de Jalisco, A.C.</i>
Cristina Cortinas de Nava	<i>Instituto Nacional de Ecología (INE)</i>
Abigail Curkeet	Environmental Communications
Douglas Dasher	Alaska Department of Environmental Conservation
Patricia Díaz-Romo	<i>Proyecto Huicholes</i>
Cindy Dickson	Council of Yukon First Nations (CYFN)
Manuel Angel Diez Mendoza	<i>Consejo Consultivo de la Radiodifusora XECTZ</i>
Dalee Dorough	Indian Law Resource Center
Wayne Dunn	Wayne Dunn & Associates
Stewart Elgie	Sierra Legal Defence Fund
Bill Erasmus	Dene Nation
Alfonso Espitia	<i>Universidad Autónoma Metropolitana</i>
Judy Farrow	Métis Nation - Northwest Territories
Ewan Faye	Native Village of Kluti-kook
Terry Fenge	Inuit Circumpolar Conference
Rose Fosdick	Kawerak, Inc.
Nels Franklin	Manokotak Natives Ltd.
Lorry Frigerio	U.S. Environmental Protection Agency
Kennan Garvey	U.S. Environmental Protection Agency
Peter Gimlin	U.S. Environmental Protection Agency
Nicholas Goodman	Tidal Electric of Alaska, Inc.
Gary Harrison	Chikaloon Village
Steve Hart	Environment Canada
Susan Hedman	Environmental Law & Policy Center
Luis Hegmann	<i>Instituto Nacional de Ecología (INE)</i>
Brian Hirsh	Earth Energy Systems, Ltd.
Wanda Hoskin	Natural Resources Canada
Henry Huntington	Huntington Consulting
Evelyn Hurwich	Circumpolar Conservation Union
Victoria Hykes	Bering Sea
Michael Inskip	Health Canada
Carl Itumulria	Manokotak Natives, LTD.
Sarah James	International Indian Treaty Council
Pedro Jauge	Ecotech Consultores, S.A. de C.V.
Philip Johnson	U.S. Fish and Wildlife Service
Frank Kavairlook	Native Village of Koyuk
Audrey Khalkachan	University of Alaska, Anchorage
Lizbeth López	<i>Instituto Nacional de Salud Pública</i>
Mauricio Maldonado	<i>Escuela de Salud Pública de México</i>
Suzanne Marcy	<i>Comunidad Huichol de Santa Catarina</i>
Doug Marshall	U.S. Environmental Protection Agency
Stephanie Meakin	HIS/ANTC/YKHC
Alejandro Mérin	Canadian Artic Indigenous Peoples Against POP's
Pamela Miller	<i>Química Wimer</i>
Doug Mutter	Alaska Community Action on Toxics
Scot Nickels	U.S. Department of the Interior
Walter Parker	Inuit Tapirisat of Canada
	U.S. Artic Research Commission

Alan Penn	Cree Regional Authority
Lyle Perrigo	U.S. Artic Research Commission
Karen Perry	Physicians for Social Responsibility
Angela Rickman	Sierra Club of Canada
William Sanders	U.S. Environmental Protection Agency
Gail Savina	Department of Natural Resources of King County
Joel Schmutz	USGS - Alaska Biological Science Center
Tim Schuerch	Inuit Circumpolar Conference
Marianne See	Alaska Department of Environmental Conservation
Enoch Shiedt	Maniilaq Association
Debbie Smith	Individual
Janet Stephenson	Natural Resources Canada
David Strothers	U.S. Environmental Protection Agency
Brelsford Taylor	U.S. Fish and Wildlife Service
Ken Thomas	Neegan International
Dennis Tiepelman	Inuit Circumpolar Conference
Luke Tripp	Environment Canada
Dan Vallero	U.S. Environmental Protection Agency
Robert Varney	New Hampshire Department of Environmental Services
Alan Waffle	Environment Canada
David Ward	U.S. Geological Survey (USGS)
Sheila Watt-Cloutier	Inuit Circumpolar Conference (Canada)
Jake Wells	Maniilaq Association
Jaylene Wheeler	Inuit Circumpolar Conference- Alaska
Maria Williams	Alaska State Council on the Arts
Marceil Yeater	United Nations Environment Program (UNEP)

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Leonor Alvarado
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Mara Kerry
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Nick Nikkila
Manon Pepin



REPORT TO COUNCIL: No. 99-02

RE: Summary of Round Table Discussion on the Commission for Environmental Cooperation (CEC) Three-year Program Plan 1999-2001

Introduction

The Joint Public Advisory Committee (JPAC) is pleased to present this report to the Council members of the Commission for Environmental Cooperation (CEC). It was prepared following presentations and discussions between JPAC members and the public during a round table on the CEC Three-year Program Plan 1999-2001, held on 8 May 1999, and attended by some 50 individuals.

The round table was held following a joint meeting of JPAC and the Sound Management of Chemicals working group (SMOC) on 7 May 1999 that focused on impacts on human health—particularly that of Indigenous peoples. This joint meeting was attended by over 100 representatives, many of them Indigenous peoples. Some of the same representatives attended the round table, therefore, there was a clear focus on Indigenous issues.

Hernando Guerrero, representing the Interim Executive Director of the CEC, briefly summarized the CEC 1999-2001 Program Plan. He reiterated the CEC's desire for public input into the Program Plan and highlighted the fact that many views from previous exchanges have already been incorporated.

The chair's intention was to organize the session around the four program areas: environment, economy and trade; conservation of biodiversity; pollutants and health; and law and policy. Considering the focus on Indigenous issues, this organization was not strictly adhered to. The following, therefore, reports on the presentations as they were made: JPAC comments and exchanges are in italics.

- An alarming decline in the population of beluga whales in Cook Inlet was reported. According to Native marine mammal hunters, this is directly related to pollution and viruses introduced through hatchery-raised coho salmon that are being released in order to artificially support a commercial fishery; these fish also compete for food. The hunters have agreed to stop hunting in an attempt to allow the whale population to recover, but the government also has to do something.
- Clearly, Indigenous peoples have much to contribute to the CEC, although they have not participated to any significant extent in the current CEC program. There is a growing international trend to ensure the direct and meaningful participation of Indigenous peoples, not as nongovernmental organizations or members of civil society, but as distinct peoples. Indigenous peoples have distinct and fundamental human rights. The CEC requires a protocol to address their participation. Indigenous peoples have land rights and these rights are linked to environmental management and development. Indigenous peoples also have their own governmental structures in both traditional and modern forms. While these decision-making

institutions do not fit western models, they are legitimate and recognized forms of government.

