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Humane Society International (HSI) appreciates the opportunity to submit these comments in response to your request for input regarding the Commission for Environmental Cooperation's (CEC) proposed Strategic Plan for 2010-2015.

HSI operates as the international arm of The Humane Society of the United States (HSUS). Founded in 1954, The HSUS is the largest animal protection organization in the United States, and in conjunction with HSI, maintains a constituency of over 11 million. As the international arm of

The HSUS, HSI works to promote the protection of all animals around the world by participating in programmatic activities in developing countries, advocating for the effective enforcement of international environmental treaties, and furthering humane and sustainable international trade policy.

HSI actively participates in discussions of international trade policy at the World Trade Organization addressing such issues as equitable development, humane and sustainable agriculture, environmental conservation, and wildlife and habitat protection. In addition, as a member of the Trade and Environment Policy Advisory Committee (TEPAC) in the United States, HSI advises the United States Trade Representative (USTR) and the United States Environmental Protection Agency (EPA) on trade and environment issues. HSI also implements a number of trade capacity building and technical assistance programs in developing WTO Member countries to support sustainable economic development, including humane agricultural practices and habitat protection policies.

COMMENTS ON THE CEC'S PROPOSED STRATEGIC PLAN: 2010-2015

Wildlife Enforcement

HSI attended the June 2009 Ministerial Conference in Denver, CO when the three environmental priorities for the 2010-2015 timeframe were first outlined; namely, healthy communities and ecosystems, climate change, and greening North American corridors. In November 2009, HSI was invited to give a presentation in Monterrey, MX at a workshop hosted by the CEC on *Environmental Compliance along North American Trade Corridors*. There, HSI proposed that wildlife enforcement and protection should play a key role in the CEC's future work given that illegal wildlife trade in North America threatens the region's rich biodiversity and contributes to criminal activity that stretches across borders.

Based on this presentation, HSI submitted a proposal to the CEC in December 2009 outlining specific steps the CEC can take in the coming years to address the illegal wildlife trade in North

America. HSI explained that this would fall squarely into the priority objectives set forth at the June 2009 Ministerial Conference. A copy of this proposal is attached as **Annex A**.

In particular, HSI explained:

- First, relying on illegal wildlife trade as source of income entangles local communities in illicit activities that disrupt the ecosystems they rely on for legitimate purposes, such as legal trade and food security. Providing local communities with resources and training to engage in sustainable and legal income options, such as the creation of ecotourism programs, is directly tied to the goal of healthy communities and ecosystems.
- Second, numerous sources have found that climate change will have a devastating impact on wildlife due to changes in natural habitats, such as for polar bears and seals that rely on sea ice. Illegal wildlife trade also has significant negative impacts on threatened and endangered species. Together, climate change and illegal wildlife trade have the potential to drive numerous species to extinction. Thus, climate change strategies must take account of the impact on wildlife and habitat (alone and combined with illegal wildlife trade).
- Finally, when looking at ways to green the economy in North America, such as effective enforcement of environmental laws, a key component will be enforcing laws related to legal and illegal trade in plants and animals. All three North American countries are parties to Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and have committed to implementing CITES through their national laws. This is one of the only environmental obligations common to all three countries.

Given the importance of these issues, HSI is pleased to see that the CEC's 2010-2015 draft

Strategic Plan highlights wildlife enforcement.

Specifically, HSI is encouraged by the following in the *Section on Healthy Communities and Ecosystems*:

- The plan mentions building the capacity and supporting community projects in indigenous and local communities to "design and implement innovative environmental protection and conservation strategies, particularly regarding natural resources (e.g., forests and wildlife), an potable water." SP at p. 6. As explained above, it is critical to provide communities with legal and viable alternatives to poaching and illegal wildlife trade, such as ecotourism. This can be done through trade capacity building programs aimed at sustainable and non-extractive ecotourism such as dolphin watching.
- Attention will be paid to both marine and terrestrial ecosystems. HSI believes this is extremely important and that it is imperative to "continue to build on the list of key species and spaces of common conservation concern and implement conservation and management initiatives in our shared ecosystems." SP at 7.

