



COMMISSION FOR ENVIRONMENTAL COOPERATION

Joint Public Advisory Committee Session 96-05

November 7-8, 1996

Summary Record

Members of the Joint Public Advisory Committee (JPAC) of the Commission for Environmental Cooperation (CEC) held a regular session on November 7 and 8, 1996 in Montréal, Canada. The agenda, lists' participants, JPAC's Vision Statement, Advices to Council 96-4, 96-5, 96-6, 96-7 and 96-8, and JPAC's Public Consultation Guidelines, appear in Appendices A, B, C, D, E, F, G, H and I respectively.

This Summary Record summarizes the content of the discussions and reports and the unanimous decisions made by the Committee members. The Records of Discussion, JPAC's Advices to Council and other documents relating to the Committee are available from the JPAC Coordinator or by consulting JPAC's entry on the Commission's Web site at Internet address <http://www.ccemtl.org>.

PRELIMINARY OBSERVATIONS BY THE JPAC CHAIR

The Chair reported that in October the Committee sent out its Report on the public sessions in 1996 to all session participants, the CEC Council and Secretariat. This report was favorably received and the comments were generally very positive.

The Chair reported that he had attended a number of meetings and conferences related to the CEC, including a meeting of the United States National Advisory Committee (NAC) and a workshop in Mexico on the Sound Management of Chemicals.

He also reported on a teleconference held on November 5 with the Council's Alternate Representatives whom he notified of the agenda for the present JPAC regular session. The JPAC Chair is invited to participate in all meetings of the Alternate Representatives.

Finally, the Chair asked the Observers to introduce themselves.

APPROVAL OF THE AGENDA

The agenda was approved as presented (See Annex A for the Agenda and Annex B for the list of participants). However, it was proposed that the Observers be invited to present their viewpoint before the lunch break and at the end of the session. (To make this Summary Record easier to read, the Observers' comments have been included under the appropriate agenda item.)

REPORT BY THE EXECUTIVE DIRECTOR

The Executive Director of the CEC reported on the work done during the last few weeks. He particularly mentioned the proposed *Annual Program and Budget for 1997* developed by the Secretariat.

Continuing his report, the Executive Director reminds the commitment in Article 10(b) of NAAEC stipulating that the Council “oversee the implementation and develop recommendations on the further elaboration of this Agreement and, to this end, the Council shall, within four years after the date of entry into force of this Agreement, review its operation and effectiveness in the light of experience.” In this regard, the Executive Director proposes that the JPAC submits recommendations to Council.

The Executive Director also expressed his concerns regarding the *North American Fund for Environmental Cooperation* (NAFEC). Among his comments, he suggested that JPAC define the *Administration and Funding Guidelines of the NAFEC* more clearly in order to specify which projects are eligible for financial assistance.

The Executive Director also suggested that JPAC appoint certain members, on its behalf, to:

- Participate as Observers in the meeting of the North American regional councils on sustainable development to be held at the CEC Secretariat on November 22 in order to discuss the next conference, *Rio+5*. Specifically, the Agenda 21 development plan will be discussed. Mr. Jacques Gérin of JPAC will attend this meeting. A representative from the United States and one from Mexico should confirm their participation shortly.
- Attend the meeting of the committee of experts regarding the report on the long-range transport of air pollutants. As part of this project, carried out under the terms of Article 13 of the North American Agreement on Environmental Cooperation (NAAEC), the Council has mandated the Secretariat to write a report for its attention on all questions relating to the Commission’s Annual Program. The date of this meeting will be set shortly.
- Review the CEC Annual Report for 1996 with a view to making improvements. In this regard, Messrs. Mike Apsey, Francisco Barnés and Peter Berle agreed to formulate recommendations to JPAC which will then submit them to the Secretariat for review.

The Executive Director also reported on some JPAC activities, specifically:

- last month’s meeting in Mexico on the Sound Management of Chemicals where the question of developing regional programs was discussed;
- another meeting entitled *Dialogue on environmental laws* which will take place on December 4 and 5 in Austin. Peter Berle of JPAC will attend that meeting.

In conclusion, the Executive Director invited the JPAC members to submit to the Secretariat names of experts who could participate in the various CEC meetings. The JPAC Coordinator will shortly send the list of upcoming experts’ meetings to the JPAC members.

Action: JPAC

ORIENTATIONS FOR 1997: STRATEGIC PLANNING

Mandate/evaluation

Since it was created in July 1994, JPAC has held 11 meetings in less than 22 months of operation. The purpose of these meetings was to consult the public of the three countries on specific questions. In this regard, JPAC noted that the document entitled *JPAC's Vision Statement* (See Annex C of this Summary Record), which the Committee adopted at its first meeting, still expresses its members' viewpoint.

However, during the strategic discussion which followed and which would be a basis for the actions taken over the course of the meeting, it was emphasized that JPAC must try to:

- continue to maintain good relations with the public, Council and Secretariat;
- be more proactive, by suggesting to the Commission specific operating methods for producing concrete results;
- focus activities more on the issues and less on procedures;
- Continue to reach a unanimous viewpoint among the JPAC members in order to unite their strengths and target the same objectives;
- improve the mechanisms for public participation in JPAC meetings;
- promote concrete projects reserved for target publics;
- expand the range of the usual networks of non-governmental, university and scientific environmental groups, particularly in Mexico. The objective is to enable JPAC to play an interactive role in the North American community.

To achieve these goals, the following considerations were put forward:

- ensure that the publications produced by the Commission are accessible to everyone;
- make a sustained effort to improve the distribution of its publications;
- in the reports produced by the CEC, specify the individuals and organizations who collaborated in preparing them in order to encourage cooperative efforts;
- publish the CEC's reports in specialized publications and, where applicable, use mass communication methods such as television and radio to reach a greater number of people;
- send personal letters to selected individuals inviting them to participate in the public consultations;
- review the agenda for the Council's annual session with a view to proposing improvements before it is held;
- evaluate the international issues and ensure that the Commission can play a leading role;
- distribute information on the Commission's Web site and in JPAC's entry;
- encourage the Canadian government to fill as soon as possible the JPAC position left vacant following the resignation of a Canadian representative;
- encourage the Parties to appoint representatives to JPAC from more diversified backgrounds and sectors.

Reports by project managers

During the August 2 Council session in Toronto, JPAC was given the mandate to hold the 1997 public consultations on three specific questions:

- Long-range transport of air pollutants in North America;
- Voluntary compliance with environmental laws in North America;
- Environmental networking between North American communities.

The purpose of this agenda item was to inform JPAC on the status of the projects relating to these three questions.

Long-range transport of air pollutants in North America

As mentioned by the Executive Director in his report, this project is carried under the terms of Article 13 of NAAEC. It will consist of writing a report in two stages, namely:

1. Holding a consultation with representatives from non-governmental environmental groups, the industrial sector, governments and other groups such as aboriginal communities;
2. Writing a report during the year which will be submitted to the Council for review.

Following the project manager's report, JPAC members made some comments, particularly expressing the need to:

- mention clearly in the final report the results of the public consultation in relation to the recommendation made by the committee of experts;
- take into consideration the various studies that have already been done on this question by a large number of organizations;
- include concrete and proactive measures in the final report.

Voluntary compliance with environmental laws in North America

The objectives of this project are to:

- support the parties to fulfill the commitment in Article 5 of NAAEC stipulating that "each Party shall effectively enforce its environmental laws and regulations..." including support from one of voluntary mechanisms;
- develop a strategy that will support implementing the voluntary initiatives for compliance with environmental laws;
- Report on voluntary compliance in North America will be released early in 1997.

In order to achieve these objectives, the program included:

- support was given to a seminar series on voluntary measures for the *maquiladoras*, industrial sectors;
- Comparative analysis report on this question;
- preparation of a report documenting North American experience with select voluntary compliance initiatives and analysis of effective use.
- three country examination of ISO 14000 and implication for enforcement obligations and programs.

Following a discussion with some members of the Committee, it was proposed to:

- establish the objectives for these studies and identify the priorities;
- examine what industrial companies (including small and medium-sized businesses) and governments are currently focusing on;
- avoid possible conflicts between the different organizations currently responsible for implementing the ISO 14000 standard;
- consider how the public could intervene in the process of modifying environmental laws;
- add waste management in the disposal sites and the desalination of international waters to the list of sectors to be studied.