- Indigenous advisory committees, similar to the national and governmental advisory committees should be established. Guidelines for Indigenous peoples' involvement are needed.
- The view of environment, economy and trade should be expanded more towards environment, human rights and peace.
- In order to encourage the conservation of biodiversity, the objective of the trade program should not be to integrate environmental considerations into trade decisions, rather the reverse. The focus on economic development could swallow environmental protection issues.
- Indigenous peoples have different ways of interacting. For instance, respect is always first paid to ancestors. If the CEC wants to work with Indigenous peoples it will have to acknowledge Indigenous processes. Indigenous peoples do not put everything into boxes to communicate. They live in a world where everything is connected and thinking is holistic. They use processes that are different from those of western culture—if the CEC wants a dialogue it cannot expect Indigenous peoples to fit into its boxes.
- Consideration should be given to indigenous sciences. Indigenous peoples are often front line environmental observers. Native scientists have to be at the table and in more than an advisory position. They require real representation.

Two JPAC members responded by explaining that in their teaching duties, they too are beginning to teach outside the "boxes." This will result in a new generation of non-Native students who can relate to a more holistic way of thinking.

- Cook Inlet is the only place in the United States that has been provided with an EPA exemption for ocean dumping, the argument being that it is too expensive to ship waste materials from the oil rigs out of the region. Also, the city of Anchorage, Alaska has only primary treatment of sewage. Drilling muds are full of contaminants and monitoring is improperly done.

A member of JPAC who has knowledge of this situation, shared the concern expressed at this situation.

- Sea run trout of Alaska's Kotzebue region are so badly contaminated that their livers are affected. The fish are thin and deformed and no longer safe to eat. Seals are also being affected because they eat these fish. In the past, contaminated seals were never seen and their presence now is frightening as it is not known if they are safe to eat. Climate change is affecting the caribou and they are becoming sick. Residents are not sure that salmonberries and blackberries are safe to eat. Information is needed about subsistence food, which Indigenous peoples depend on for their survival. This information is too slow in coming; people are getting sick and rates of cancer are increasing dramatically.
- One presenter said that he was there to speak for the land and animals because they could not speak for themselves. Since 1976, 28 of his relatives had died of cancer. He said that the state and federal governments' opening up of their lands to oil development was killing them and that they had been living with this turmoil since the Alaska Native Settlement Claims Act was signed. He stated that the Army Corps of Engineers have more control over their land than they do. Of the US\$55.7 billion made last year they got nothing. Many of their communities still do not have flush toilets. Environmental people come to Alaska and only see Anchorage.

He finished by saying that there are 227 Indigenous communities in Alaska and urged members to visit them.

- State and federal governments have not been honest with Indigenous peoples. Toxic sites have been hidden and discovered only through foreign reports. If Natives had caused an environmental tragedy like the Exxon spill, they would be put in jail.
- Native people are in Alaska to stay; they are not leaving. Natives do not consider the natural world as “wild,” the way others do; it is not something to be tamed. The State of Alaska is even taking away Natives’ languages—the very thing that protects them. They have an oral tradition. Mining and ocean dumping is polluting their food. They do not need outsiders telling them what to do; they can do it themselves. For example, the Gwich’in from the Yukon and Alaska have formed an alliance to fight the multi-million dollar interests in opening the Porcupine Caribou calving range to oil and gas exploration. Natives do not benefit from such development, yet suffer the consequences. This is the voice of Native elders.
- The NAFTA/NAAEC negotiations should have involved Indigenous governments. Indigenous peoples have been dealing with economy, trade and sustainable development for centuries. Any relationship that the CEC wants to develop with Indigenous peoples must be based on mutual respect and equality. It is not just a matter of incorporating Indigenous peoples into the existing structures.
- Indigenous peoples can make significant contributions in the areas of knowledge, dispute resolution and long-term experience in sustainable development, environment, economy and trade. It is not just a question of giving money to people to do things. New structures and structural arrangements are required.

A JPAC member noted that in the United States, the Governmental Advisory Committee involves tribal governments. This is a start and now efforts need to be amplified. Another member highlighted the need to ensure that Indigenous women are involved in any new efforts by the CEC.

- It was recommended that a specific amount of money within NAFEC be earmarked for Indigenous projects.
- It is important to focus on pesticide use in rural areas. Rural farmers and peasants have no alternative means of food production. There are still huge quantities of pesticides warehoused in Mexico—even if these substances are banned. Storage facilities are converted into food storage facilities without being decontaminated.
- If the CEC is serious about Indigenous participation, a shift has to be made away from seeing development as simply extractive. This is development in western terms. It is different for Indigenous peoples. New strategic lines are required. Again, it is not just a matter of incorporating Indigenous peoples into the CEC’s existing structures.
- The environment, economy and trade program deals mostly with economy and trade, less so with the environment. The Canadian government has failed in its fiduciary responsibilities by not enforcing its environmental laws and regulations. Every community across Canada’s north has been negatively affected.
- Serious attention needs to be paid to understanding the concept of cross-cultural communication, and developing new techniques for it. This should be at the core of any new CEC work with Indigenous peoples. Simple communication of results from a monitoring process is not enough. People suffer greatly from the anxiety created by the anticipation of

results. This has never been fully appreciated. This is one area where the work under the Northern Contaminants Program in Canada has clearly failed. Indigenous peoples must be involved in designing research projects and monitoring programs to help alleviate this very real problem in any contaminants work.

- A formal and official process is required for involving Indigenous peoples in the CEC and this must be agreed to. The view of sustainable development should be expanded to include equitable development. For example, ecotourism, which is being promoted as sustainable, often does little to benefit local people, many of whom are Indigenous.
- Military issues also need to be addressed. The Arctic is littered with military waste, much of it toxic.
- Better interagency coordination and cooperation is required to improve enforcement.
- Indigenous peoples are very concerned that there is no mention of biotechnology and genetically modified organisms within the conservation of biodiversity program. In Mexico, the primary food of Indigenous peoples is corn. If a resource is modified, there are implications for human rights and intellectual property rights. Indigenous peoples could lose their cultural attachment to such resources and all that such losses would imply.
- Food can be produced without chemicals and genetic modification. It is ownership, access and distribution that limit the feeding of more people, not production.

