



## COMMISSION FOR ENVIRONMENTAL COOPERATION

### Joint Public Advisory Committee Session No. 98-02

7 May 1998

#### Summary Record

The Joint Public Advisory Committee (JPAC) of the Commission for Environmental Cooperation (CEC) held a regular session in El Paso, Texas, USA on 7 May 1998.

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 Advice to Council 98-04.

The full records of discussions, advice from JPAC to Council and other documents pertaining to the Committee 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.

Due to weather delays, Mr. Jonathan Plaut arrived mid-morning. Mr. Jorge Bustamante and Mr. Jacques Gérin were absent from the session, both having notified the Secretariat in writing why they would be absent. Mr. Dan Morales was absent without reasons.

#### JPAC PRIVATE MEETING

As a result of events in early 1998, the JPAC agreed to address and resolve five specific issues of general concern. The discussions were held in private and yielded with the following:

- On the matter of JPAC's role in public consultation, it was agreed to maintain the direction established at the last meeting (Session 98-01) to link into the CEC's public consultations. However, it was also clearly stated that JPAC continues to have a responsibility for maximizing the opportunity of the public and various sectors of society to participate in the CEC process. Recognizing budget and logistical limitations, the JPAC must base its choices on ultimate impact and links to decision-making.
- It was decided that JPAC should be responsible for developing its own operating budget within the CEC process and this should be clearly stated in JPAC's report to Council.
- On the matter of a possible requirement for quorum, it was agreed that JPAC should continue to operate using consensus for reaching decisions. As one member pointed out, JPAC members are not appointed to represent nationalities, but three cultural perspectives in order to enrich and enhance the CEC process. Every attempt will be made to have all members present, and in the event a vote is necessary, absent members can be contacted by other means. It was also agreed, however, that one member from each country must be present to hold a meeting.

It was also agreed that the Chair will communicate with Council concerning vacancies on the Committee (Canada 1, Mexico 2). See the attached Advice 98-04.

- Concerning JPAC's relationship with the other institutions of the CEC, it was agreed that JPAC needed to become more proactive.
- Regarding the selection of the Executive Director, see the attached Advice 98-04.

## **JPAC PUBLIC MEETING**

### **WELCOME AND OVERVIEW BY THE CHAIR**

Mary Simon welcomed everyone to El Paso. She reviewed the recent decision by the CEC to initiate a three-year planning process and highlighted the opportunity this has created for JPAC to be more proactive and contribute substantive advice to Council.

### **APPROVAL OF PROVISIONAL AGENDA**

The following additions were made to the agenda.

- Possible meeting of JPAC with the National Advisory Committees and the Governmental Advisory Committee in Mérida.
- PCB Management Plan
- Future JPAC meetings

### **REMARKS BY THE INTERIM EXECUTIVE DIRECTOR OF THE CEC SECRETARIAT**

Janine Ferretti was welcomed to the meeting. She stated that this was a very important time for the CEC and the JPAC. In her view, the decision to launch a three-year planning process along with the report from the Independent Review Committee creates an important opportunity for JPAC and timely advice from JPAC is critical.

She went on to confirm that the CEC Program and Budget for 1998 had been approved without prejudice to the three-year planning process. Highlights include a focus on environment and trade around two themes: (1) understanding the relationship between environment, economy and trade; and (2) encouraging cooperation between the Parties on establishing an integrative approach to the protection of the environment and economic development.

She informed the Committee of several scheduling matters and release dates for the State of the Environment Report (June) and the review process for the Upper San Pedro River (report from experts in June; public review; Advisory Panel meeting in September and final report in November). In response to questions from the members, she provided details of the initiatives on shade coffee, Sound Management of Chemicals and Greenhouse Gases.

Concerning the three-year strategic plan, she reported that a "brainstorming" session was scheduled for 19 May in Val Morin, Quebec, to be attended by five representatives from each Party, one JPAC member, one Independent Review Committee member and the Secretariat. This would be followed by a drafting session on 20 May, attended by the Alternate Representatives and the Secretariat. In response, JPAC members felt that one JPAC member from each country should attend. It was decided that the Chair would communicate this to the Alternate Representatives.

