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In response to the Joint Public Advisory Committee (JPAC) of the Commission for Environmental Cooperation (CEC) solicitation for public comments regarding the perception of an inherent conflict of interest in the NAAEC, I present the following views for consideration. I hope this serves to encourage the public, as myself, to keep informed and actively enrolled (as opposed to passive observers) in JPAC efforts to improve the CEC functioning. First of all, allow me to congratulate Mr. Gustavo Carvajal for his final report, and for revealing in a very clear manner (reachable, even for those who are not familiar with the legal basis and the importance of Articles 14 and 15 of the NAAEC) what the problem is and how this could be solved.

This doesn't mean in any way that it is the only alternative, but it obviously opens the window for further discussion within the JPAC itself. Taking Mr. Carvajal's final report as a background, as well as a personal research paper presented at McGill University, and by lately attending to the JPAC Regular Session held in Puebla, Mexico, I am in the position to state (from a general public standing point of view) that there is, indeed, an obvious conflict of interest within the NAAEC, in particular, with the Council's responsibilities and the achievements of the Agreement's goals. Puebla was a proof of the lack of impartiality between the Council's functions and the Parties' domestic agendas. The Council is not listening to the public and to JPAC's work and opinions.

This inherent conflict of interest translates into frustration, lack of confidence on the system, and lack of enforcement where clear enforcement is needed. In my humble opinion, JPAC should strongly consider to present all relevant documents and opinions presented in this matter to the Council. The Council, from its part, has an evident obligation of revising these opinions, and acting accordingly. The Council shall bear in mind this very simple reasoning, which is that the inherent conflict of interest within the NAAEC resides in that the Parties and the Council functions lie on the same physical person. In a practical sense, it is completely understandable that they cannot disassociate their functions; the Parties' views will inevitably come out at any time. In other words, it is almost impossible to take off one jacket and wear another one 'on top':

I see this more as a 'disguise' than an actual change of roles. In my opinion, the following elements should be taken into consideration:

1. The Report's argument in relation to Article 10(1)(d).
2. The importance of Council's independence from Parties (Article 9(5)(c)).
3. The elaboration of guidelines to which the Council shall refer when deciding whether the Secretariat shall prepare a factual record or not (Article 15(2)).
4. The comparative legal analysis of useful international models and institutions to improve (as opposed to dramatically change) the current scheme.

5. The importance of reasoned denials from the Council (special attention to the last paragraph of the Report's recommendations in this respect) in order to help future submitters. It is extremely important to keep attention on accessibility and transparency.