A JPAC member stated that these last two statements of concern have been brought forward at previous round tables. They are controversial but important issues, both in human and biological terms.

The chair thanked the participants for their input and adjourned the round table session.

Prepared by Lorraine Brooke

APPROVED BY THE JPAC MEMBERS ON 8 JUNE 1999



ADVICE TO COUNCIL: NO. 99-03

Re: Follow-up to the Four-Year Review of the North American Agreement on Environmental Cooperation: The Report of the Independent Review Committee

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

IN ACCORDANCE with its mandate to provide advice to Council;

RESPONDING to a specific request from Council to provide advice on this matter;

NOTING WITH SATISFACTION that the CEC has responded in an appropriate manner to many of the recommendations by agreeing in Mérida in June 1998 on the *Shared Agenda for Action*, and putting into motion the processes that have resulted in the three year plans as well as greater cooperation (see the attached chart of recommendations from the Independent Review Committee Report);

ACKNOWLEDGING that these processes have assisted JPAC in undertaking concrete and proactive work in many areas, including: communication and discussions with the Council, the Alternate Representatives and the Secretariat; detailed working relationships on the North American Agenda for Action 1999-2001; proposed amendments to the Revised Guidelines for Citizen Submissions on Enforcement Matters under Articles 14 & 15; guidance on public participation, enforcement cooperation; input to the North American Fund for Environmental Cooperation (NAFEC) project screening process; involvement with Sound Management of Chemical issues; planning with respect to biodiversity conservation; and round table discussions with the public on a regular basis.

JPAC will continue to play this proactive role within the CEC and recommends that:

- The new spirit of cooperation and communication with JPAC initiated in Mérida should be maintained by the Council as well as its alternate representatives and the Secretariat in Banff and in the future, featuring greater communication and efficiency, in working toward protecting the North American environment;
- The Council move rapidly to fill key vacancies on the CEC Secretariat, particularly that of the Executive Director;

- The Government of Canada make additional efforts to engage all provinces in the NAAEC;
- The Parties should give greater priority to NAAEC, including expanded budget support, interagency coordination, appointments to JPAC and financial support of the National Advisory Committees;
- Council should continue to emphasize the importance of establishing funding links with donors and encourage the Secretariat in its efforts in this area, particularly to increase the capacity building elements of its projects;
- Council should encourage the relationship now being developed between the NAFTA Free Trade Commission and the CEC.

JPAC will continue to monitor the implementation of the recommendations of the Independent Review Committee and communicate with Council as necessary.

APPROVED BY THE JPAC MEMBERS

8 May 1999



**Four-Year Review of the North American Agreement on Environmental Cooperation:
 List of Recommendations of the Report of the Independent Review Committee—June 1998**

Joint Public Advisory Committee Review

The North American Agreement on Environmental Cooperation (NAAEC) came into force on 1 January 1994 thereby creating the Commission for Environmental Cooperation (CEC). Article 10(1)(b) of the NAAEC requires the ministerial-level Council which governs the CEC to review its operation and effectiveness four years after its entry into force. In November 1997, the Council appointed an Independent Review Committee (IRC) to provide it with an objective assessment for this purpose. The IRC has presented its report to Council in June 1998. Following a Council request, the Joint Public Advisory Committee reviewed the implementation of the list of recommendations made by the Independent Review Committee in order to provide JPAC's views to Council.

	Recommendations	Action	Due Date
1.	The NAAEC and the CEC should be seen not as just a side deal for trade, but as a complete and vital agreement in its own right.	Permanent action <i>(See Shared Agenda for Action, the JPAC Advice to Council on the North American Agenda for Action: 1999-2001 and the Three-Year Program Plan for 1999-2001.)</i>	
2.	The Parties should pay specific attention to the needs of the others, with a view to ensuring that CEC activities are not used "against" any one of them, or to pursue the interests of any one Party.	Permanent action	
3.	Political support for the CEC within the three Parties should be built through stronger interagency involvement and internal communications. Relevant agencies of the Parties might also play a constructive role directly in CEC discussions, within their areas of responsibility, so as to broaden the education and communication between governmental and non governmental agencies concerned with environment and trade linkages. The environment ministries, however, remain the lead government agencies in the CEC.	Permanent action <i>(See Shared Agenda for Action, the JPAC Advice to Council on the North American Agenda for Action: 1999-2001 and the Three-Year Program Plan for 1999-2001.)</i>	
4.	The Parties should maintain the current level of funding of the CEC, subject to revisiting this issue if the Council's agreed upon program so justifies.	Annual Action <i>(See the JPAC Advice to Council on the North American Agenda for Action: 1999-2001 and the Three-Year Program Plan for 1999-2001.)</i>	Each year
5.	The Government of Canada, as one of the three Parties to this Agreement, should redouble its efforts to engage all the provinces in the NAAEC. This could, for example, be linked to further progress in the development of all or part of the Harmonization Agreement on the Environment between the two levels of government.	JPAC sent a letter to the Canadian Environment Minister Christine Stewart about this issue on September 1998.	To follow
6.	The Council of the CEC should undertake a careful process to articulate both a strategic vision of its contribution to sustainable development in North America and its process for achieving this vision. The vision should be coherent and comprehensive, and set a platform for the annual work program.	Permanent action <i>(See Shared Agenda for Action, the JPAC Advice to Council on the North American Agenda for Action: 1999-2001 and the Three-Year Program Plan for 1999-2001.)</i>	

