A Regular Session of the Joint Public Advisory Committee (JPAC) was held in Montréal, Canada, on December 7 and 8, 1995. The List of participants, Agenda, Advice No. 95-6 to Council, Advice No. 95-7 to Council, Advice No. 95-8 to Council and JPAC Agenda for 1996 appear as Appendices A, B, C, D, E and F, respectively.

CHAIR’S COMMENTS

Among his comments, the Chair:

- noted the packed agenda and the importance of producing the Advices requested by the Ministers during the October session of the Council at Oaxaca, Mexico;
- indicated that three Advices must be issued, namely on the North American Environment Fund, Silva Reservoir Report and 1996 Program and Budget of the Commission;
- also mentioned the appointment of Manon Pepin as JPAC Secretary.

ADOPTION OF THE AGENDA FOR SESSION NO. 95-5 (December 7-8, 1995)

The Agenda was adopted as presented.

RECORD OF DISCUSSION FOR SESSION NO. 95-4 (October 12-13, 1995)

The Record of Discussion was adopted.

Follow-up: Secretary

EXECUTIVE DIRECTOR’S REPORT

The Executive Director expressed his satisfaction with JPAC’s increased role. In his report on the most recent actions of the Secretariat, he gave details on several dossiers, including:
• the tremendous work done by Secretariat personnel to produce the 1996 Program and Budget of the Commission. On the subject of the 1996 Budget, he noted that the three Parties will contribute the same amount as last year, namely $10,330.00 million US, which will restrict budgetary commitments for the coming year. He also mentioned that the 1996 Program and Budget of the Commission must be approved by the Council before it can be distributed in its final form to the public.

• the Silva Reservoir Report is the first document produced by the Secretariat under Article 13 of the Agreement that governs the Commission. Therefore, the distribution of the recommendations in this report is of vital importance;

• the implementation of the North American Environment Fund will also be an important Commission project.

Finally, the Executive Director emphasized the exceptional contribution of Jacques Gérin, JPAC’s first Chair. His constant availability and commitment were very much appreciated.

In reply to a question from a Committee member, the Executive Director reaffirmed the Secretariat’s policy of sending the appropriate documents to the JPAC members at the same time as they are sent to the three Parties.

NORTH AMERICAN ENVIRONMENT FUND

At the Council Session in Oaxaca, the Ministers entrusted JPAC with the mandate of determining the criteria which should govern the new North American Environment Fund.

Sheila Leahy, a consultant retained by JPAC and the Secretariat, presented a document entitled “Information document submitted to JPAC regarding financing criteria for the North American Environment Fund” to the JPAC members.

The members made the following suggestions which are reflected in Advice No. 95-6 to Council which appears as Appendix C of the present Record of Discussion:

• include a mission statement;
• exclude “governments” as entities eligible to receive support;
• do not require the funds to be distributed equally between the three countries;
• devote the whole amount of two million dollars Canadian to subsidies;
• take the expenses for administering the Fund from the CEC operating budget;
• limit overhead and simplify administration;
• entrust Commission Secretariat personnel with the task of preselecting proposals and formulating recommendations to JPAC;
• entrust JPAC with the mandate of studying these recommendations and approving the awarding of subsidies;
• form a group of volunteer technical advisors to clarify, if needed, questions or concerns raised by CEC personnel or JPAC members;
• recommend that the Fund be applied only to non-governmental organizations;
• support grass-roots activities so that the Fund is more inclusive than exclusive;
• add the following points to the section on supplementary selection criteria: credibility and stability of the organization, support from and effect on the community, repetition and transferability;
• recommend that the Council launch the Fund and solicit proposals at its upcoming session;
• recommend that the CEC distribute the draft of the selection criteria and administrative structure so that the public may study it and formulate comments.

**ACTION: Council and Secretariat**

**PROGRAM AND BUDGET FOR 1996**

At the Oaxaca session, the Council gave JPAC the mandate to advise the Ministers on the 1996 *Program and Budget of the Commission*. In this regard, the Secretariat presented this document to the JPAC members with a brief explanation of all the proposed projects.