**Action: JPAC Chair / Parties / Secretariat**

A discussion took place on the review of the Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of NAAEC. Ms. Ferretti reported that it was the intention of the Parties to have a draft available for the Ministers at the Council Session in June. It would also be available to JPAC at that time. To this end, the General Standing Committee would be meeting in an informal session, tentatively scheduled for 14-15 May 1998 in Washington, DC, and the Alternate Representatives decided that the JPAC would not be represented at this meeting.

The members voiced their disapproval with the process. They said that, accordingly to minutes of the Alternate Representatives' meeting on 10 February, JPAC should be actively involved in the process and not just presented with a completed product. It was clearly stated that once the Alternate Representatives had worked out a text, it would be very difficult to introduce changes.

It was agreed that Chair would communicate immediately with the Alternate Representatives to insist that JPAC be present at the informal session.

**Action: JPAC Chair / Parties / Secretariat**

Ms. Ferretti went on to discuss plans for the Council Session in Mérida. The members felt that, under the current version of the Provisional Agenda, JPAC had no opportunity for an exclusive meeting with Council. JPAC decided to communicate directly with the Council concerning its desire for such a meeting during the 25-26 June Session.

**Action: JPAC Chair / Parties / Secretariat**

In addition, Ms. Ferretti explained the proposed Council Session Workshop as an opportunity for the public to review documents discussing future priority areas for the CEC on program and cooperative initiatives. The purpose is to enable the public to provide comments to Council on the 3-year strategic framework for the CEC program. A long discussion took place. Several members expressed concern that the program, as proposed, would frustrate and discourage the attending public. It was decided to communicate directly with Council on this matter.

**Action: JPAC Chair / Parties / Secretariat**

### **JPAC PRIORITIES FOR 1998**

It was agreed that the priorities as established at JPAC's Regular Session No. 98-01 would be maintained, with the addition of a new priority for Session 98-04 in Yellowknife, Northwest Territories: Environment, Trade and Indigenous Peoples.

**Action: JPAC Members / Secretariat**

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**PRESENTATION BY THE GENERAL MANAGER OF THE BORDER ENVIRONMENT COOPERATION COMMISSION (BECC)**

The Chair introduced Mr. Javier Cabrera Bravo. He enthusiastically described the activities of the BECC and placed emphasis on promoting community involvement. He explained how community representatives participate in all BECC activities, including the authorization of projects. He was confident that this model of public participation has led to wider acceptance of BECC's activities and has encouraged more fundamental adoption of sustainable development.

**OBSERVERS' COMMENTS**

It was agreed to permit comments from observers prior to the end of the morning session. Comments included:

- There was concern about inadequate opportunity for the public to address the Committee. Observers urged the Committee to allot more time for the public to dialogue with members and provide their advice, rather than being a gallery of spectators at the meetings.
- Observers suggested that one way of engaging the public would be for members, as individuals, to initiate questions and provide answers on CECNet.
- Observers also commented that the JPAC should provide support for studies focused on border issues and give guidance on how trilateral and bilateral processes should cooperate with an emphasis on transboundary impact assessment. Transboundary agreements should respond to concerns generated by institutions, such as BECC.

It was agreed that JPAC would send a letter of congratulations and offer of support and cooperation to Mr. Gregg Cooke, newly appointed Administrator of the US EPA, Region 6.

**Action: JPAC Members / Secretariat**

**CEC STRATEGIC PLAN FOR 1999-2001**

After a lengthy discussion it was agreed that the work plan approved at JPAC's Regular Session No. 98-01 and attached to Advice to Council 98-01 should be used as the basis for advice on the three-year plan. It was suggested that each working group, upon receiving the strategic plan, could produce a draft implementation plan for working with the Secretariat over the next three years. It was further agreed that such a plan be an evolving process and that part of all future JPAC sessions should concentrate on updating the plan.

Further decisions were made to include advice on joint implementation of commitments arising from the Kyoto Protocol on Climate Change, a discussion on NAFTA and any expansion toward a hemispheric trade block, overarching principles for cooperation in the management of toxic materials and the social impacts of development.

**Action: JPAC Members / JPAC Working Groups**

It was agreed that the JPAC working groups should be updated as soon as possible to reflect changes in membership.