	Recommendations	Action	Due Date
7.	The strategic vision must be a shared one, based on the consensus of the Council. This flows directly from the first, second, and third recommendations, above.	Permanent action <i>(See Shared Agenda for Action and the Three-Year Program Plan for 1999-2001.)</i>	
8.	The Alternate Representatives and the General Standing Committee should continue to assist the Council in its oversight of the CEC operations, but this should be done in an efficient manner that avoids duplication and displays internally consistent direction.	Permanent action JPAC meet the Council members during the Annual Regular Session and meet the Alternate Representatives at least twice a year. The JPAC Chair assists the Alternate Representatives directly by participating in each of their meetings.	
9.	It should be recognized that the Secretariat acts independently of any one of the Parties, but that it also acts as an integral part of the CEC as a whole. In its traditional functions, the Secretariat serves to assist, advise and inform the Council.	Permanent action	
10.	The Secretariat, in developing its proposed annual work program and budget, should be mindful of the strategic vision to be established by the Council and work within its spirit and its constraints.	Annual action <i>(See Shared Agenda for Action, the JPAC Advice to Council on the North American Agenda for Action: 1999-2001 and the Three-Year Program Plan for 1999-2001.)</i>	Each year
11.	The citizen submission process should continue as presently designed, based on a scrupulous application of the Agreement and the Guidelines, respecting the limits of actions they contain as well as the discretion provided to the respective decision-makers at the different points in the process. The existing review of the operation of this process should be completed after more submissions have been processed, including factual records when appropriate, in order to provide a greater body of experience to draw upon. The Secretariat should be expeditious in dealing with the public submissions.	Following the proposed revision of the Guidelines for Citizen Submissions on Enforcement Matters under Articles 14 and 15 of the NAAEC made by the Parties, the JPAC received the mandate from Council to conduct a public review on the Revised Guidelines. <i>(See JPAC Advice to Council on Revised Guidelines for Citizen Submissions on Enforcement Matters under Articles 14 & 15 of the North American Agreement on Environmental Cooperation.)</i> Two professionals joined the CEC Staff in summer 1998, a Head of the Submissions on Enforcement Matters Unit, and a legal officer of the unit.	Done Done
12.	Clear divisions should be developed between the staff responsible for the submissions process and those responsible for other work. When some dual functions are required, they should be minimized, using the concept of “Chinese walls”—maintaining strict working divisions between these functions.	The only responsibility of the two persons referred above is the citizen submissions process.	Done
13.	The practice of having two “national” director positions should be ended as soon as possible after the new Executive Director is selected, in favor of a more broadly based approach to equitable representation of senior-level functional staff.	“The Council agreed that the senior management positions should be associated with functions rather than nationalities. The Executive Director will provide to the Council a proposal regarding the personnel structure of the Secretariat.” <i>(See Council Summary Record 98-00 of 25-26 June 1998.)</i>	To follow

	Recommendations	Action	Due Date
14.	The JPAC should refocus its efforts on its original mandate: to provide trilateral independent advice to the Council. This advice should concentrate on what the Council requires to do its work effectively. Achieving this goal should be facilitated by the establishment of a strategic vision and three-year work program by the Council, which should provide a substantive focus for any JPAC public consultations.	Permanent action: JPAC organizes on their work plan round table discussions with the public from different locations in the three countries on the evolving CEC Program Plan and works closely with the Secretariat to provide technical and policy advice to Council including the development of the Program Plan and the specific work program for the three next three-year period. <i>(See Shared Agenda for Action, the JPAC Section on the Three-Year Program Plan for 1999-2001 and the JPAC Reports to Council 98-01, 98-02 and 99-01 on Summary of Round Table Discussion on the Commission for Environmental Cooperation's Three-Year Program Plan 1999-2001.)</i>	
15.	Considering the quality of the contributions from the existing NACs and GACs that the Committee has seen, the IRC recommends that Mexico advance its development of these bodies, perhaps working through the Mexican Sustainable Development Council for its NAC. Without restricting the discretion of the NACs, the IRC hopes that a longer planning cycle for the CEC will help their assessments of the CEC work program and of other matters on the Council's agenda.	Mexican NAC members have been nominated in June 1998. Permanent action: The NACs and GAC hold on a regular basis meetings in their country and provide advice to their respective government. The NAC and GAC are invited to make a presentation to each JPAC Regular Session.	Done
16.	The resources and energy devoted to public consultation should be efficiently used and productive. This requires focused and well-prepared consultation processes, on concrete matters. If a three-year work program is adopted, public consultations can be better timed to provide the most support to informed decision-making.	The Three-Year Program Plan for 1999-2001 attempts to integrate public participation activities directly into the project descriptions, adopting a holistic, crosscutting approach to program development and planning. <i>(See the Three-Year Program Plan for 1999-2001.)</i> JPAC has linked some of its public participation responsibilities to the consultation activities planned with the CEC program areas and projects. <i>(See JPAC Section on the Three-Year Program Plan for 1999-2001.)</i> The Council requested that the Secretariat, in cooperation with the JPAC, to develop a mechanism for informing, educating and consulting the North American public that would be applicable to all of the CEC's public participation activities. A draft document is out for public comment and will be presented to Council for its approval. <i>(See JPAC Advice to Council 98-06 on the Draft Public Participation Guidelines of the CEC.)</i>	Done Done June 1999

	Recommendations	Action	Due Date
17.	NAFEC should continue to be a source of community funding, but with a mandate more related to the programs of the CEC. Building on the three-year program cycle, NAFEC should seek to fund projects so as to develop a critical mass of community-based experience on key topics in the CEC work program, in order to help inform the Secretariat and Council in their respective program and decision-making functions.	The next NAFEC grant awards will focus on projects that support the CEC's Three-Year Program Plan. <i>(See JPAC Advice to Council 98-05 on the North American Agenda for Action: 1999-2001 and the Three-Year Program Plan for 1999-2001.)</i>	Done
18.	The CEC should deal with the relationship between environment and trade in an open and constructive manner. Existing projects confirm the ability of the CEC to address practical aspects of this relationship in a manner that demonstrates the positive links between them. This should be creatively built upon, when possible, in other projects.	Two priority areas will be the focus of the CEC's workplan over the next several years: Pursuing Environmental Sustainability in Open Markets and Stewardship of the North American Environment. <i>(See Shared Agenda for Action, the JPAC Advice to Council on the North American Agenda for Action: 1999-2001 and the Three-Year Program Plan for 1999-2001.)</i>	Done
19.	The CEC should continue to pursue its NAFTA effects work. This should be done in an inclusive manner, bringing in experts from environmental and trade backgrounds, and looking at both the positive contributions of trade liberalization to environmental protection and potential negative impacts. This will be an evolving process as the ability to assess these impacts is developed and mutual trust is gained.	Under the Three-Year Program Plan for 1999-2001 the NAFTA Environmental Effects Project will aid the Council in fulfilling its obligations to consider on an ongoing basis the environmental effects of NAFTA. Its goal is to develop an analytical approach to assess ways in which trade liberalization under NAFTA affects the North American environment. <i>(See Shared Agenda for Action, the JPAC Advice to Council on the North American Agenda for Action: 1999-2001 and the Three-Year Program Plan for 1999-2001 and the CEC Report on the Assessing Environmental Effects of the North American Free Trade Agreement (NAFTA): An Analytic Framework (Phase II)– Fall 1998.)</i>	Done
20.	The CEC should immediately initiate contacts with the NAFTA Free Trade Commission and its subsidiary bodies, with a view to establishing routine contacts for information purposes. Where a NAFTA body is undertaking work with an environmental dimension or impact, appropriate Secretariat liaison should be developed as a conduit to the Council. The goal should be to facilitate a full consideration of the potential impacts in a coordinated and effective manner. In addition, senior environment and trade officials should plan a meeting of the environment and trade ministers as early as possible in order to confirm this relationship.	Permanent action: The CEC will work with other NAFTA bodies and appropriate international institutions to ensure that trade and environment policies are mutually reinforcing. <i>(See Shared Agenda for Action, the JPAC Advice to Council on the North American Agenda for Action: 1999-2001 and the Three-Year Program Plan for 1999-2001.)</i> Permanent action: Meetings held in December 1998 and April 1999 in Washington D.C and others meetings should hold in 1999.	Done

