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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 proposed Operational Plan for 2008.

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 10 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 in the United States, HSI advises the United States Trade Representative and the United States Environmental Protection

Agency on international trade policy. Locally, HSI 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 Operational Plan for 2008**

HSI is pleased to see that the CEC's Operational Plan for 2008 contains initiatives designed to promote advancement of environmental protection, in particular those that are linked to wildlife protection, conservation of species, and sustainable use of biodiversity. *See e.g.,* Operational Plan at Sections 3.2.2 (Capacity Building), 3.2.3 (Trade and Environment), 3.3.5 (Conservation of Species).

HSI is encouraged that the CEC's 2008 Plan includes a focus on strengthening capacities to improve compliance with wildlife laws and to conserve species and habitat. Among others, capacity building activities HSI is pleased to see are planned for 2008 include the recovery of the vaquita purpose through the use of sustainable fishing gear, training of local fishermen in the use of environmentally friendly gears and disentanglement techniques in critical turtle nesting sites, and the training of customs and other law enforcement officials in the identification of and enforcement against illegal shipments of protected species and wildlife.

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 CEC's 2008 Operational Plan indicates that "the success of the process requires that it be well known, accessible, transparent, reliable, and that it be used appropriately." *Id.* at Section 5 (Submissions on Enforcement Matters Process). The 2008 Plan also indicates that "the credibility of NAAEC Articles 14/15 depends on objective, rigorous, and consistent consideration of submissions...." *Id.*

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 ensure the goals set forth in the 2008 Operational plan are met.

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. HSI is planning to attend a conference in December 2007 hosted by the Joint Public Advisory Committee. This conference will focus on the submissions process and how it might be improved. HSI strongly believes this is an invaluable opportunity to understand the strengths and weaknesses of the process, and improve upon them as necessary. One such way includes review and as necessary, revision, of the CEC's working procedures. 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. HSI additionally 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.

Please do not hesitate to contact the undersigned if there are any questions regarding these comments.