**Action: JPAC Chair / JPAC Members**

The Secretariat was requested to produce a retrospective report on all past advice to Council and the results.

**Action: Secretariat**

### **NEXT COUNCIL SESSION**

It was decided that JPAC would focus its attention on providing clear, focused advice on the CEC's three-year strategic plan and will organize itself to achieve this. With regard to plans for the public workshops, this item was discussed earlier in the meeting.

It was also agreed that a meeting of JPAC with the National Advisory Committees and Governmental Advisory Committees in Mérida would be useful in order to exchange views.

**Action: JPAC Members / Secretariat**

### **OTHER ISSUES**

#### **Possible meeting of JPAC with the National Advisory Committees and the Governmental Advisory Committee in Mérida**

This was discussed in the context of the previous item (see above).

#### **PCB Management Plan**

A discussion took place concerning JPAC's view of PCB shipments sent from Canada to the United States for incineration in light of a court decision prohibiting such shipments. Concern was expressed that a trend may be emerging for national positions regarding borders to become more restrictive rather than less.

It was decided that this issue could be used as an example of the need to develop processes for cooperation without compromising other principles inherent to NAAEC and the CEC. This will be addressed in the JPAC report to Council.

#### **Future JPAC Meetings**

As reported above, it was agreed to add another theme to the meeting scheduled for 24-25 September 1998, in Yellowknife: Environment, Trade and Indigenous Peoples. This theme is particularly relevant for the Yellowknife meeting and the Chair reaffirmed her interest in having JPAC focus its attention on indigenous peoples.

The members were also advised that this meeting will be very expensive due to high travel costs. It was agreed to seek additional funds.

**Action: JPAC Chair / Secretariat**

**OBSERVERS' COMMENTS (continued)**

- A representative from Environment Canada reported that Canada will attempt to fill its vacancy on the Committee prior to the June meeting. Canada can only send one or two NAC representatives to Mérida. She also recommended that the Parties clarify the status of reports regarding accessibility. She further highlighted the importance of receiving JPAC's advice as soon as possible.
- A representative from the US EPA reported on a very successful conference held recently in San Diego, which engaged 25 US/Mexico border tribes and eight government agencies in a dialogue to address their common problems. He also reiterated that the United States maintains a strong interest in the work of JPAC.
- Representatives from a Canadian aboriginal NGO offered to share experiences and begin a dialogue with JPAC on matters related to environmental impact assessment. Several issues of concern were identified: mercury contamination resulting from flooding of reservoirs related to hydro-development; release of greenhouse gases; transboundary effects of river diversion; human rights in relation to environment and development and the need to consider those people directly affected by development; and failure of governments to respect or enforce agreements and laws.

More specifically, a review of the environmental regimes established under the *James Bay and Northern Quebec Agreement* (a treaty between the Cree and Inuit of Quebec and governments) was presented. Some of the frustrations with the implementation of these regimes were discussed. This led to a discussion on the possible use of Articles 13 and 14 of NAAEC.

- A representative from a US industry NGO recommended that the Environment, Economy, and Trade Program should pay more attention to the positive impacts of direct investments by the private and public sector.

**ADJOURNMENT**

The meeting was adjourned at 6:30 p.m., 7 May 1998.