	Recommendations	Action	Due Date
21.	The CEC should adopt a rolling three-year program and budget cycle, updated each year and revised as necessary. The overall program should focus upon a smaller number of clear and meaningful deliverables rather than a large number of less significant ones. Project quality, not coverage of project categories, should be the key factor in program development.	Permanent Action <i>(See Shared Agenda for Action, the JPAC Advice to Council on the North American Agenda for Action: 1999-2001 and the Three-Year Program Plan for 1999-2001.)</i>	
22.	The IRC recommends that a process be put in place, in time for the end of the first year of the longer program period, to provide systematic measurement and evaluation of the annual results of each project. This should include a “lessons learned” analysis for both successes and failures in the project. A similar review process following the conclusion of a project should be undertaken.	Permanent action: Projects will be designed to include milestones, and an internal mechanism to ensure their achievement. This will also entail regular project evaluation. The Secretariat will provide guidance for the evaluation process. <i>(See the Shared Agenda for Action and the Three-Year Program Plan for 1999-2001.)</i> Based on the document to be provided by the Secretariat, JPAC will prepare an advice to Council on this issue.	June 1999 June 1999
23.	The program contents should reflect the key priorities of the Parties, based on the three-year rolling program already recommended. This will be facilitated through discussions between the Secretariat and the Council prior to drafting the budget, a summer meeting of the Parties and the Secretariat to consider the Parties’ priorities, and a clear timetable established by the Council for completion of the process.	Permanent action <i>(See the Shared Agenda for Action and the Three-Year Program Plan for 1999-2001.)</i>	
24.	Program decisions should be based on criteria that reflect the strategic vision and purpose of the CEC. The range of criteria include: the regional nature of the issue being addressed; the ability of projects to build on elements of other projects; the incorporation of key features of sustainable development in the project (e.g., capacity building, scientific information and public participation); the ability to make environment and trade part of the living program; the comparative advantage of the CEC to address the issue; and the need to ensure adequate resources for the CEC’s mandatory program items.	Permanent action <i>(See Shared Agenda for Action, the JPAC Advice to Council on the North American Agenda for Action: 1999-2001 and the Three-Year Program Plan for 1999-2001.)</i>	
25.	The CEC should seek to develop funding links with donors as well as the major development banks, such as the World Bank and Inter-American Development Bank, in order to better develop the capacity building elements of its projects.	Permanent action Specific actions and funding are being targeted on capacity building and SMOC projects. <i>(See Shared Agenda for Action, the JPAC Advice to Council on the North American Agenda for Action: 1999-2001 and the Three-Year Program Plan for 1999-2001.)</i>	

	Recommendations	Action	Due Date
26.	The development of the substantive elements of the work program (outside of the special responsibilities of the Secretariat) are subject to the general oversight of the Council as a whole. At the same time, the Secretariat must act independently of the control of any one Party. This requires a two-way commitment to the neutral position of the Secretariat in its role of supporting, advising and informing the Council. It should also be understood that the reports of the Secretariat or the CEC do not necessarily represent the views of any individual.	Permanent action	



ADVICE TO COUNCIL: NO. 99-04

Re: The Sound Management of Chemicals Program of the Commission for Environmental Cooperation

IN ACCORDANCE with its 1999 Work Plan, the Joint Public Advisory Committee (JPAC) of the Commission for Environmental Cooperation (CEC) held a joint public session with the Sound Management of Chemicals (SMOC) Working Group on 7 May 1999, in Anchorage, Alaska, which featured very productive exchanges among members of the public, the SMOC Working Group and JPAC;

As a result of this session, JPAC RECOMMENDS THAT:

- A decision be made by Council at its June 1999 session in Banff to develop North American Regional Action Plans (NARAP) for three substances currently under consideration in the *Process for Identifying Candidate Substances for Regional Action*—namely hexachlorobenzene, dioxins and furans—which will complete coverage of the 12 persistent organic pollutants identified in the United Nations Environment Programme Governing Council Decision 18/32, recognizing that the targets, actions, and steps are to be discussed during a public consultation and developed by the SMOC Working Group;
- The substances lindane and lead be moved quickly through the *Process for Identifying Candidate Substances for Regional Action* so that the development of NARAPs can be initiated.
- The SMOC Working Group begin planning on how to move beyond a chemical-by-chemical approach;
- Efforts be made to encourage interagency cooperation within and among the Parties in order to improve the flow of information available to the public resulting from the monitoring of contaminants in the North American environment;
- Active involvement of indigenous peoples in the design and implementation of the SMOC program be solicited as their intimate knowledge about the environment and its resources can contribute in very tangible ways to a broader understanding of the nature of contaminants; and
- In order to provide accountability, the Parties report publicly to the CEC on the results of the implementation of all the North American Regional Action Plans to assist the SMOC Working Group to be more proactive and adjust its activities in consequence of these results.

APPROVED BY THE JPAC MEMBERS

18 May 1999



ADVICE TO COUNCIL: NO. 99-05

Re: Expanding the Involvement of the North American Public, including Indigenous Peoples in the work of the Commission for Environmental Cooperation

The Joint Public Advisory Committee (JPAC) of the Commission for Environmental Cooperation (CEC) in its Report to Council at the last Regular Session of Council in Mérida, 24–26 June 1998, noted that JPAC intended to provide guidance to Council on how improve and expand involvement of the public, including indigenous peoples in the work of the CEC.