The project manager reported that:

- the use of the theme “Voluntary compliance with the laws” will be clearly defined in the introduction to the working document produced for this purpose;
- this working document will be produced by an advisory committee composed of government representatives from the three countries;
- a recent meeting was held in Mexico regarding the ISO 14000 standard and its main objective was to publicize the scope and objectives of this new initiative.

Environmental networking between North American communities

The main objective of this consultation is to encourage a constructive dialogue between the public and the Commission. Two types of public have clearly emerged: those with access to the Internet and those without access. However, the fact remains that the fundamental role of the CEC is to create networks for discussion between the communities in North America exploring both electronic and non-electronic means.

Following a discussion between the Communication Coordinator and JPAC members, it was proposed to:

- focus the communication networks on cooperation;
- create communication networks between the various industrial sectors, including small and medium-sized businesses, particularly in Mexico;
- promote the Commission’s web site to enable a larger number of users to consult this well-designed communication tool;
- take step to support appropriate organizations from the private sector and various foundations, including Ciceana and the Patricia Hearst Foundation, to obtain financial resources to offer introductory courses on the information highway to groups which would like to use this new communication tool;
- distribute information on the ISO 14000 standard on the Commission’s Web site.

Following are the Observers’ viewpoints or comments regarding this agenda item:

- JPAC is playing an innovative role within an international organization and its actions are very praiseworthy.
- Media coverage of environmental topics is decreasing. Therefore, specialized publications remain a distribution source that should be emphasized.

- The representativeness of JPAC members is not diversified enough. Women, minorities and youth should be represented in larger numbers. JPAC should also make more effort to target groups with which it would like to establish a dialogue, including groups representing minorities.
- In response to an Observer wondering about the concrete results that this meeting could produce, the Chair stated that the Committee would take action on all the measures adopted. (See the Advices to Council of this Summary Record).
- A representative from Environment Canada informed the JPAC members that the appointment of a Canadian member to the vacant position would be ratified shortly.
- It was noted that using the information highway is an added value. It would be desirable to put in place the possibility of offering introductory courses to non-governmental environmental groups. Some electronic equipment manufacturers and education and training organizations could be very interested in collaborating in setting up such a project.

Action: JPAC and Secretariat

ANNUAL PROGRAM AND BUDGET FOR 1997

During the August 2 Council session in Toronto, JPAC was given the mandate to analyze the Secretariat's proposal concerning the *Annual Program and Budget for 1997*.

First, the two Directors of the Secretariat presented this document and briefly explained all the proposed projects.

Next, JPAC analyzed various tables comparing the *Annual Program and Budget for 1996* to the proposal for 1997. JPAC's Advice to Council 96-4 entitled *Proposed Annual Program and Budget for 1997*, which appears in Annex D of this Summary Record, reports JPAC's actions and recommendations in this regard.

A number of additional points were raised, the main ones being to:

- put the emphasis on promoting NAAEC continental approach, where appropriate;
- inform the public and distribute more information on the projects related to human health protection, the environmental impacts of NAFTA and the strengthening of environmental management capabilities;
- take into account the fact that North America includes two communities, one which is developed and another which is developing;
- verify if the studies conducted by the Commission are original or if they have already been done by other organizations;
- possibly involve other departments and the private sector in some CEC projects;
- ensure that the Commission does not become a research organization nor depart from its original mandate;
- take into account the fact that the JPAC members sit on the Committee as volunteers, which is an added value.

During the Secretariat's report, it was pointed out that certain projects will be completed in 1997 but that the expenses were incurred in 1996.

The Committee members reviewed the JPAC operating budget proposed by the Secretariat. This budget totals \$100,000 US while the budget for the public meetings in 1997 totals \$135,000 US. These budgets do not include JPAC employees' salaries and benefits.

The proposed *Annual Program and Budget for 1997* will be discussed at the meeting of the Alternate Representatives on December 16 and 17.

It is understood that the JPAC members are invited to participate in the different projects proposed by the Commission. However, it should be determined in advance in some invitations if a member that represents the JPAC, is acting as an individual or represents a specific organization.

Following are the Observers' viewpoints or comments regarding this agenda item:

- A representative from Environment Canada confirmed that the Canadian and Québec governments are on the point of agreeing that the Québec government will accede to the NAAEC. Similar steps will be undertaken with the governments of Manitoba, Saskatchewan and the Northwest Territories. In addition, negotiations will be initiated with the new Environment Minister in Ontario.
- The representative from Environment Canada also indicated that the proposed *Annual Program and Budget for 1997* has been distributed to the Canadian NAC, Environment Canada and other departments. At first glance, their opinion is basically the same as JPAC's.
- It is essential that the projects are evaluated and the results publicized. It is also necessary to ensure that the projects have not already been undertaken by other organizations so that the CEC can devote its funds to innovative projects.
- The budget allocated to the *Enforcement Cooperation and Law* program seems insufficient given the current strong trend in North America towards deregulation.
- The *Environment, Trade and Economy* program should be approached from an international as well as a regional viewpoint.
- It would be appropriate if the Departments of the Environment and Trade of the three countries could meet in the near future to resolve certain disputes and draw up cooperative agreements.

Action: Council

NORTH AMERICAN FUND FOR ENVIRONMENTAL COOPERATION (NAFEC)

During the August 2 Council session in Toronto, JPAC was given the mandate to review the *Administration and Funding Guidelines for the North American Fund for Environmental Cooperation* (NAFEC).

The Secretariat reminded JPAC that the resolution adopted at the October 13, 1995 Council session in Oaxaca allocated \$2,000,000 CAN to create NAFEC. In 1996, these funds came from the CEC's 1995 budget surplus. This resolution also specified that the Executive Director must integrate the NAFEC into the Program and Budget for 1996 and subsequent years, subject to an annual review by the Council.

The NAFEC Coordinator informed JPAC that the Fund had received 700 pre proposals since May. During the first grant cycle, 14 projects from a variety of organizations received subsidies totaling \$1,000,000 CAN. Six applications received a total of \$58,000 CAN from the discretionary fund. The second grant cycle is currently at the stage of awaiting submission of full proposals. The organizations who will receive a grant will be announced on December 9.

The members reviewed the proposal from the NAFEC Selection Committee regarding modifications to the *Administration and Funding Guidelines of the NAFEC*. The main points of the recommendations and action appear in JPAC's Advice to Council 96-5 entitled *North American Fund for Environmental Cooperation (NAFEC)* which appears in Annex E of this Summary Record.

Other comments made during the discussion on this item included the following:

- Explain to the public the scope of the Fund and emphasize that \$2,000,000 CAN is not sufficient to provide funding for all the applications presented to the NAFEC Selection Committee. Therefore, it is essential to maintain close contact between the Fund administrators and the recipients and applicants.
- Ensure that the Fund Coordinator devotes a large part of her efforts to encouraging organizations to offer additional resources to the NAFEC in order to increase the Fund's funding capacity.
- Draw up a list of various organizations and foundations which could provide funding for the applications for those groups which NAFEC had to refuse because of a lack of funds.

In conclusion, it was pointed out that:

- under section V.1(a) of the *Administration and Funding Guidelines of the NAFEC*, "Grants will be equitably distributed among the three countries over a period of time", the concept involved is one of equity, not of equality;
- the amounts listed in the *Administration and Funding Guidelines of the NAFEC* are in Canadian funds in order to be consistent with the Council's resolution.

Following are the Observers' viewpoints or comments regarding this agenda item:

- The NAFEC was created for the purpose of recognizing the importance that NAAEC places on the role of the public and perhaps it is too early to recognize the advantages of this Fund.

Action: Council

NAAEC ARTICLES 14 AND 15

During the August 2 Council session in Toronto, JPAC was given the mandate to formulate an Advice concerning the review of the *Guidelines on Enforcement Matters under NAAEC Articles 14 & 15*.