Prepared by Lorraine Brooke



**Commission for Environmental Cooperation  
Joint Public Advisory Committee Session N° 98-02**

**7 May 1998**

**Camino Real Hotel  
101 S. El Paso Street  
El Paso, Texas**

**Tel: (915) 534-3000 • Fax: (915) 534-3024**

**Agenda**

**Chair: Mary Simon**

**Thursday, 7 May 1998**

8:00 – 9:45 am	JPAC Private Meeting
	<ol style="list-style-type: none"><li>1. Overview by the Chair</li><li>2. Internal Issues</li></ol>
9:45 – 10:00 am	Coffee Break
10:00 – 10:30 am	JPAC Public Meeting
	<ol style="list-style-type: none"><li>1. Welcome and Overview by the Chair</li><li>2. Approval of the Provisional Agenda</li><li>3. Remarks by the Interim Executive Director of the CEC Secretariat<ol style="list-style-type: none"><li>a) Update on the CEC Annual Program and Budget 1998</li><li>b) Next Council Session</li><li>c) Other current issues</li></ol></li></ol>
10:30 – 11:30 am	JPAC Priorities for 1998
11:30 – 12:00 pm	Presentation by the General Manager of the Border Environment Cooperation Commission (BECC)
12:00 – 1:30 pm	Private Lunch
1:30 – 3:30 pm	CEC Strategic Plan for 1999-2001: Preparation of the JPAC Advice to Council
3:30 – 3:45 pm	Coffee Break
3:45 – 4:30 pm	CEC Strategic Plan for 1999-2001 (cont'd)
4:30 – 5:00 pm	Next Council Session
5:00 – 5:30 pm	Others Issues
5:30 – 6:00 pm	Observers' Comments
6:00 pm	End of the Session



**Commission for Environmental Cooperation**  
**Joint Public Advisory Committee Session N° 98-02**  
**List of Participants**

**Members:**

**Canada**

Michael Cloghesy  
Donna Tingley  
Mary Simon (Chair)

**Mexico**

Guillermo Barroso  
Iván Restrepo

**United States**

Peter Berle  
Jonatan Plaut  
Jean Richardson  
John Wirth

**Observers**

Zena Aldridge	US Environmental Protection Agency
Lorenzo Arriaga	US Department of the Interior
Andrés Ávila Akerberg	<i>Secretaría de Comercio y Fomento Industrial</i>
Lorraine Brooke	JPAC Consultant
Rita Cerrutti	Environment Canada
Javier Cabrera Bravo	Border Environment Cooperation Commission (BECC)
Adam B. Greene	US Council for International Business
Robert Hardaker	US Environmental Protection Agency
José Arturo Herrera Solís	<i>Secretaría de Relaciones Exteriores, Ciudad Juárez</i>
Ginette Lajoie	Grand Council of Crees (Québec)
Pilar Leal	<i>Procuraduría Federal de Protección al Ambiente, (PROFEPA)</i>
Andres Mangan	Business Council for Sustainable Development for the Gulf of México
John McKennirey	Commission for Labor Cooperation
Violet Pachanos	Grand Council of Crees (Québec)
Robert Redhead	Robert J. Redhead Limited
Leonora Rueda Gutiérrez	<i>Secretaría de Relaciones Exteriores, Ciudad Juárez</i>
Romeo Saganash	Grand Council of Crees (Québec)
Glenn B. Sekavec	US Department of the Interior
Peter Silva	Border Environment Cooperation Commission (BECC)
Lynda Taylor	Border Environment Cooperation Commission (BECC)
Raúl Tornel Cruz	<i>Confederación de Cámaras Industriales de los Estados Unidos Mexicanos (CONCAMIN)</i>
Dan Torrez	Office of the Attorney General, State of Texas
René Valenzuela	International Boundary and Water Commission
Robert Varady	University of Arizona
Mireya Vega López	<i>Secretaría de Medio Ambiente, Recursos Naturales y Pesca</i>
Beatriz Vera	Consultant

**CEC Staff members:**

Janine Ferretti  
Manon Pepin  
María de la Luz García



*Comité consultatif public mixte (CCPM)*

*Comité Consultivo Público Conjunto (CCPC)*

*Joint Public Advisory Committee (JPAC)*

**ADVICE TO COUNCIL: NO. 98-04**

Re: Executive Director of the Commission for Environmental Cooperation and Vacancies on the Joint Public Advisory Committee

The Joint Public Advisory Committee (JPAC) of the Commission on Environmental Cooperation (CEC),

IN ACCORDANCE with its mandate to provide advice to Council, and

NOTING the limitations that lack of full membership to JPAC may impose on the operation of the Committee,

**The JPAC:**

1. Offers the following advice regarding selection of the new Executive Director of the CEC:

The successful candidate should have the following qualifications and experience:

- a strong record of work on protection of the environment and human health;
- a strong background in sustainable development; and
- a demonstrated ability to respond to the expectations of the CEC and the North American Public.

In this regard, the JPAC should be requested to provide names of suitable candidates to Council.

2. Respectfully requests that Canada and Mexico fill their respective vacancies on JPAC before the 1998 Regular Session of Council.

APPROVED BY THE JPAC MEMBERS

May 1998