As anticipated in its CEC 1999 Work Plan, JPAC held a Regular Session in Anchorage, Alaska, 8 May 1999, following a joint public meeting held with the Sound Management of Chemicals Working Group on 7 May 1999, where specific efforts were made to seek the views of indigenous peoples from our three countries on how to better involve them in the work of the CEC.

As a result of these dynamic and informative sessions, JPAC is convinced that the input of indigenous peoples within the CEC is both necessary and valuable. JPAC also recognizes the need to better involve other groups whose access to the CEC process has been similarly limited. JPAC is of the opinion, however, that the input of indigenous peoples is particularly critical and should be the subject of focus for the CEC.

JPAC, therefore:

ENCOURAGES Council to continue emphasizing the need for refining and strengthening capacity building efforts within the CEC programs in order expand the involvement of the North American public including indigenous peoples;

RECOGNIZES that the National Advisory Committees (NACs) provide an entry point for the public and that this link should be further developed for indigenous peoples; and

WILL BE DEVELOPING a proposal for Council's consideration at the 27–29 June 1999 Session specifically related to the involvement of indigenous peoples in the CEC Program Plan and activities.

APPROVED BY THE JPAC MEMBERS

18 May 1999



ADVICE TO COUNCIL: NO. 99-06

Re: Draft Framework for Public Participation in the Commission for Environmental Cooperation's Activities

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

IN ACCORDANCE with its mandate to provide advice to Council and

RECALLING that Council responded to JPAC's Advice to Council 98-06 on this matter by instructing the Secretariat, with the assistance of JPAC, to prepare a new text in accordance with a time frame and a process approved by Council which included a 30-day public review period;

HAS:

INCORPORATED comments received from the public and

CONDUCTED a final review of the *Draft Framework for Public Participation in the Commission for Environmental Cooperation Activities* at its Regular Session 99-02 and has subsequently transmitted a final text to the Secretariat;

AND:

RESPECTFULLY recommends to Council that the *Draft Framework for Public Participation in the Commission for Environmental Cooperation Activities* be adopted immediately, understanding that it is an evolving document that will be improved by the CEC's growing experience with public participation.

APPROVED BY THE JPAC MEMBERS

18 May 1999



Draft Framework for Public Participation in Commission for Environmental Cooperation Activities

CEC Mission

The Commission for Environmental Cooperation (CEC) facilitates cooperation and public participation to foster conservation, protection and enhancement of the North American environment for the benefit of present and future generations, in the context of increasing economic, trade and social links among Canada, Mexico and the United States.

1. Introduction

The Commission for Environmental Cooperation (CEC) was established by the North American Agreement on Environmental Cooperation (NAAEC), reconfirming the importance of the environmental goals and objectives of the North American Free Trade Agreement (NAFTA) while acknowledging the increased economic and social links engendered among the NAFTA Parties by that Agreement. The NAAEC Preamble emphasizes the importance of public participation in conserving, protecting, and enhancing the environment.

In order to meet this challenge, each of the CEC's bodies, the Council, the Secretariat and the Joint Public Advisory Committee (JPAC), must develop appropriate mechanisms for disseminating information, educating and consulting the North American public in their activities. This framework sets the guidelines for conducting and assisting in this process and is intended to apply to all of the CEC's public participation activities. It incorporates comments received from the public in response to a call for public comments.

1.1 Purpose

The decision by Council in 1998 to develop a more strategic and long-term approach to the work of the CEC endorses the need to maximize public involvement to ensure open and effective dialogue and engagement among all elements of the public. The intention to establish a trilateral network of diverse stakeholders that are interested in the CEC's mission is also an important element to develop.

This framework focuses on the goals, principles and basic mechanisms designed to optimize public involvement in the work of the CEC. It is not intended to establish rigid principles that inhibit, restrict or limit public participation, but aims rather to encourage and facilitate such participation as is appropriate to the different CEC bodies, advisory committees, working groups, and panels.

Further prescriptions for public participation can be found in other CEC documents, such as the “Guidelines for Citizen Submissions on Enforcement Matters under Articles 14 and 15 of NAAEC,” the “JPAC Public Consultation Guidelines,” and the “North American Fund for Environmental Cooperation Administration and Funding Guidelines.”

For the purposes of this present framework, public participation should be approached in its broadest sense, including, for example, provision of information, public education, solicitation of input, the circulation of documents for comment, Internet exchanges, and formal participation through structured public meetings, such as the Annual Council Session and the JPAC Regular Session.

The basic mechanisms used to implement the framework must be flexible and promote inclusiveness in order to be responsive to the cultural differences among and within our three countries and to the nature of the different CEC activities.

This framework also incorporates advice received from a National Advisory Committee that “the CEC’s strategy for public participation should devote as much attention to what it communicates to the public as it does to devising procedures for how the public can bring information and viewpoints to the CEC.”

The term “public” is defined inclusively and is meant to accommodate all interested persons or groups of people in North America.

It is intended that this be an evolving framework that will grow and improve in parallel with the development of the CEC.

2. Goals

Building on the understanding that public participation is a two-way process, the goals of the CEC’s role in it should be to:

- a) Enhance and encourage public participation.
- b) Assure that reliable, timely and useful information on the work of the CEC is widely disseminated, using a variety of mechanisms.
- c) Contribute to public empowerment and education, recognizing that this is essential for resolving environmental problems.
- d) Obtain a solid sense of the concerns, priorities and aspirations of the public with respect to the work of the Commission for Environmental Cooperation.
- e) Gather information, points of view and perspectives to help shape the policies, programs and budget, as well as any strategic vision process of the CEC.
- f) Provide the public with a means to interact constructively with the CEC.
- g) Strive to promote opportunities for participation by the public of the three Parties.

3. Guiding Principles

The following are the principles upon which the framework is based. All are of equal importance.

3.1 Equity

To promote equity, the CEC's public participation strategies are directed toward diverse constituents, with particular emphasis on those who have enjoyed little or no participation and who are not given the weight they deserve. The needs and requirements of diverse groups and cultures should be recognized and actively supported. Achieving broad, equitable participation requires applying active, innovative methods in order to offer the same opportunities in the three countries for educating, informing and consulting varied stakeholders.

