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COUNCIL RESOLUTION 02-03

**Instruction to the Secretariat of the Commission for Environmental Cooperation regarding the assertion that Mexico is failing to effectively enforce certain environmental laws regarding the operation of the Molybdenum Trioxide production facility by Molymex S. A. de C. V., located in the municipality of Cumpas in the Mexican state of Sonora, Mexico.**

THE COUNCIL:

SUPPORTIVE of the process provided for in Articles 14 and 15 of the *North American Agreement on Environmental Cooperation* (NAAEC) regarding submissions on enforcement matters and the preparation of factual records;

CONSIDERING the submission filed on the above-mentioned matter by Academia Sonorense de Derechos Humanos, A. C. and Domingo Gutiérrez Mendivil, and the response provided by the Government of the United Mexican States on January 18, 2001; and

HAVING REVIEWED the notification by the Secretariat of December 20, 2001, that the development of a factual record is warranted in relation to certain assertions included in the submission (SEM-00-005);

HEREBY UNANIMOUSLY DECIDES:

TO INSTRUCT the Secretariat to prepare a factual record in accordance with Article 15 of the NAAEC and the *Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the North American Agreement on Environmental Cooperation* for the assertions set forth in Submission SEM-00-005 that Mexico is failing to effectively enforce Articles 28 paragraph III, 29 paragraphs IV and VI, 32 and 112 of the General Law on Ecological Balance and Protection (*Ley General del Equilibrio Ecológico y la Protección al Ambiente—LGEEPA*); and the Mexican Official Standard NOM-022-SSA1/1993 with respect to operation of the Molybdenum Trioxide production facility by Molymex S. A. de C. V., located in the municipality of Cumpas in the Mexican state of Sonora, Mexico;

TO DIRECT the Secretariat to provide the Parties with its overall work plan for gathering the relevant facts and to provide the Parties with the opportunity to comment on that plan; and

TO DIRECT the Secretariat to consider, in developing the factual record, whether the Party concerned is “failing to effectively enforce its environmental law” since the entry into force of the NAAEC on January 1, 1994. In considering such an alleged failure to effectively enforce, relevant facts that existed prior to January 1, 1994, may be included in the factual record.

APPROVED BY THE COUNCIL:

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Judith E. Ayres  
For the Government of the United States of America

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Olga Ojeda Cárdenas  
For the Government of the United Mexican States

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Norine Smith  
For the Government of Canada