Before discussing this question, the Secretariat reported to JPAC on the status of the two current submissions:

- Island of Cozumel: Following the decision of the Parties to prepare a factual record, the Secretariat will submit the draft of this record to the Parties early next year.
- “Friends of the Oldman River”: The decision on whether or not to request a response from Canada will be made shortly.

After discussing the proposed modifications to the Guidelines, JPAC issued recommendation and action in an Advice to Council 96-6 entitled *Review of Guidelines on Enforcement Matters under NAAEC Articles 14 & 15* which appears in Annex F of this Summary Record.

Action: JPAC

PUBLIC CONSULTATION GUIDELINES

The *Public Consultation Guidelines* defining the parameters regarding the holding of JPAC public consultations were adopted as presented in a JPAC action (See Annex I of this Summary Record). This document will be sent to the Council for information purposes.

The Chair and the JPAC members expressed their thanks to Mr. Jacques Gérin, JPAC member, for his contribution to the writing of this document and adjusting it to take into account JPAC comments.

The *Public Consultation Guidelines* will be available through the CEC’s Web site under the JPAC entry or from the JPAC Coordinator.

Action: JPAC

ORIENTATIONS FOR 1997: STRATEGIC PLANNING (cont.)

Formula for public sessions

During the August 2 Council session in Toronto, JPAC was given the mandate to hold the public consultations in 1997 on three specific questions:

- Long-range transport of air pollutants in North America;
- Voluntary compliance with environmental laws in North America;
- Environmental networking between North American communities.

In spite of a clear improvement unanimously noted since the first public meeting of JPAC in Washington in 1994, the following suggestions were put forward for further consideration by JPAC and its Chair for 1997 to improve the formula for the public consultation sessions:

- Clearly indicate that the public consultations are organized by the CEC as a whole in order to avoid giving the impression that they are an exclusive initiative of JPAC;
- Consult a committee of experts prior to the public consultations in order to inform the public about the scope of the questions on the agenda;
- After holding meetings in each country, ensure that proposals that were endorsed are subsequently ratified in a joint session;
- Use the workshop formula in order to encourage dialogue between the participants;
- Ensure that the public consultations are followed up;
- Facilitate the creation of networks between the participants;

- In public notices clearly mention the subjects on the agenda and the objectives that these public consultations should help to achieve;
- Publish larger-sized public notices in national newspapers and send these notices to regional and local newspapers and specialized publications.

One JPAC member suggested holding a three-day public session in 1997 in each of the three countries. The formula would be as follows:

- Day 1: Information seminar run by experts on specific subjects;
- Day 2: Workshops during which the participants would have the opportunity to discuss the subjects reviewed during the information seminar;
- Day 3: JPAC regular session where the public would be invited to attend as Observers.

The first three-day public session would take place in March in Mexico, the second session in June during the Council's annual session in the United States, and the third session in September in Western Canada.

It was also proposed that other questions should be discussed during these public sessions, namely:

- Environmental policies in North America;
- Links between the environment and trade.

It was also pointed out that these suggestions would result in expenses and require additional human resources. The budget allocated to public consultations would have to be increased.

The Committee Chair informed the members that the annual session of the Council probably would be held in June in Burlington, Vermont. The dates have not yet been confirmed. It was proposed that Mrs. Jean Richardson, a Vermont resident, work with the host country and the Secretariat on the logistics for this session.

Following are the Observers' viewpoints or comments regarding this agenda item:

- The opinions expressed during the public consultations are rarely homogeneous and therefore the best formula is the workshop formula intended for target groups.
- The public consultations must not be restricted to a single annual meeting. It would be preferable to hold small meetings in several regions in the three countries; field visits were also recommended.
- The main objective of public consultations should be to help the North American community to establish networks.
- The public should be encouraged to suggest topics to be discussed during the public consultations.
- The financial assistance to non-governmental organizations in 1996 was very much appreciated. This financial support helped a number of organizations to learn more about the CEC's mandate and continue to pay special attention to the Commission.

Action: JPAC

TERM OF OFFICE OF JPAC MEMBERS

During the August 2 Council session in Toronto, JPAC was given the mandate to propose a formula for the term of office of the Committee members.

Following discussion on this matter, JPAC issued a recommendation and action in Advice to Council 96-7 entitled *Term of Office of Joint Public Advisory Committee (JPAC) Members* which appears in Annex G of this Summary Record.

Following are the Observers' viewpoints or comments regarding this agenda item:

- It would be necessary, from a legal viewpoint, to verify if there are any restrictions that prevent the term of office of the JPAC members from being defined, given that certain members, i.e., the US members, are appointed directly by the President of the United States.

Action: Council

CHARTER OF BEST PRACTICES

Following a brief report from the Secretariat on this question and a discussion between the Committee members, JPAC issued recommendation and action in Advice to Council 96-8 entitled *Charter of Best Practices* which summarizes the main points made by the JPAC members. This document appears in Annex H of this Summary Record.

Following are the Observers' viewpoints or comments regarding this agenda item:

- The CEC's proposal to implement a Charter of Best Practices is not desirable since a number of other organizations have been engaged in this area for many years.

Action: Council

INFORMATION ON THE ELECTION OF THE JPAC CHAIR

The Chair reminded JPAC of the process for electing the next JPAC Chair. In keeping with the principle of annual rotation, the next member to become JPAC Chair will be Mexican.

The following process was adopted:

- November 18: Voting ballots sent out;
- December 3: Deadline for receiving these ballots; ballots received after this deadline will be rejected;
- December 3: Fax confirmation of the name of the person who received the greatest number of votes;
- December 18: Teleconference to officially ratify the election of the new Chair and report on certain other questions following the December 16-17 meeting of the Alternate Representatives.

The new Chair will take office on January 1, 1997.

Action: JPAC

OTHER BUSINESS

It was agreed that the National Advisory Committees (NACs) will be invited to all JPAC meetings and that a time will be reserved on the agenda to allow the representatives from these committees to speak.

Comment from one Observer:

- A representative from the United States Environmental Protection Agency (EPA) informed JPAC that the US NAC held a meeting in September. Among other tasks, this Committee is preparing a reference document about itself and will formulate suggestions for establishing permanent relations between the NACs of the three countries and JPAC.

Action: JPAC

UPCOMING SESSIONS

Since this was the last regular session for the current year, the members thanked the Committee Chair, Mr. Jon Plaut, for his excellent work as Chair and exemplary dedication. In the same spirit, the Chair and the members expressed their admiration for the performance and contribution of Ms. Manon Pepin as a JPAC coordinator.

A teleconference will be held on December 18. The dates and locations of JPAC's upcoming regular sessions and public consultations for 1997 will be decided shortly.

Action: JPAC

ADJOURNMENT

The session adjourned at 4:00 p.m., November 8, 1996.

COMMISSION FOR ENVIRONMENTAL COOPERATION

Joint Public Advisory Committee Session N° 96-05

November 7-8, 1996

CEC Secretariat (Council Room)
393 St Jacques West, Montreal, Quebec, Canada
Phone: (514) 350-4300 Fax: (514) 350-4314
email: mpepin@ccemtl.org

Provisional Agenda

Thursday, November 7

- | | |
|---------------|---|
| 8:30-8:45 am | Welcome and Overview by the Chair |
| 8:45-9:00 am | Agenda Approval |
| 9:00-9:15 am | Executive Director's Report |
| 9:15-12:30 pm | Directions 1997: Strategic Planning <ul style="list-style-type: none">• Evaluation• Mandate• Presentation from Program Managers |
| 12:30-1:30 pm | Luncheon & Ciceana Video Presentation |
| 1:30-5:00 pm | Directions 1997 (cont'd): Strategic Planning <ul style="list-style-type: none">• Advice to Council: 1997 Program & Budget• 1997 Program & Budget Proposal• 1997 JPAC & Public Meetings Budgets Proposal |
| 5:00-5:30 pm | Observer comments |
| 5:30 pm | Adjournment |

COMMISSION FOR ENVIRONMENTAL COOPERATION

Joint Public Advisory Committee Session N° 96-05

November 7-8, 1996

CEC Secretariat (Council Room)
393 St Jacques West, Montreal, Quebec, Canada
Phone: (514) 350-4300 Fax: (514) 350-4314
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Provisional Agenda