As time constraints prevented an in-depth analysis of each project, it was agreed that the Advice to Council will present the overall program rather than the individual projects. Advice No. 95-8 to Council entitled “1996 Program and Budget of the Commission”, which appears as Appendix E of the present Record of Discussion, reports the suggestions made by JPAC.

A number of additional suggestions were put forward, including the following examples:

• maintain, if not increase, the Commission’s level of financing over the coming years;
• try to promote the harmonization of the different environmental policies and laws of the three Parties;
• increase the involvement of the population in developing the Commission’s program;
• propose priorities;
• increase the involvement of the business community;
• use studies, reports and research from other organizations that have been working for many years on projects that are complementary to the Commission’s projects;
• focus on concrete results;
• widely publicize the results of these projects.

It was specified that the travel expenses of government representatives who participate in the experts’ meetings are paid by the Commission, with the exception of civil servants who are directly appointed to the CEC, for example as alternate representatives.

Finally, the JPAC members expressed their desire to be involved in the Commission’s work program. In this regard, it was agreed that one or more of the Secretariat personnel responsible for projects will attend JPAC’s upcoming regular sessions to discuss the projects with the Committee members so that they will be better informed regarding the progress of certain dossiers.

**ACTION: Council and Secretariat**

**JPAC 1996**
Following her experience at the last public session of the Council at Oaxaca, consultant Patricia Hayes presented a series of overheads to the JPAC members which outlined the challenges the Committee will have to face over the coming year. A number of points were made, including:

- JPAC’s mandate in relation to the Council and Secretariat;
- following up on JPAC’s Advices to Council;
- relations between JPAC and the public;
- public participation in the CEC;
- the need for JPAC to be proactive;
- the strong desirability that all members of the Committee consistently participate in the sessions.

The members also discussed the upcoming Council Session in Hamilton planned for April 1996. Many suggestions were put forward, including the following:

- the annual meeting of the Council should be the Commission’s central event;
- the dates for this session should be finalized as soon as possible;
- this session should be held over two days and not just one;
- it is desirable that the Ministers attend for at least one day;
- the support documents should be available to the public at least one month before the session opens;
- the structure of the public session should promote dialogue between the various participants;
- the Agenda should make provision for interaction with the public and the Ministers;
- the structure of the discussions between the public and the Ministers should be well-defined;
- JPAC would like to have the opportunity to hold discussions with the Ministers as in Oaxaca;
- a single theme is proposed in order to focus the action better;
- a theme directly related to the 1996 Program, such as risk reduction;
- this theme should be discussed in a public workshop;
- the selection criteria for giving financial aid to NGOs to participate in this session should be established as soon as possible.

**ACTION:** Council, Secretariat and JPAC

**SILVA RESERVOIR REPORT**

The Secretariat presented the *Silva Reservoir Report*. It was stated that this report contains the recommendations of a group of eminent experts from the three countries and also the Secretariat’s recommendations.

As requested by the Council at the Oaxaca session, the JPAC members have formulated an Advice regarding this report. JPAC’s recommendations appear in Appendix D of the present Record of Discussion as Advice No. 95-7 which reflects the discussion of the Committee members on this subject.
During the course of the discussion, a case in Alberta, Canada, similar to that of the Silva reservoir was brought up. In reply to this question, the Secretariat person in charge of this project stated that certain members of the scientific panel were familiar with this Canadian case and had taken it into account in the recommendations in the Silva Report.

A desire was expressed that an order of priority for the recommendations be defined.

The Committee encouraged the Parties to obtain collaboration from the private sector in order to resolve this problem at the Silva reservoir as soon as possible.

**ACTION:** Council

**PENDING BUSINESS**

With regard to the *Workshop on the economic instruments of technical cooperation* for which Louise Comeau was responsible, it was agreed that this dossier would be followed up as part of the *1996 Program of the Commission*.

Since the Commission’s *1995 Annual Report* must be ready for publication during the month of March 1996, the JPAC members will shortly be receiving a proposed text for their approval; this text will describe JPAC’s mandate with details on the Committee’s actions during 1995.

