

United States Council for International Business

Ms. Carla Sbert

Interim JPAC Liaison Officer
Commission for Environmental Cooperation of North America
393, rue St-Jacques Ouest,
Bureau 200
Montreal, Quebec, Canada
H2Y 1 N9

Dear Ms. Sbert:

The United States Council for International Business (USCIB) is pleased to offer the following comments in response to the JPAC request for comments on the perception of an inherent conflict of interest in the North American Agreement on Environmental Cooperation (NAAEC).

USCIB is a multi-sectoral business association comprised of over 300 leading U.S. companies and associations. USCIB promotes international trade and investment as the U.S. affiliate of the International Chamber of Commerce (IOE), the International Organization of Employers (IOE), and the Business and Industry Advisory Committee to the OECD (BIAC).

As a general comment, USCIB does not support the premise of the report prepared for the JPAC, namely that an inherent conflict of interest exists within the NAAEC. The term "conflict of interest" refers to a situation when someone has competing professional or personal obligations or financial interests that make it difficult to fulfill his duties fairly. In this instance, the claim is that the Parties' national interests are in inherent conflict with the interests of the CEC, a view that USCIB does not share.

The agreement clearly delineates the respective roles and responsibilities of the Parties as signatories to the agreement and as actors in the institutions of the Commission for Environmental Cooperation (CEC). The Parties have both individual obligations, such as ensuring effective enforcement of their laws, and joint obligations with the other Parties in the Council, such as approving the program and budget for the CEC.

The simple fact that each Party has individual and joint obligations does not create a situation of inherent conflict of interest. Further, the report confuses the situation by treating the Parties and the Council as distinct entities, when in fact they are one and the same. The Council is comprised of the three Parties. Decisions by the Council are made either by consensus among the Parties or, where required, by Party vote, with two-thirds majority required. In either case, there is no difference between the Council and the Parties.

The report prepared for JPAC focuses on the Parties obligations related to citizen submissions under Article 14-15 of the NAAEC as an example of the alleged conflict of interest. Once again,

USC1B does not find that the evidence provided in the report for JPAC supports the claim of an inherent conflict of interest. The role of the Parties is clear and well established, as are the roles of the Secretariat.

The process is clearly not without tension, as the Secretariat must assess claims made against the very Parties that make up its governing council, but that tension does not rise to the level of conflict of interest. At a minimum, the two-thirds voting required to advance or publish a factual record removes the ability of a Party to individually block a submission against itself.

In closing, USCIB finds that the report prepared for the JPAC has not established an inherent conflict of interest in the NAAEC and therefore recommends that the JPAC should not accept the report or any of its conclusions.

I hope these comments are helpful. Please feel free to contact me with any questions.

Best regards