Friday, November 8

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|----------------|---|
| 8:30-10:30 am | Directions 1997 (cont'd): <ul style="list-style-type: none">• Advice to Council: NAFEC |
| 10:30-12:30 pm | Directions 1997 (cont'd): <ul style="list-style-type: none">• Discussion: Articles 14 & 15 |
| 12:30-1:00 pm | Luncheon |
| 1:00-2:00 pm | Directions 1997 (cont'd): <ul style="list-style-type: none">• Public Participation• Approval of JPAC Public Consultation Guidelines |
| 2:00-3:00 pm | Directions 1997 (cont'd): <ul style="list-style-type: none">• Public Meetings Format |
| 3:00-4:00 pm | Other Matters <ul style="list-style-type: none">• Advice to Council: Term of office for JPAC Members• Information: Charter of Best Practices Project• Information: Next JPAC Chair Election |
| 4:00-4:30 pm | Observer Comments |
| 4:30 pm | End of the Regular Session |

Joint Public Advisory Committee Session N° 96-05

November 7, 1996 in Montreal

List of ParticipantsMembers:**Canada**

Mike Apsey
 Michael Cloghesy
 Jacques Gérin

Mexico

Francisco José Barnes
 Guillermo Barroso
 María Cristina Castro
 Ivan Restrepo

The United States

Peter Berle
 Jon Plaut (Chair)
 Jean Richardson
 John Wirth

Observers:

Rita Cerutti	Environment Canada
Elizabeth Chalecki	Institute for Environmental Studies, University of Toronto
Charles Corey	CE & Associates
Abby Curkeet	Consultant
Adam Greene	U.S. Council for International Business
Robert Hardaker	U.S. Environmental Protection Agency
Gregory Kenyon	U.S. Environmental Protection Agency
Luc Labelle	Individual
Lyne Létourneau	<i>Université de Montréal, Faculté de droit</i>
Héctor Márquez	<i>Secretaría de Comercio y Fomento Industrial</i>
Rubén Martínez	<i>Universidad Autónoma de Querétaro</i>
Karel Mayrand	<i>Institute international des stratégies et de sécurité de l'environnement et Revue Environnement & Sécurité</i>
Julie Pelletier	<i>Centre québécois du droit de l'environnement</i>
Leone Pippard	Canadian National Advisory Committee
Eduardo R. Quiroga	SYLVAGRO
Geoffrey Thornburn	International Joint Commission
Dan Torrez	Office of the Attorney General, State of Texas
Louise Vallerand	<i>Centre de Recherche Industrielle du Québec</i>
Daniel Waltz	<i>Ministère de l'Environnement et de la Faune du Québec</i>
Don Wedge	Stop Environment Group

CEC Secretariat Staff Members:

Victor Lichtinger
 Greg Block
 Janine Ferretti
 Linda Duncan
 Andrew Hamilton
 Manon Pepin
 Rachel Vincent
 María de la Luz García

Joint Public Advisory Committee Session N° 96-05

November 8, 1996 in Montreal

List of Participants

Members:

Canada

Mike Apsey
Michael Cloghesy
Jacques Gérin

Mexico

Francisco José Barnes
María Cristina Castro
Ivan Restrepo

The United States

Peter Berle
Jon Plaut (Chair)
Jean Richardson
John Wirth

Observers:

Rita Cerutti	Environment Canada
Elizabeth Chalecki	Institute for Environmental Studies, University of Toronto
Claude D. Chomski	Consultant
Charles Corey	CE & Associates
Abby Curkeet	Consultant
Adam Greene	U.S. Council for International Business
Robert Hardaker	U.S. Environmental Protection Agency
Gregory Kenyon	U.S. Environmental Protection Agency
Lyne Létourneau	<i>Université de Montréal, Faculté de droit</i>
Héctor Márquez	<i>Secretaría de Comercio y Fomento Industrial</i>
Rubén Martínez	<i>Universidad Autónoma de Querétaro</i>
Karel Mayrand	<i>Institute international des stratégies et de sécurité de l'environnement et Revue Environnement & Sécurité</i>
Julie Pelletier	<i>Centre québécois du droit de l'environnement</i>
Leone Pippard	Canadian National Advisory Committee
Eduardo R. Quiroga	<i>SYLVAGRO</i>
Geoffrey Thornburn	International Joint Commission
Dan Torrez	Office of the Attorney General, State of Texas
Daniel Waltz	<i>Ministère de l'Environnement et de la Faune</i>
Don Wedge	Stop Environment Group

CEC Secretariat Staff Members:

Greg Block
Manon Pepin
Jack Pearson
María de la Luz García

**VISION STATEMENT
of the
Joint Public Advisory Committee**

The Joint Public Advisory Committee (JPAC), which together with the Council of ministers and the Secretariat comprise the NAFTA Commission for Environmental Cooperation (CEC), represents a unique institution charged with seizing an historic opportunity.

The North American Agreement on Environmental Cooperation set a precedent as a formal environmental agreement adopted in parallel with a trade agreement, and the Commission it created also set a precedent by including a public, non-governmental advisory group as one of its components.

The JPAC was established as a cooperative mechanism to advise the Council in its deliberations and to advise the Secretariat in its planning and activities.

Our vision is to promote continental cooperation in ecosystem protection and sustainable economic development, and to ensure active public participation and transparency in the actions of the full Commission.

While we come from three different nations, and have different institutional connections, we serve on the JPAC as individual citizens of the North American continent, joined in a commitment to preserving and enhancing our common environment and to achieving a sustainable society.

The JPAC will work to provide firm leadership and constructive contributions to build a tri-national model of collaboration, consensus building, and consensus-based results. The JPAC is, in effect, a model for the future in a process which is without precedent, and which presents a great opportunity for cooperative progress.

26 July 1994
Washington, D.C.

ADVICE TO COUNCIL: No. 96-4

Proposed Annual Program and Budget for 1997 of the Commission for Environmental Cooperation (CEC)

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

IN ACCORDANCE with the request of Council has reviewed the CEC's *Proposed Annual Program and Budget for 1997* at its meeting of November 7-8, 1996; and

TAKING INTO CONSIDERATION comments received during 1996 public consultations; and

NOTING with pleasure that the CEC has sharpened the focus of its program by concentrating its efforts. (There are 17 projects for 1997-12 underway, five emerging—as compared to the 26 projects undertaken in 1996).

HEREBY RESOLVES that the JPAC's advice to Council on the CEC's *Proposed Annual Program and Budget for 1997* is as follows:

With regard to program/project development—general

the JPAC:

- Supports Secretariat efforts to augment projects by seeking matching funds and by engaging in joint undertakings with organizations and institutions that are involved in complementary initiatives; and
- Urges that all projects be evaluated after completion for follow up (e.g., the Silva Reservoir Report); and
- Asks that the Secretariat indicate the anticipated output (tangible products; recommendations, etc.) of all projects in its program descriptions. Linkages among projects should be noted (e.g., between the Sound Management of Chemicals project and the Environmental Cooperation Program);

With regard to program priorities

the JPAC:

- Notes that the financing of the North American Fund for Environmental Cooperation through the CEC (20% of the 1997 overall budget) places a considerable strain on resources available to the CEC for carrying out its mandate (See Advice to Council No. 96-5);
- Recommends to Council that the financing allocated to the North American Fund for Environmental Cooperation be used for priorities identified in the CEC's work program. As a

result, it is recommended to Council to finance the NAFEC from sources external to the CEC budget as proposed for 1997. It is recommended to assign the current amount of US \$1,600,000 in the 1997 Budget allocated to the NAFEC to projects where the Parties and the CEC define appropriate project design and implementation roles, recognizing that, potentially, some money could become available for other CEC priority needs; and

- Recommends that the Council review the adequacy of the amount allocated for Specific Obligations under the North American Agreement on Environmental Cooperation (NAAEC), together with the CEC contingency fund, and that the Council provide direction to the Secretariat with regard to its options should funding capacity be reached given that the amount allocated for this item seems under funded.