**ACTION:** Secretariat

**TELECONFERENCE: REVISION OF ADVICES TO COUNCIL**

Because of a communications problem, it was impossible to contact Messrs. Bustamente and Barroso as agreed.

**UPCOMING JPAC SESSIONS**

So that all the JPAC members can plan their agenda for 1996, the dates and locations of the upcoming sessions were finalized. Appendix F gives the JPAC Agenda for 1996.

**RATIFICATION OF ELECTION OF JPAC CHAIR FOR 1996**

As stipulated in the guidelines set out during the JPAC regular session in January 1995, the outgoing Chair, Jacques Gérin, announced that Jonathan Plaut received the majority of the votes. Mr. Plaut accepted the mandate. Therefore, he will assume the position of Committee Chair for the coming year.

The Committee members took the opportunity to thank the outgoing Chair.
ADJOURNMENT

Among his closing comments, the outgoing Chair expressed his satisfaction with having had the privilege of occupying this position and wished the new Chair every success.

The session adjourned at 2:30 p.m., December 8, 1995.

Written by Manon Pepin
December 15, 1995
JPAC SESSION 95-5, DECEMBER 7-8, 1995

List of participants

CANADA
Mike Apsey
Michael E. Cloghesy
Louise Comeau
Jacques Gérin

MEXICO
Iván Restrepo

UNITED STATES
Peter Berle
Jonathan Plaut
Jean Richardson
John D. Wirth

OBSERVERS
Verónica Avila (Public)
Andy Bowcott (Permanent Committee of the Commission - Environment Canada)
Katherine Foster (Consultant)
Adam Greene (United States Council for International Business)
Patricia Hayes (Consultant)
Sheila Leahy (Consultant)
Philip Sohen (Sierra Club of Canada)
Angela Stadel (Office of Rosemarie Kuptana)
COMMITTEE SESSION 95-5

Montreal, December 7 - 8, 1995
CEC Secretariat, Council Room
(revised 04/12/95)

Wednesday, December 6

7:00 - 8:30 p.m. Presentation: “Internet Communication” & Informal Gathering
CEC Secretariat (Council Room)

Thursday, December 7

8:00 a.m. Welcome and Overview

8:15 a.m. Approval of Agenda
Approval of Record of Discussion of Session 95-4

8:30 a.m. Executive Director’s Report

9:00 a.m. North American Environmental Fund
• Presentation by Sheila Leahy
• Discussion Period
• Formulation of the Advice to Council

12:00 p.m. Luncheon CEC Secretariat (Council Room)

1:00 p.m. 1996 Program and Budget
• Secretariat Presentation
• Discussion Period
• Formulation of the Advice to Council

4:00 p.m. JPAC 1996
• Purpose of JPAC Sessions within CEC Decision Making
• Lessons from Oaxaca: Recommendations for Hamilton
• Sessions Focus and Schedule: Supporting Budget

6:30 p.m. Closing
COMMITTEE SESSION 95-5

Montreal, December 7 - 8, 1995

december 7 - 8, 1995

CEC Secretariat, Council Room

(revised 07/12/95)

Friday, December 8

8:00 a.m. North American Environment Fund

8:30 Silva Reservoir Report
  • Secretariat Presentation
  • Discussion Period
  • Formulation of the Advice to Council

9:30 1996 Program and Budget cont’d

10:30 JPAC 1996 cont’d

11:30 Outstanding Items
  • Workshop on the Economic Instruments of Technical Cooperation
  • Annual Report

12:00 p.m. Luncheon CEC Secretariat (Council Room)

1:00 Conference Call: Review of Advices to Council

2:00 Ratification of the Election of JPAC Chairperson for 1996

2:15 Adjournment
ADVICE TO COUNCIL: Nº 95-6

Re: North American Environment Fund

As requested by Council, JPAC has examined how the North American Environment Fund could be established in accordance with the parameters set out in Council Resolution 95-9.

The attached document entitled “Administrative Structure and Funding Criteria for the North American Environment Fund” represents the advice of JPAC in the form of a working document. Such a document should allow the Alternates Representatives to review and decide on the issues related to the creation of the Fund.