3.2 Efficiency and Timeliness

Public participation processes should be an integral part of decision-making at the CEC so that public views can be taken into account. These processes should be commenced at the planning stages. Public participation opportunities should be clearly identified and properly scheduled in the CEC's activities. For example, the public review of the Annual Program and Budget must be timed so as to allow the Secretariat to evaluate and incorporate public input.

Public participation processes should be handled in such a way that the circumstances and facts are presented and conveyed to the participants so the best decisions may be made. No one set of formats for public participation is likely to meet all needs, so tailoring to the needs of each situation is essential. For example, in certain circumstances it may be efficient and effective to consult with experts on a particular subject rather than with the public-at-large.

A clear context for any decision should be described. Participants should be informed what decisions the public participation process can affect and how that particular process will affect them. Any links to other related activities (i.e., government, nongovernmental organizations, or industry) should also be described.

The purposes and goals of the public participation process shall be clearly defined and communicated. Public notification and the documents to be discussed at public meetings should be sent to identified participants beforehand, for their review and comments or observations.

3.3 Transparency and Accessibility

CEC activities should be conducted in an open and transparent fashion, so as to promote spontaneous participation by the public, to create relationships of mutual trust.

The public should be provided with all CEC documents required for their effective involvement.

The NAAEC provides that the three official languages of the CEC are English, French and Spanish. All official documents of the CEC should be available in these languages at the time they are published. These documents and other information should be accessible electronically in the three languages through the CEC web site, as well as by hard copy upon request to the CEC Secretariat.

The draft program and budget should be distributed and posted on the CEC web site, as well as by hard copy upon request to the CEC Secretariat, prior to any annual program and budget meeting that is open to the public. The descriptions or details of programs should cover procedures for public participation in each project. The public should be provided the opportunity to comment on draft programs.

Efforts should be made to have key background documents translated so that they are available in the three official languages.

While there is a presumption of openness, it is understood that in particular circumstances, access to meetings may be limited or a meeting may be closed.

Four types of meetings should be considered by the appropriate CEC body:

- a) Meetings open to the public: These meetings would be open to all without restriction, subject to space availability and security considerations for the protection of participants. In the public notice of the meeting, this information must be indicated.
- b) Meetings open to the public as observers: The appropriate CEC body may decide when members of the public may attend as observers during part of or the entire meeting, subject to space availability and security considerations for the protection of participants. In the public notice of the meeting, this information must be indicated.
- c) Meetings open to a limited selection of the public: In specific circumstances, the appropriate CEC body may decide that a meeting or portion thereof, should be limited to specific groups or persons. If public participation is so limited, this information must be indicated.
- d) Meetings closed to the public: The appropriate CEC body may decide that a meeting should be closed to the public. If public participation is so limited, this information must be indicated.

Documents to be discussed at the meeting should be made available to all interested parties before public consultations, for a period of not less than 30 (thirty) calendar days, during which public comments may be received before decision-making.

Also, all meetings of CEC officials should provide a service of interpretation in the three languages of the Commission. However, under certain circumstances, the participants may decide that one or more of the official languages are not required 2 (two) weeks before the meeting.

Official activities of the CEC work program should be made widely available through all possible channels, including the CEC web site and direct contact with organizations in the three countries interested in CEC activities. In activities involving public participation, details of the registration process for the public should be included.

Updated records should be kept of public meetings, containing minutes. The summary report of a meeting should include the recommendation(s) made, and it should be circulated among the participants through whatever means the CEC deems appropriate.

3.4 Inclusiveness

As an institution representing three countries with a diversity of cultural, social and economic interests, the CEC should communicate fully with the entire North American public. All means of communication must be used to achieve public participation of each community, whether urban, rural, or in remote regions, affiliated or not with nongovernmental organizations, so citizens may express their opinion on CEC activities, especially if they affect them.

3.5 Financial Support

To encourage and achieve active involvement of the public, human and financial support must be considered as limiting factors to be dealt with efficiently in order to reach CEC objectives.

New outreach programs, designed both to communicate with and involve as broad a public as possible, are not without financial implications.

Each CEC activity and project should detail how it will communicate with and involve the public and what budget has been allocated for those purposes. Decisions to allocate funding for access of public participants shall be made by the appropriate CEC bodies or designated Committee.

CEC financial assistance will be limited to only one participant per organization for the same meeting.

The selection of eligible candidates for financial assistance will be based on the following criteria:

- a) Have experience on the topic(s) to be dealt with at the public meeting, present specific, concrete proposals and identify new issues;
- b) Be an individual or represent a group which, without CEC financial assistance, would have limited participation in CEC public meetings.

The request for funding should include a brief description (no more than one page) of his/her organization or expertise.

Funding for participants shall be in accordance with the CEC Business Travel Directive, and should be sufficient to at least cover travel and accommodation expenses. The participant should cover the rest of his/her expenses.

3.6 Accountability and Evaluation

Assigning tasks, responsibilities and evaluation processes are essential in public meetings, and follow-up with the public is indispensable. At the conclusion of consultations, participants should be informed of the decisions taken by the CEC. This should apply to all CEC activities, ranging from those of the Council to individual projects, to encourage feedback on the information provided by the CEC to the public.

Therefore, feedback mechanisms should be developed based on the following criteria:

- a) Determine in advance what needs to be evaluated and which techniques shall be applied,

- b) Review process development and identify stages that need improvement,
- c) Ensure process feedback from experience gained,
- d) Include decisions made and circulate these among participants, and
- e) Implement project decisions.

4. Public Participation Mechanisms

With respect to the goals and the principles described above, one or a combination of mechanisms could be used for involving the participation of the public. For example:

- a) Inform the public of ongoing activities through CEC publications, such as the Annual Program and Budget, CEC annual reports, the EcoRegion newsletter, press releases, conferences and the CEC web site.
- b) Obtain information from the public on a specific issue via polls, questionnaires, interviews, forums, meetings, seminars, community and site visits, focus groups, Internet exchanges.
- c) Consult on a specific issue through written comments, workshops, round tables, hearings, electronic discussion groups and outreach programs.
- d) Consult with JPAC as one vehicle for public participation, and involve JPAC in ongoing efforts to encourage public participation.
- e) Prepare and distribute reports for all CEC public participation activities, to assist the public in evaluating follow-up decisions by the appropriate CEC body.
- f) Seek the advice of the National and Governmental Advisory Committees in promoting public participation.