With regard to specific programs/projects

the JPAC:

- Recommends that the Human Health and Environment program be given greater, not lesser, prominence in the individual projects; and
- Proposes that the North American Air Monitoring and Modeling—a priority of the Council—be closely linked to the Transboundary Environmental Impact Assessment project to ensure the developers of a model have taken “on the ground” application considerations into full account. It is further recommended that the CEC elaborate on the groups it will work with on the air monitoring and modeling project; and
- Noting that the Capacity Building in Environment project incorporates pollution prevention objectives initiated through the 1996 Pollution Prevention Cooperation project, asks whether 1997 funding is sufficient to accomplish capacity building and pollution prevention objectives, both of which the JPAC strongly supports; and
- Underscoring the importance of the NAFTA Effects projects, it is suggested that the intended output of the NAFTA Environmental Effects project be clarified in terms of concrete results anticipated after the third year of its development; and
- Requests that the Maquiladoras be referenced in the NAFTA Environmental Effects report and that the Council consider addressing Maquiladoras in a subsequent year, taking into account this border area will become a binational problem if solutions are not found to address the strains that rapid industrial expansion and attendant population growth have placed on finite water resources, health of the inhabitants, and the long-term viability of the border communities; and
- Asks whether the Principles of Sound Regulatory Reform project, which has as its focus development of principles for evaluation, is adequately addresses the impact of deregulation, given the strong views expressed by participants at the 1996 public meetings; and
- Supports the Cooperation on Greenhouse Gas (GHG) Emissions Trading project and suggests that in its development the CEC consider innovative mechanisms for transferring credits along trading lines (e.g., Mexican companies would be able to transfer CO₂ credits it receives from Latin American countries as payment for a product, such as oil, to Canadian and U.S. companies); and
- Urges that the focus, objectives and anticipated outcome of the Promoting of Non-wood Forest Products project (if it is retained) be strengthened to ensure it does not duplicate other

efforts and that it takes advantage of the wealth of information compiled on this subject (through the Food and Agricultural Organization of the United Nations.); and

- Endorses the CEC's plan to "privatize" in 1998 the Technology Clearinghouse project by seeking a consortium of organizations to operate it through a self-financing mechanism; and
- Observes that the level of effort envisioned for the Information & Public Outreach program has not been reduced by 75% (as it might appear through a first-glance comparison with the 1996 budget). Allocations for publications and the CEC Resource Center, which comprised a significant portion of the 1996 Information & Public Outreach program budget, are now funded through the CEC's total program costs.

With regard to the budget

the JPAC:

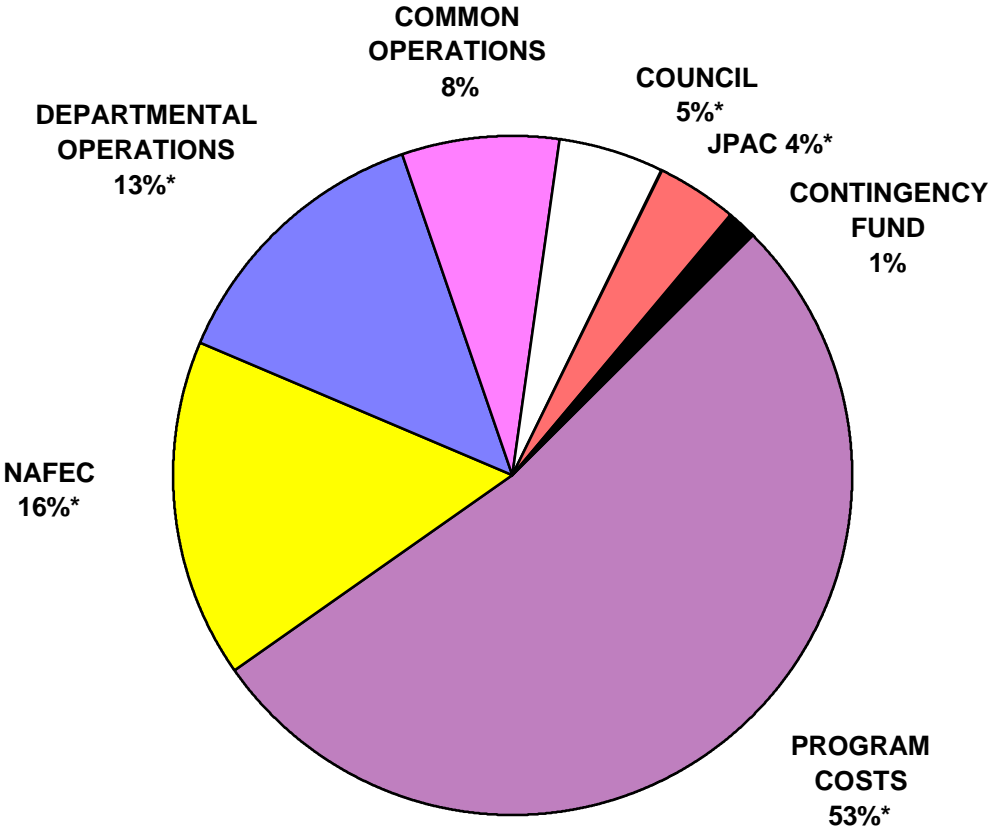
- Advises Council to revise the Overall Budget presentation for 1997 such that JPAC and Council costs are visible (see the pie chart attached); and
- Observes it will undertake an initial review of priorities for the 1998 Program and Budget in the spring of 1997 to provide guidelines to the Secretariat and Council.

APPROVED BY THE JPAC MEMBERS:

November 20, 1996

OVERAL CEC BUDGET FOR 1997

TOTAL: \$10,020,000 US



*Staff salaries are included

ADVICE TO COUNCIL: No. 96-5

North American Fund for Environmental Cooperation (NAFEC)

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

IN ACCORDANCE with the request of Council has reviewed the Selection Committee's proposed amendments to the *NAFEC Administration and Funding Guidelines* of the North American Fund for Environmental Cooperation (NAFEC); and

NOTING that the proposed changes to the guidelines strengthen the NAFTA orientation of the fund, emphasize sustainability and equitable partnerships, and clarify procedural submission requirements; and

SUPPORTING the Selection Committee's inclusion of language regarding confidentiality of submissions; and

OFFERING recommendations aimed at enhancing the fund's performance while strengthening the linkage between fund priorities and CEC work program objectives; and

RECOGNIZING that financing the North American Fund for Environmental Cooperation through the CEC (20% of the 1997 overall budget) places a considerable strain on resources available to the CEC for carrying out its mandate (see Advice to Council 96-4); and

CONFIDENT that the new approaches proposed in the guidelines will bolster the linkages between the NAFEC, the CEC program, and the North American NGO community.

HEREBY RESOLVES that the JPAC advise the Council to adopt the Selection Committee's amendments to the guidelines (see *NAFEC Administration and Funding Guidelines*), with the two changes noted below:

- a) Section V 1.b: The grant ceiling will be CAN \$100,000 per year.
- b) Section V 1.d: Requests for multi-year grants will be accepted. Multi-year grants will however be dependent on the availability of funds and subjects to review each year;
- c) Section V 4: Urgent Request Fund (instead of Discretionary Fund); and

FURTHER RESOLVES that the JPAC advise the Council to:

1. Convert the NAFEC to a CEC project-specific support program;

2. Direct the Secretariat to clarify fund objectives for NGOs with project-specific Request for Proposals defining tasks, including both technical and institutional roles, recognizing there could be small sub-tasks for an NGO in each country;
3. Continue to use the Selection Committee (with input from each CEC project manager) to select the most successful proposals (technical, institutional, cost, and leveraging with other NGOs, governments, indigenous peoples);
4. Direct project managers, after selections are made, to work closely with the NGOs to optimize NGO contributions to project development and implementation;
5. Assign NAFEC staff to work with foundations, industry organizations, and governments to identify private sources of funds to solicit support for capacity building funding of NGOs. For example, request the NAFEC staff to work with the CEC Communication Coordinator to broaden and improve CEC contacts with NGO networks in the three countries in order to help them to have access to internet; and
6. Instruct the CEC Secretariat to perfect detailed guidance on this advice.