JPAC recommends that a simple consultation take place by mail & electronic means with stakeholder in January 1996 to allow a final document for decision by Council in February or March in time for launching the Fund at the Council Session in Hamilton in April 1996.

December 8, 1995
CONTENTS

SECTION ONE
Summary of Directives from the Council's Resolution to Create the North American Environment Fund
Proposed Mission Statement

SECTION TWO
Proposed Fund Administration

SECTION THREE
Eligibility Issues
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   1. Type
B. Eligibility criteria for programs
   1. Focus
   2. Types of Programs
   3. Additional Programmatic Screens

SECTION FOUR
Proposed Implementation Timetable

APPENDIX
Council Resolution # 95-9
SECTION ONE

DIRECTIVES FROM THE COUNCIL’S RESOLUTION # 95-9
TO CREATE THE NORTH AMERICAN ENVIRONMENT FUND (NAEF)

The enabling resolution to create the Fund is attached as Appendix A. The JPAC responded to the following directives from the resolution in reviewing the criteria:

a. Recognize the public’s role under the North American Agreement for Environmental Cooperation
b. Recognize unique and essential role played by local communities, local governments and non-governmental (NGO) organizations ...
c. ... in conserving, protecting and enhancing the environment and ensuring the sustainable use of natural resources
d. Allocate $2 million CAN funds annually from CEC 95 Budget
e. Yearly allocation will be expended equally in the three countries
f. Administered by the Secretariat of the CEC
g. Support the priorities of the CEC’s annual work program
h. CEC must include the NAEF as an element of the 1996 and subsequent annual programs and budgets, subject to annual Council review
i. Advice needed from the JPAC in formulating proposals for the most efficient use of the NAEF
JPAC members provide the following advice regarding two requirements in the resolution:

1. **Exclude "governments" as eligible candidates for support**

   Point b. identifies "governments" as possible agents that could be supported by the Fund. JPAC members agree that governments have the means to levy resources (e.g. taxes) that other agents do not and should therefore not be eligible for support from the NAEF.

2. **Do not require that funds be distributed equally between countries.**

   Point e. directs that the $2 million be distributed equally between the three countries. JPAC members appreciate the need for equity, but believe that a communal pool of resources would encourage more bi and tri-national proposals. They suggest that the distribution of resources would be driven by the quality of proposals as agreed to by representatives from the three countries during the grant review process.

**PROPOSED ELEMENTS OF A MISSION STATEMENT**

JPAC members propose the following key elements that should be included in a mission statement for the Fund.

The Fund seeks to support programs and activities that...

1. are community-based

2. support and enhance sustainable development objectives that relate to the conservation, protection and enhancement of the environment

3. utilize the process mechanisms of the CEC

4. are small and project-based

5. foster cooperative partnerships

6. have strong evaluation plans

7. empowers and builds capacity of local peoples and institutions
SECTION TWO

PROPOSED FUND ADMINISTRATION

The JPAC recommends that the Secretariat administer the Fund under the following guidelines:

a. The entire $2 Million CAN allocation would be used for grants.

b. Administrative costs for the Fund would be taken from the core operating budget of the CEC.

c. With the goal of limiting overhead and administrative complexity, a streamlined proposal review structure is suggested. It would include:

   1. The Secretariat would assign CEC staff to conduct a preliminary screening of proposals and make recommendations to the JPAC.

   2. The JPAC would review staff recommendations and approve grants.

NOTE: There was strong majority support for this recommendation (6 for and 2 against), but not consensus. A majority of JPAC members believed that there was no need for the CEC to assume the expense of another decision-making body. Moreover, the majority believed that the Council directed the JPAC to take a more active role.

A minority of JPAC members were concerned with it playing a “decision-making” role by approving grants. They believe that the JPAC should maintain its advisory role and that the task of approving grants should be left to an independent board or CEC staff.

3. A volunteer group of technical advisors will, as appropriate, be enlisted to help clarify questions or concerns raised by CEC staff or JPAC members.