4.1 Directives

The CEC Secretariat shall coordinate logistics for the public participation processes of all CEC activities.

To implement these mechanisms, some basic directives should be used.

4.1.2 Public Meetings

- a) Except in extraordinary circumstances, notice of public meetings should be provided no less than 30 (thirty) calendar days before such meetings are to take place. The purpose, objectives, agenda, date and venue of public meetings should be posted on the CEC web site and other appropriate electronic venues such as CECNet. The Secretariat should issue a current calendar of key CEC meetings and update it weekly. The CEC Secretariat shall coordinate the administration and logistics for the public participation processes of all CEC activities. Other tools may be used to ensure as wide a distribution as possible; for example, mail, fax, and advertising in newspapers or other publications.
- b) A chairperson or facilitator should be considered for specific meetings.

- c) Any participant may make oral statements at the appropriate time on the agenda.
- d) Individuals or organizations may submit written comments to the appropriate CEC body even if they were unable to attend the meeting. Written comments received within 5 (five) calendar days after the meeting will have the same status as verbal comments made during a public meeting. A summary record of discussions at public meetings should be sent to the participants, made available to the public through the CEC web site, and sent to those participants who do not have access to Internet.
- e) Registration for public meetings will have to be limited to the legal capacity of the meeting room(s) on a first-come, first-serve basis.

4.1.3 Call for Public Comments

- a) Any call for public comments should provide a minimum of 30 (thirty) calendar days' notice for review of documents. The purpose and objectives of the call for public comments and any draft documents related to the issue should be posted on the CEC web site and other appropriate electronic venues such as CECNet or sent to potential individual and organizations who do not have access to the Internet.
- b) All comments from the public should be sent to the Secretariat with the understanding that they will be made available upon request, unless confidentiality is conferred by Article 11(8) of the NAAEC.

4.1.4 CEC Contact List

The CEC Secretariat develops and maintains a list of relevant contacts. This list is used by the CEC for distribution of information on specific issues and activities.

5. CEC Coordinates

The public can communicate with the CEC at:

Commission for Environmental Cooperation
393 St-Jacques West, Suite 200
Montreal, Quebec H2Y 1N9
Canada
Phone: (514) 350-4300
Fax: (514) 350-4314
e-mail: info@ccemtl.org
Internet: <www.cec.org>

6. Checklist for Designing a Public Participation Process

The following checklist, adapted from Standard Z764-96, “A Guide to Public Involvement,” of the Canadian Standards Association, is a guide to assist those responsible for CEC public participation in deciding whether or not public participation is appropriate for a given CEC activity, how such an activity should be structured, and what process elements should be included.

<p>1. Do you need to involve the public?</p> <ul style="list-style-type: none">• Describe the situation• Identify potential benefits• Assess the relevance of input• Analyze and evaluate the implications of not including public participation• Identify interests and positions• Study and assess the implications of not proceeding
<p>2. Has the groundwork been laid for a well-constructed process?</p> <ul style="list-style-type: none">• Determine the nature and scope of decisions• State the purpose• Estimate the time frame• Identify potential participants• Review and select viable mechanisms• Estimate human and financial resources required• Validate budget
<p>3. Do you have the elements in place to make the process develop satisfactorily?</p> <ul style="list-style-type: none">• Establish goals and limits• Define the work plan and program the activities• Confirm the availability at resources allocated• Send invitation to identified participants and confirm their attendance• Conduct follow-up to plan of actions• Mobilize resources• Establish the ground rules for the process
<p>4. Did the process conclude satisfactorily?</p> <ul style="list-style-type: none">• Identify what and how to evaluate• Review process development and identify stages that need improvement• Ensure process feedback from experience gained• Include decisions made and circulate these among participants• Implement project decisions



DISTRIBUTION: General
J/99-07/ADV
ORIGINAL: English

ADVICE TO COUNCIL: NO. 99-07

Re: The Negotiations Toward a North American Agreement on Transboundary Environmental Impact Assessment (TEIA)

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

IN ACCORDANCE with its mandate to provide advice to Council;

MINDFUL of the importance of an agreement on Transboundary Environmental Impact Assessment (TEIA) for coordinated regional environmental management;

EXPRESSES extreme disappointment with the recent lack of progress and apparent inability of the Parties to achieve such an agreement; and

STRONGLY recommends that the Council of Ministers intervene to assure a rapid and successful conclusion to this very important matter.

APPROVED BY THE JPAC MEMBERS

18 May 1999



DISTRIBUTION: General
J/99-08/ADV
ORIGINAL: English

ADVICE TO COUNCIL: NO. 99-08

Re: Article 10(6) of the North American Agreement on Environmental Cooperation (NAAEC): Process for Cooperation between the Council of the Commission for Environmental Cooperation (CEC) and the North American Free Trade Agreement (NAFTA) Free Trade Commission (FTC)

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 Advice to Council 98-08 urging that Council actively promote the implementation of Article 10(6) in a manner that supports and reinforces the objectives and spirit of the NAAEC to protect the environment, natural resources and the health of human populations;

CONTINUES to have a strong interest in these discussions and is, therefore, concerned about the lack of concrete progress toward developing an ongoing mechanism for the institutional cooperation contemplated in the NAAEC; and

RECOMMENDS that the Council of Ministers take steps to ensure that these discussions continue in a timely manner and that JPAC continue to be informed of progress.

APPROVED BY THE JPAC MEMBERS

18 May 1999



ADVICE TO COUNCIL: NO. 99-09

Re: Regional Solutions to Global Issues of the Next Millennium

The Joint Public Advisory Committee (JPAC), as a result of its own deliberation as well as discussion with the Secretariat, and prompted by the Council's request for advice, advises Council:

1. To focus on issues an action statement for the new millennium and environmental trends identified in the CEC's upcoming State of the North American Environment (SOE) report and the initial results of the project on Emerging Trends in North America.
2. To instruct the Secretariat, in cooperation with JPAC, to report to Council by October 1999, on projected results of the CEC's work on environmental trends into the next millennium. This long-term forecast, along with the SOE, should provide the Council with a basis for developing its millennium statement.
3. To make use of the press and other media in order to move this action statement into the public domain. This should assist future CEC efforts for obtaining direct public involvement.

APPROVED BY THE JPAC MEMBERS

18 May 1999