APPROVED BY THE JPAC MEMBERS:

November 20, 1996

DRAFT

Suggested modifications for consideration by the Council
(proposed changes are underlined)

NORTH AMERICAN FUND FOR ENVIRONMENTAL COOPERATION (NAFEC)

ADMINISTRATION AND FUNDING GUIDELINES

April 30, 1996

modified draft of November 8, 1996

NORTH AMERICAN FUND FOR ENVIRONMENTAL COOPERATION (NAFEC)

TABLE OF CONTENTS

<u><i>CEC mission:</i></u>	<u>3</u>
<u><i>I. What is the NAFEC?</i></u>	<u>3</u>
<u><i>II. What projects can be funded?</i></u>	<u>3</u>
<u><i>III. What will not be funded?</i></u>	<u>4</u>
<u><i>IV. Who can apply?</i></u>	<u>5</u>
<u><i>V. How will the NAFEC be administered?</i></u>	<u>6</u>
<u><i>VI. What is Required of Applicants?</i></u>	<u>9</u>
<u><i>VII. What criteria will be used to assess proposals?</i></u>	<u>9</u>
<u><i>CEC mission:</i></u> _____	<u>Error! Bookmark not defined.</u>
<u><i>I. What is the NAFEC?</i></u> _____	<u>Error! Bookmark not defined.</u>
<u><i>II. What projects can be funded?</i></u> _____	<u>Error! Bookmark not defined.</u>
<u><i>III. What will not be funded?</i></u> _____	<u>Error! Bookmark not defined.</u>
<u><i>IV. Who can apply?</i></u> _____	<u>Error! Bookmark not defined.</u>
<u><i>V. How will the NAFEC be administered?</i></u> _____	<u>Error! Bookmark not defined.</u>
<u><i>VI. What is required of applicants?</i></u> _____	<u>Error! Bookmark not defined.</u>
<u><i>VII. What criteria will be used to assess proposals?</i></u> _____	<u>Error! Bookmark not defined.</u>

NORTH AMERICAN FUND FOR ENVIRONMENTAL COOPERATION (NAFEC)

CEC mission:

The Commission for Environmental Cooperation (CEC) was created by the North American Agreement on Environmental Cooperation to enhance regional cooperation, prevent potential environmental and trade disputes and promote the effective enforcement of environmental law. The Agreement, signed by Canada, Mexico and the United States, complements the environmental provisions established in the North American Free Trade Agreement (NAFTA).

I. What is the NAFEC?

The CEC created the North American Fund for Environmental Cooperation (NAFEC) in 1995 as a means to fund community-based projects in Canada, Mexico and the United States that promote the goals and objectives of the CEC.

The NAFEC seeks to support ~~activities that are:~~ projects that:

- ~~—Community-based~~
- ~~—Small and project-based~~
- ~~—Cooperative partnerships~~

~~Also projects that:~~

- ~~—Enhance the objectives of the CEC as presented in its work program~~
- ~~—Leverage additional support from other sources~~
- Strengthen and build the capacities of local peoples and institutions make the link between the community and continental level (by one or more of the following means: bilateral or trilateral collaboration; impact on policy; dissemination/replication value)
- emphasize sustainability; link environmental, social and economic issues
- relate to current CEC priorities, as outlined in Part II below
- involve a clearly-defined community of stakeholders who are committed to the project
- respond to a specific issue or problem and lead to concrete results
- reflect equitable partnerships between or among organizations from different sectors and countries
- strengthen and build the capacities of people, organizations and institutions
- leverage additional support, but are unlikely to obtain full funding, from other sources

II. What projects can be funded?

~~The projects that can be funded are:~~

- ~~2. Those that meet the objectives of the North American Agreement on Environmental Cooperation (NAAEC), as outlined in Article 1 of the Agreement as specified in section VII (1)a).~~

~~2. Those that relate to the CEC 1996-1998 Strategic Framework, as outlined below:~~

~~The NAFEC will consider projects that relate to:~~

~~1. Environmental Conservation~~

~~Goal: To promote and conserve ecosystem health and integrity and to foster and encourage the conservation, protection and sustainable use of natural resources and ecosystems.~~

~~2. Environmental Protection~~

~~Goal: To facilitate cooperative initiatives to reduce pollution risks and minimize pollution impacts.~~

~~3. Environment, Trade and Economy~~

~~Goal: To examine the relationship between trade and environmental policy and to encourage the compatibility among environmental policies, and trade and economic policies within North America.~~

~~4. Enforcement Cooperation and Law~~

~~Goal: To facilitate development of law, policy and economic instruments; and to facilitate the development of alternative approaches to achieving compliance, including effective enforcement; and to promote greater public participation and transparency in decision-making.~~

~~5. Information and Public Outreach~~

~~Goal: To raise the level of public awareness and understanding about the environmental challenges facing the NAFTA partners.~~

Priority will be given to those projects that complement CEC's current work program i.e. projects that relate to:

- migratory species
- environmental information (standardization and exchange)
- air and water
- technology exchange (e.g. pollution prevention)
- trade and environment
- enforcement cooperation
- environmental law (information exchange)
- cross-boundary environmental impact assessment

III. What will not be funded?

The NAFEC will not support:

1. Activities that should be conducted by governments as required by law

2. ~~Overhead expenses (such as maintenance, light, heat) and administrative expenses (such as telephone, fax, photocopy)~~ Administrative expenses (expenses not directly related to the projects i.e. an organization's overhead) should not exceed 15% of the total grant.
3. Regular activities of the organization such as annual meetings and conferences
4. An organization's overall program
5. General environmental education activities; such as conferences, publication of books and other documents (unless they are part of an issue-based project leading to specific results)

IV. Who can apply?

Applicants ~~must be citizens of~~ organizations must be based in one of the three member countries.

1. Non-governmental organizations

- a) ~~Non governmental organizations with not for profit statut-for-profit non-governmental organizations~~ will be eligible for grants. "Non-governmental organization" means any scientific, professional, business, non-profit, or public interest organization or association which is neither affiliated with, nor under the direction of, a government. However, if a non-~~government~~ government organization with for profit status collaborates in a project proposal with a primary applicant that has not for profit status, then the project proposal could be considered for funding.
- b) Funding will not be provided to government agencies. This would not, however, preclude non-governmental organizations from collaborating with ineligible organizations.

The rationale for this decision is as follows:

- The NAFEC's resources will be stretched thin to accommodate requests from the three countries and grants should be limited to those organizations with limited access to financial support.
- Governmental entities have means to levy resources (e.g. taxes) to support their initiatives.

2. Community-based

~~The resolution to establish the NAFEC recognizes the importance of supporting programs that have "local" significance and impact. With this guidance, the NAFEC's resources will only go to support efforts at the grassroots level. The interpretation of grassroots will be broadly defined so as to be inclusive rather than exclusive. The objective of empowering and building the capacity of local peoples and institutions will be used as a guiding principle in screening proposals.~~

3. Individuals

~~In some instances, support to individuals may be considered, if they are working in cooperation with not for profit organizations or government agencies.~~

V. How will the NAFEC be administered?

The Secretariat will administer the NAFEC with \$2 Million (CAN) which will be allocated each year for grants. This amount may vary in subsequent years. Administrative costs for the NAFEC will be taken from the core operating budget of the CEC. This amount may also vary in subsequent years.

The following factors are involved in the administration of the NAFEC:

1. Grant Distribution Process

- a) Grants will be equitably distributed among the three countries over a period time.
- b) The grant ceiling will be \$100,000 (CAN) per year.—
- c) Grants will be paid out in installments to ensure that funded projects proceed in a realistic time frame. Payments will be delayed or withheld if the conditions of the grant are not met.
- d) Requests for multi-year grants will be accepted ~~but cannot exceed more than 24 months.~~ Multi-year grants will however be dependent on the availability of funds and subject to review after each year.
- e) Organizations may submit more than one application per year for different projects, but only one project is eligible for support per year.

2. NAFEC Management and Staff Structure

The NAFEC will consist of a Selection Committee, a Coordinator, support staff and technical advisors, if needed.

The Selection Committee will consist of two members from each country. The CEC Council members will select members from their respective citizens and appoint them to serve on the Selection Committee for two years (this may vary slightly in order to ensure that replacements of Committee members are staggered). ~~years.~~ Selection Committee members are not expected to represent the interests of their respective countries. Rather, they are asked to serve on the Selection Committee for their knowledge and professional expertise. Selection Committee members will act in accordance with, and take their direction from, the NAFEC Guidelines.