JPAC members strongly agree that the integrity of the Fund will be enhanced by maintaining an appropriate distance from political pressures. As such, Council members are not directly involved in the decision making structure proposed by JPAC.
d. A rating system concerning the social, economic, environmental implications of a grant would be used to ensure a balanced and fair review process across the three countries.

e. An application form would be used to facilitate the act of applying for a grant and standardize the review process.

f. Two grant cycles a year would be established, allowing sufficient time for review and follow-up evaluation.

g. Deadlines would be established.

h. The Fund would require applicants to complete a two-page pre-proposal. A full proposal would be requested of those applicants whose pre-proposal fit the criteria and warrant closer scrutiny.

i. The Secretariat would establish a discretionary fund for small grants under $10,000 that may be awarded anytime.

Discretionary funds provide the Secretariat the flexibility to, for example:

- provide support to small organizations to build capacity;
  - provide planning grants to help organizations conduct the necessary background work and coalition building to construct a more advanced project.

j. The JPAC would be responsible for evaluating the performance of the Fund and recommending a refinement of criteria, if needed.

k. The Fund would be able to accept and/or seek additional resources.

l. The Fund would broadly distribute resources to organizations in all three countries.
SECTION THREE

ELIGIBILITY ISSUES

A. ELIGIBILITY CRITERIA FOR ORGANIZATIONS

Type

The resolution identified the essential role of local communities, local governments and non-governmental organizations as agents with ideas and programs worth supporting.

The JPAC recommends that the Fund support only non-governmental organizations. For reasons noted in Section One, governmental entities would not be eligible.

The term "non-governmental" would be inclusive and encourage a wide variety of groups and organizations to apply. There was broad agreement by JPAC members that support for individuals may, in some instances, be appropriate. Additional criteria for grants to individuals would be employed.

B. ELIGIBILITY CRITERIA FOR PROGRAMS

1. Local

The resolution to establish the NAEF recognizes the importance of supporting programs that have "local" significance and impact.

JPAC members believe that resources should go to support actions at the grassroots level. The interpretation of grassroots should be broadly defined so as to be inclusive rather than exclusive. JPAC members recommend that the objective of empowering and building the capacity of local peoples and institutions should be a guiding principle.
2. **Types of Programs**

JPAC members agree that there are two types of programs that could merit support from the NAEF:

a. Those that directly fulfill the targeted objectives of the CEC;

b. Those that serve as important models or precursors to the successful implementation of CEC objectives.

3. **Additional Programmatic Screens**

The JPAC has approved some additional programmatic screens to help the reviewers determine the eligibility of proposals.

**CEC/NAFTA Policies**

- Meets anti-discriminatory policy of CEC
- Objectives support sustainable development principles as agreed to by the Council members
- Social, environmental and economic impact of project are articulated and benefits are clearly identified

**Organizational Credibility/ Stability**

- Clear leadership/management structure
- Demonstrates ability to manage resources

**Administration**

- Long-term and short term deliverables are clear and reasonable
- Administrative costs and overhead are not excessive and are detailed
- Understands the institutional and organizational support necessary to ensure success
Community Support/Impact

• Has a strong community participation plan
• Has considered possibility of leveraging resources
• Empowers and builds capacity of local peoples and institutions

Financial

• Future funding needs are recognized and considered

Dissemination

• Has a strong dissemination plan to share the results of their work with the public/policy makers
• Resources for implementing dissemination plans are included in project budget

Evaluation

• Has well developed plans for evaluating both impact and process
• Resources for conducting the evaluation are included in the project budget

Replication/Transferability

• Where appropriate, replicability and transferability of process or strategy is articulated
SECTION FOUR

IMPLEMENTATION TIMETABLE

JPAC members recommend that the Council launch the Fund and invite proposals at its next meeting, which is scheduled for April 22-24 in Hamilton.

In preparation for that meeting, the JPAC recommends that the CEC send the draft criteria and administrative structure out for public review and comment.
ADVICE TO COUNCIL: Nº 95-7

Re: Silva Reservoir Report

At its meeting of December 7 & 8, the JPAC reviewed the Report on the Migratory Bird Mortality of 1994/95 at the Silva Reservoir.