- Increasing public awareness, engagement and capacity on issues like biodiversity conservation and sustainable use. This is an integral part of the plan. HSI strongly recommends, however, that sustainable use should explicitly be defined to include "non-consumptive use" like ecotourism.
- Strategic Objective #4 is "Strengthening Regional Environmental and Wildlife Law Enforcement." HSI is very encouraged to see this incorporated into the draft Strategic Plan. HSI refers to its proposal attached in Annex A for more detailed suggestions on how this could be carried out.

North American Partnership for Environmental Community Action (NAPECA)

HSI is very encouraged that the Council is focused on strengthening partnerships and widening public participation through NAPECA. HSI strongly urges that there be a funding component to this program. There used to be a grant program through the CEC, but it expired in 2003. To have the intended effect, it will be necessary to ensure that there are funds for the environmental initiatives mentioned in the 2010-2015 plan. It is important to emphasize that this should not only apply to activities under NAPECA, but also to environmental trade capacity building more broadly.

Citizen Submission Process

As a non-governmental organization, HSI believes the successful operation of the citizen submission process set forth in Articles 14 and 15 of the North American Agreement on Environmental Cooperation (NAAEC) is critical to ensuring effective enforcement of environmental laws in the U.S., Canada and Mexico. The 2010-2015 draft Strategic Plan indicates that the "CEC will continue to process citizen submissions in an objective, rigorous and transparent manner, with a view to ensuring timeliness and efficiency. Council has directed the CEC to work on modernizing the citizen submission process to ensure its continued success." SP at p. 13 (emphasis added).

In the summer of 2007, HSI along with two Mexican NGOs, CEMDA and COMARINO, filed a submission with the CEC alleging that Canada was failing to enforce its environmental laws concerning the commercial seal hunt. *See* SEM-07-003 (Seal Hunting). As a submitter, HSI became familiar with the citizen submission process. To this end, HSI has some suggestions to help with the modernization process.

First, to HSI's knowledge, the CEC's working procedures have not been reviewed or revised since 2002. HSI believes that for the citizen submission process to operate effectively, it must be monitored, and lessons learned must be incorporated into the working procedures as necessary. This will aid in consistency in the CEC's decision-making and allow the submission process to evolve.

Second, and related to the point above, one issue that HSI believes must be considered is the transparency of CEC determinations. There are very limited guidelines for the CEC Secretariat to follow in making their determinations. Some determinations are extensively detailed, while

others are brief and the reasoning of the determination is hard to discern. HSI is of the view that one way this could be remedied is to revise the working procedures to provide the CEC with a framework that will allow for consistency among determinations. For example, at present, the working procedures regarding determinations as to whether the submissions meet the criteria under Article 14 only require that the Secretariat "inform the submitter of its reason(s)..." *See, e.g.,* CEC Working Procedures at Sections 6.1, 6.3. The working procedures could be amended to require the Secretariat to provide "detailed reasoning and explanation" as to why a submission fails to meet certain criteria, rather than just list the reasons. Indeed, for determinations concerning whether a response is merited from the Party under Section 8.1, the working procedures only require the Secretariat to notify the submitter. Here again, HSI strongly urges that the Secretariat be required to provide detailed reasoning prior to terminating the process, particularly in cases where the submitter has provided additional information after the initial submission.

Finally, HSI believes the working procedures should require the CEC to respond to "material" arguments made by interested parties (arguments that are likely to influence the ultimate determination made). Without such transparency, determinations will be unpredictable, discouraging submitters and undermining the efficacy of the overall process. At a minimum, in the absence of a traditional appeals process, there should be a process in which submitters can request further explanation from the CEC if their submission is rejected without detailed explanation. HSI is hopeful that the suggestions outlined above will greatly add to the success of the submissions process.