To ensure the integrity and non-political character of the NAFEC, Selection Committee members will be required to sign a declaration that they cannot represent the interests of any specific group. Selection Committee members must disclose all potential conflicts of interests and recuse

themselves from the selection process in cases where a conflict is identified. [Organizations who have a board member or staff member sitting on the NAFEC Selection Committee may not apply for NAFEC funding during that individual's term on the Selection Committee.](#)

The Secretariat will fill the Coordinator and support staff positions. The Coordinator serves on the Selection Committee in an ex-officio capacity until such time that a tie vote must be broken.

The Coordinator will work with the Secretariat to ensure that the goals of the CEC are fairly interpreted and represented when soliciting proposals and awarding grants.

3. Request for Proposals and Review Process

[Proposals submitted to the NAFEC are considered confidential. They cannot be distributed outside the CEC without the consent of the applicant.](#)

With the goal of limiting overhead and administrative complexity, a streamlined proposal review structure will be created. It will include:

- a) The Coordinator will issue a Request for Proposals (RFP) that outlines eligible projects and applicants, provides information on how to apply, a decision timetable and an outline for a preproposal. An application form would be used to facilitate the act of applying for a grant and standardize the review process.
- b) The Coordinator will initially ask applicants to send a two pages preproposal. A preproposal is helpful for the NAFEC and for the applicant. The Coordinator will be able to quickly screen preproposals and the applicant will not have invested a great deal of time and effort testing a program idea.
- c) The Coordinator will screen preproposals and prepare a recommendation for the Selection Committee's final decision. For each preproposal, the Coordinator will present rationale to decline a preproposal or request a full proposal. This preproposal review process will be accomplished via E-mail or fax- [or by meeting in person.](#)

[On completion of this stage, the Council will receive a list of all proposals submitted \(divided into those for which full proposals are being requested and those which are being declined\). This list will include the name of the organization and its location, the title of the project, a brief description of the project, the amount requested and the reason for the Selection Committee's decision.](#)

- d) When full proposals are received, the Coordinator will conduct a preliminary screening of proposals for conformity and will prepare a review to be forwarded to the Selection Committee.

The Coordinator may enlist the assistance of the CEC staff and outside technical advisors to evaluate the technical issues arising from proposals or to clarify questions or concerns raised by members of the Selection Committee.

Proposals will be rated on how well they relate to the CEC's objectives and the criteria outlined below to ensure a balanced and fair review process across the three countries.

- e) The Selection Committee reviews the Coordinator's screening reports, and approves/declines grant applications.

On completion of this stage, the grants will be publicly announced. Public information will include: The name of the organization and its location, the name of the project, the amount of the grant and the executive summary of the project. Information on how to contact the organization will be made public with the permission of the projectholder.

4. ~~Discretionary~~ Urgent Request Fund

The NAFEC Coordinator will administer an Urgent Request ~~discretionary~~ fund for small grants under \$10,000 (CAN) that may be awarded anytime during the year. The ~~discretionary-Urgent Request~~ fund will not exceed 3% of the NAFEC annual endowment.

~~The purpose of the discretionary fund is to provide easily accessible financial support to help small organizations build capacity~~Applications to the Urgent Request fund must be time-sensitive (there must be a reason why they cannot wait until the next grant cycle). Those which are not will be converted to regular grant requests and considered during the next grant cycle.

~~Discretionary-Urgent Request~~ grants can be made at any time. The NAFEC Coordinator will screen ~~requests for discretionary petitions for the Urgent Request funds~~ and make recommendations to the Selection Committee for its review and action. This review process can be managed via fax and E-mail on a monthly basis.

5. Application Process and Deadlines

- a) Applicants would be required to complete a two page preproposal. A full proposal would be requested of those applicants whose preproposal met the criteria and warrant closer scrutiny.
- b) There will be two grant cycles each year allowing sufficient time for review and follow-up and evaluation.
- c) Deadline for proposals will be the first working day of February and August.

6. Evaluation of the NAFEC

A performance evaluation of the NAFEC will be conducted within the first two years of operation. The Joint Public Advisory Committee (JPAC) of the Commission for Environmental

Cooperation will be responsible for evaluating the performance of the NAFEC and recommending refinement to criteria, if needed.

The annual external audit of the CEC will also include a financial statement on the NAFEC.

7. Building the NAFEC's Endowment

The NAFEC Coordinator would be able to accept and/or seek additional resources in order to build its endowment. Care will be taken to ensure that the process of building an endowment does not in any way compromise the fund raising ability of non-profit organizations.

8. Official Languages

- a) The official languages of the NAFEC shall be English, French and Spanish.
- b) The Selection Committee shall establish rules and procedures regarding translation and interpretation.

VI. What is Required of Applicants?

1. Leverage Grants

Applicants will be encouraged to leverage support provided by the Fund by securing support from other sources.

2. Collaboration

Applicants must provide evidence of collaboration and coordination with other organizations and efforts. They will be asked to identify the groups who are working in concert with the applicant.

3. Dissemination

Applicants will be required to share the results of their work, as well as the process used to achieve the results, with other NGO's and the public.

VII. What criteria will be used to assess proposals?

The following criteria will be used by the Selection Committee and NAFEC Staff to help determine the eligibility of proposals.

1. NAAEC Objectives

- a) ~~The substance of a proposal should be consistent with the spirit and the objectives of Article 1 of the North American Agreement on Environmental Cooperation, which includes:~~

- ~~—foster the protection and improvement of the environment in the territories of the Parties for the well-being of present and future generations;~~
- ~~—promote sustainable development based on cooperation and mutually supportive environmental and economic policies;~~
- ~~—increase cooperation between the Parties to better conserve, protect, and enhance the environment including wild flora and fauna;~~
- ~~—support the environmental goals and objectives of the NAFTA;~~
- ~~—avoid creating trade distortions or new trade barriers;~~
- ~~—strengthen cooperation on the development and improvement of environmental laws, regulations, procedures, policies and practices;~~
- ~~—enhance compliance with, and enforcement of, environmental laws and regulations;~~
- ~~—promote transparency and public participation in the development of environmental laws, regulations and policies;~~
- ~~—promote economically efficient and effective environmental measures; and~~

promote pollution prevention policies and practices. Suggest removal of NAAEC objectives (including both these objectives and CEC priorities has created confusion). However, general information about CEC, which includes NAAEC objectives could accompany information about NAFEC so that potential applicants clearly understand the context.

2. Administration

- a) Short and long-term deliverables are clear and reasonable;
- b) Administrative costs and overhead are not excessive and are justified; and
- c) Understands the institutional and organizational support necessary to ensure success.

3. Community Support

- a) Has a specific community participation plan. Identifies a community (whether a local community, a community of interests or a community of stakeholders) with whom the applicant will work and for whom the applicant has developed a participation plan (for example, setting up an advisory committee); and
- b) Strengthens and builds capacity of local people, organizations and institutions.

4. Financial

- a) Future funding needs are recognized and considered.

5. Evaluation

- a) Has well developed plans for evaluating both impact and process; and
- b) Resources for conducting the evaluation are included in the project budget.

6. Organizational Credibility/Stability

- a) Clear leadership/management structure; and
- b) Demonstrates ability to manage resources.

|

ADVICE TO COUNCIL: No. 96-6

Review of Guidelines on Enforcement Matters under NAAEC Articles 14 and 15

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

IN ACCORDANCE with the request of Council has discussed the possibility of reviewing the guidelines of Articles 14 and 15 adopted on October 13 at the Council Session in Oaxaca, Mexico; and

RECOGNIZING that some JPAC members, with the intent of remedying the alleged lack of precision in the articles, specifically with respect to the rules of confidentiality, recommend the immediate review of the current guidelines, to wit:

- a) That the period of time during which the petition remains confidential be expanded, such period to apply to the Council's review of the factual record and ending with Council's issuance of its decision regarding items for inclusion in the record; and
- b) That the Council review the guidelines for precision in the criteria that are applied by the Secretariat in making its determination as to whether a petition merits the preparation of a factual record; and

NOTING that the first factual submission submitted to the CEC -- the Cozumel case -- is not yet finalized and that the JPAC is therefore unable to comment on specific points of the guidelines that can be improved; and

FURTHER NOTING that Article 19(1) of the current guidelines specifies that "Council will initiate a review process of the operation of these guidelines no later than 18 months following their adoption".