The Committee complimented the Panel on the thoroughness of their work and endorsed the recommendations of the Panel and of the Secretariat.

The Committee draws the particular attention of Council to the following Secretariat recommendations:

8. support of the Mexican government in pursuing international funds to establish necessary programs;
9. a comprehensive evaluation of the environmental compliance situation in the Turbio River Basin area and the implementation of a pollution prevention program;
5. assign high priority to the Turbio Basin Initiative and that the Initiative be continued through to its completion.

The JPAC commends the comprehensive approach taken by the Panel and by the Secretariat. This issue draws attention to the pervasiveness of sewage pollution, the need to apply basin-wide approaches to solutions and the continental dimensions of migratory bird mortality.

The Committee emphasizes the importance of disseminating the Report and in making it easily accessible to local populations.

The Committee recommends that progress in implementing the recommendations be reviewed in two years.

Note: Mr. Peter Berle withdrew from discussion on this subject due to his earlier association with the National Audubon Society.

December 8, 1995
ADVICE TO COUNCIL: Nº 95-8

Re: 1996 Program and Budget of the Commission

As requested by Council, the JPAC reviewed the 1996 Program and Budget of the Commission at its meeting of December 7-8, 1995.

The Committee noted the great progress made in the course of 1995 in defining strategic areas, in providing structure to the program and in preparing and presenting individual projects.

The establishment of a fixed date (such as late April) for the Annual Session of Council will henceforth allow all three components of the Commission to plan and develop the annual program on the basis of a definitive cycle.

Such a planning cycle is essential to allow timely input from the JPAC and other interested parties in shaping program priorities before finalizing specific projects.

The Committee has scheduled its 1996 sessions so as to be able to provide advice at strategic points in the program development cycle. The Committee has also decided to review a few projects in greater detail at each of its sessions.

The Committee in conscious that its advice on the 1996 Program comes at a late point in the cycle and has shaped its recommendations accordingly.

The following constitute the advice of the JPAC on the 1996 Program.

General – Program Development

- The Committee accepts the budgetary allocation between items as appropriate at the present stage of program development (Attachment: 1996 Budget Breakdown);
- The Committee will work with Council and the Secretariat to establish an annual planning process within the next six months;
- There is a continued need to enhance the strategic nature and sharpen the focus of the program despite pressures to scatter resources in a large number of projects.
With regard to project structure

The Committee recommends that the following elements be integrated in the planning and implementation of every project where appropriate, and that they be identified clearly in project budgets:

- A clear statement of the results to be achieved and of the beneficiaries;
- Public outreach and participation;
- The participation of local communities and of indigenous organizations;
- The dissemination of project results and other pertinent information to all affected parties;
- Follow-up plans and evaluation procedures.

With regard to project presentation

The Committee made a number of recommendations concerning the presentation of projects in order to enhance their effectiveness and to facilitate analysis and understanding:

- Indicate the unique role to be played by the Commission (“Why us?”);
- Provide a timeline, indicating key milestones;
- Indicate links between projects that have a chronological sequence (by timeline);
- Provide more detailed budget breakdown including proposed allocation of project funds;
- Identify the project manager;
- Always, provide sharp focus as to purpose and clear indication of expected results.

With regard to the overall budget

Budget provision should be clearly made for the following items:

- Intervenor funding and public participation in projects and events;
- Specifically, public participation at the Annual Session of Council;
- Prompt and accurate translations of documents;
- Sessions of the JPAC activities of the Chair, ongoing and informal consultations and outreach: $250,000 US.

The JPAC also recognizes the importance of staff development and encourages continued attention in this area.
Specific project recommendations

The Committee reviewed briefly every project in the 1996 Program and is providing its comments directly to the Secretariat.

The Committee expressed its appreciation to the Secretariat for their achievement in putting together the 1996 Program and Budget.

December 8, 1995

Enclosure
# 1996 Budget Breakdown

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1996 JPAC SESSIONS

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<td>- 1996 Program: Advance Planning</td>
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