HEREBY RESOLVES to respect the delay of time specified in Article 19(1) of the guidelines and to review this item during the first 1997 JPAC meeting before proposing any new Advice to Council.

APPROVED BY THE JPAC MEMBERS:

November 20, 1996

ADVICE TO COUNCIL: No. 96-7

Term of office for Joint Public Advisory Committee (JPAC) Members

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

IN ACCORDANCE with the request of Council, JPAC has developed a proposal on a possible option regarding the term of office of the members of the Joint Public Advisory Committee; and

RECOGNIZING that the term of office should be the same for the three Parties and that the main objectives are as follows:

- Establish a permanent, uniform process;
- Maximize the smooth continuation of operations during the transition period;
- Allow contributing members to continue their terms to ensure that committee work is followed up;
- Continue to elect a Chair for a one-year term from among the members of JPAC. A Canadian member will continue to serve the first term, an American member the second term, and a Mexican member the third term, consecutively;
- Establish a flexible process so that the quorum will not be destabilized; and
- Avoid short terms in order to reduce the administrative burden on the Parties.

HEREBY RESOLVES that JPAC propose to Council that the *JPAC Rules of Procedure* be amended to include a new article regarding the term of office, such article to indicate that:

1. The term of office of each JPAC member will be three years, renewable for additional increments of one, two or three years as the Parties decide;
2. The expiration date of JPAC members will coincide with the Annual Council Session, with the proviso that in the event a successor has not been appointed, those members whose terms have expired will continue to serve until successors are appointed; and
3. A member absent for three consecutive JPAC meetings without explanation be deemed to have resigned.

APPROVED BY THE JPAC MEMBERS:

November 20, 1996

ADVICE TO COUNCIL: No. 96-8

Charter of Best Practices

HAVING NOTED that the CEC is considering the creation of a Charter of Best Practices, the Joint Public Advisory Committee (JPAC) of the Commission for Environmental Cooperation has reviewed the concept and potential implementation by the CEC of said Charter, and

HEREBY RESOLVES that, while supportive of the concept of Charters of Best Practice, the certification of such charters through the CEC is inadvisable as it could create the perception that a supranational agency is engaged in assessment and certification of individual performance, and further, that a CEC certification effort would be redundant with the efforts of organizations that promote Charters or Codes of Best Practices and which have greater technical capabilities and contacts to promote such.

Instead, JPAC encourages the CEC to work in cooperation with these organizations and possibly create a Registry of North American Charters or Codes of Best Practices and their sponsoring organizations.

APPROVED BY THE JPAC MEMBERS:

November 20, 1996

Commission for Environmental Cooperation

Joint Public Advisory Committee

Public Consultation Guidelines

Preamble

The Joint Public Advisory Committee (JPAC), together with the Council (composed of cabinet-level or equivalent representatives of the three countries) and the Secretariat comprise the NAFTA Commission for Environmental Cooperation (CEC): a unique institution charged with seizing an historic opportunity.

The North American Agreement on Environmental Cooperation set a precedent as a formal environmental agreement adopted in parallel with a trade agreement, and the Commission it created also set a precedent by including a public, non-governmental advisory group as one of its components.

JPAC was established to advise the Council in its deliberations and to advise the Secretariat in its planning and activities. As its members, its vision is to promote continental cooperation in ecosystem protection and sustainable economic development, and to ensure active public participation and transparency in the actions of the full Commission.

While we come from three different nations, and have different institutional connections, we serve on JPAC as individual citizens of the North American continent, joined in a commitment to preserve and enhance our common environment and achieve a sustainable society.

Based on these principles, JPAC has been charged by the Council to reach out to the public that is interested in and affected by the work of the Commission.

1. Purpose of Consultation

The purpose of the public consultations is to comply with the provision of the North American Agreement on Environmental Cooperation (NAAEC) which charges JPAC to “[...] provide advice to the Council on any matter within the scope of this Agreement, including on any documents provided to it under paragraph 6, and on the implementation and further elaboration of this Agreement.” In addition, “JPAC may provide relevant technical, scientific or other information to the Secretariat.”

Invitations to the public to participate in a consultation have a stated purpose, such as to:

- Establish a policy or directive;
- Assist in the preparation of the program of the CEC;
- Obtain views in the context of a specific project; and
- Address a specific issue or set of issues.

Information, consultation and participation are different activities engaged by JPAC. The majority of events may be in the nature of a consultation or in gathering information, or both. A consultation is the preferred means of contributing to the decision-making progress on the subject at hand.

In addition, JPAC from time to time may consult or seek information or the participation of experts, specific groups and individuals on any relevant issues or projects, and may assist the Secretariat to organize the public input for diverse activities.

2. Goals

As to consultations, this event should have as an outcome to provide to the Commission:

- sense of the concerns, priorities and aspirations of the participants;
- information to shape the policies and programs of the CEC; and
- whenever possible, specific recommendations and proposals.

and to provide to the participants:

- a forum to interact constructively and make progress towards solutions and actions; and
- feedback on the results of the consultation and how advice received was taken into account.

3. Principles

These guidelines are based on the following principles:

- any consultation should be organized to provide the most effective use of the time available and the resources dedicated to it; and
- any consultation should serve to advance the purpose for which it has been convened.

As a consequence, consultation meetings will generally provide:

- information to participants on the purpose and objectives of the meeting;
- opportunity for participants to express individual views without interruption or contradiction;
- opportunity to build on views expressed and, whenever possible, to discuss and reach conclusions, consensus or recommendations; and
- opportunity for the participants to engage in open-ended discussion (generally at the conclusion of the meeting).

To achieve these objectives, the Committee should be guided by the following principles:

- a) Recognize the difference between information, participation and consultation activities.
- b) Provide a clearly-stated purpose and outcome.
- c) Any event that is a consultation should include opportunity for:
 - every participant to express his/her views clearly and succinctly, orally and/or in writing, on the issue at hand;
 - exchange between participants and JPAC and between participants themselves; and
 - feedback from JPAC on information received and steps to follow.

4. Structure

With these principles in mind, consultation meetings will generally be structured along the following lines:

- advance notification;
- introduction and information;
- early break-up into work groups or roundtables;
- at the beginning of each of the smaller group meetings, opportunity for each participant to make a presentation; and
- a closing plenary session to provide opportunity for workshop reports and recommendations, for short, open discussion between participants and JPAC members.

JPAC and Secretariat members participate in each of the smaller groups. JPAC members normally act as facilitators. Professional facilitators will be employed when it is appropriate.

In addition, members of the general public may state their views in a brief presented at the public meeting or submitted to JPAC Secretary before the established deadline. The title page of all briefs submitted to JPAC should indicate the topic, the name of the submitting individual or organization as well as the submission date.

Persons who prefer not to submit a brief may make their views known by speaking at the public meeting. Speakers are free to choose whatever form of presentation they consider appropriate.

Following the public consultation, all comments and briefs will be analyzed by JPAC, which shall prepare a report for Council. The report will be published and made available to anyone upon request.

5. Financial Considerations

- a) Consistent with current practice and the Commission's objective of facilitating public participation, the budget for information, participation and consultations should assist the participation of NGOs according to the following criteria:
 - funds from the budget of the CEC will be made available to each Party in the proportion agreed to by the Parties;

- distribution of the assistance to individual participants is the responsibility of the Parties, not of JPAC; and
- an impartial means of allocating funds on the basis of need will be developed by the each Party (generally using a national advisory committee or network of NGOs) for distribution to those NGOs who have applied within the determined deadlines for participation in the meeting.

b) Workshops require additional meeting rooms and additional translation units, which add to the expense of the event. Therefore, they must be budgeted and planned for.

There is an unavoidable cost if the Commission is to maintain an effective dialogue with its public, and this cost must be seen in light of the budget allocation of the CEC.