

Commission for Environmental Cooperation  
AQLPA -and - Government of Canada

NORTH AMERICAN AGREEMENT ON  
ENVIRONMENTAL COOPERATION

FILE No.

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COMMISSION FOR ENVIRONMENTAL  
COOPERATION

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ASSOCIATION QUÉBÉCOISE DE LUTTE  
CONTRE LA POLLUTION ATMOSPHÉRIQUE  
(AQLPA)

Author of the Submission

and

GOVERNMENT OF CANADA

Party Concerned

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**Reamended submission pursuant to Article 14 of the *Agreement*  
respecting  
the failure of the Government of Canada and the Government of Québec  
to effectively enforce  
sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere* (R.R.Q., c. Q-2, r. 20)  
and sections 19.1, 20 and 51 of the Québec *Environment Quality Act***

Submitted by:  
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## 1. AUTHOR OF THE SUBMISSION

1 - The author of this submission is the *Association québécoise de lutte contre la pollution atmosphérique (AQLPA)*.

2 - *Association québécoise de lutte contre la pollution atmosphérique (AQLPA)* is a non-governmental organization established in Canada, in the province of Québec, and incorporated as a non-profit corporation since 15 July 1982, under Part III of the *Companies Act* of Québec, as appears in its letters patent, annexed hereto as **Schedule 1**.

3 - The postal address of *Association québécoise de lutte contre la pollution atmosphérique (AQLPA)* for the purposes hereof is that of the undersigned attorney as indicated on the cover page.

## 2. PARTY CONCERNED BY THIS SUBMISSION

4 - This submission concerns the failure by the Government of Canada to effectively enforce the provisions of its environmental law described hereinbelow, consisting of laws enacted by the government of its province of Québec.

5 - The Government of Canada is bound by the acts and omissions of the government of its province of Québec for matters within its jurisdiction as regards the implementation of the *North American Agreement on Environmental Cooperation (NAAEC)*, by virtue of the declaration made by the Government of Canada under Annex 41 (par. 1) of the *Agreement*. In addition, in order to fulfill the objectives and bring to fruition the implementation of the provisions of the *Agreement*:

- a) The Parliament of Québec implemented the *North American Agreement on Environmental Cooperation (NAAEC)* by means of section 2 of its *Act respecting the implementation of international trade agreements (S.Q. 1996, c. 6, now R.S.Q., c. M-35.2)*, passed 12 June 1996, by the Assemblée Nationale of Québec, assented to 13 June 1996, entered into force 10 July 1996, pursuant to Decree no. 840-96 of 3 July 1996, (1996) 128 O.G. II 4103. In addition, section 8 of this *Act* confirms that the clauses of the NAAEC relating to *matters of enforcement* of the NAAEC apply to the Government of Québec. Copies of this *Act* and Decree are annexed hereto as **Schedule 2**.
- b) On 2 December 1996, the Government of Québec signed the *Canadian Intergovernmental Agreement on the North American Agreement for Environmental Cooperation*, Article 2 of which stipulates that the signatory governments are bound by the obligations arising from the NAAEC, in respect of matters within their jurisdiction, and Articles 5 (paragraph 3), 7, 8 and 9 of which explicitly stipulate that the clauses of the NAAEC relating to enforcement matters (Article 14 submissions, procedure for *Consultation and Resolution of Disputes*) apply to the signatory governments. A copy of this *Canadian Intergovernmental Agreement* is annexed hereto as **Schedule 3**.

## 3. LEGISLATION THE PARTY IS ALLEGED TO BE FAILING TO EFFECTIVELY ENFORCE

6 - This submission is filed under Article 14 of the *North American Agreement on Environmental Cooperation (NAAEC)*. It asserts that the Government of Canada is failing to effectively enforce the following provisions of its environmental law:

- Sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere (R.R.Q., c. Q-2, r. 20)* and sections 19.1, 20 and 51 of the *Québec Environment Quality Act (R.S.Q., c. Q-2)* with respect to air emissions of hydrocarbons, carbon monoxide, and nitrogen oxides from post-1985 models of light-duty vehicles.

7 - Sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere* have been in force in Québec since 9 March 1985, and are reproduced in *Decree 240-85*, annexed hereto as **Schedule 4**.

**8** - These two articles of the *Regulation respecting the quality of the atmosphere (R.R.Q., c. Q-2, r. 20)* were enacted by the Government of Québec to give effect to sections 19.1, 20 and 51 of the Québec *Environment Quality Act (R.S.Q., c. Q-2)* with regard to air emissions of hydrocarbons, carbon monoxide, and nitrogen oxides from light-duty vehicles. These legal provisions are annexed hereto as **Schedule 5**.

**9** - As indicated in the reports annexed hereto (particularly **Schedule 10**, p. 56), the number of light-duty vehicles in use in Québec that are non-compliant with sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere (R.R.Q., c. Q-2, r. 20)* and section 51 of the Québec *Environment Quality Act* is estimated at more than 600,000, or 16% of the approximately four million light-duty vehicles in use.

Yet during the 19 years elapsed since the entry into force, on 9 March 1985, of said sections 96.1 and 96.2, there have apparently been, in total, *fewer than 10 indictments* laid by the Government of Québec and its Ministry of the Environment for violations of these sections. Of this number, it is unknown how many led to convictions. In fact, it is unknown whether any indictments for violations of these sections have been laid since the entry into force of the NAAEC.

Since sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere (R.R.Q., c. Q-2, r. 20)* and section 51 of the Québec *Environment Quality Act (R.S.Q., c. Q-2)* have come into force, there has never been any department or employee of the Government of Québec whose responsibility it is to enforce them. Neither do the Québec police officers have any responsibility in this regard; at any rate, they possess neither the training nor the equipment necessary to determine whether the pollution control devices on the light-duty vehicles using Québec's roads are in proper working order.

During the time that these articles have existed, there has never been any budget allocated to the enforcement of sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere (R.R.Q., c. Q-2, r. 20)* and section 51 of the Québec *Environment Quality Act (R.S.Q., c. Q-2)*.

Thus, since these articles have existed, there has been no annual report by the government on the enforcement of sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere (R.R.Q., c. Q-2, r. 20)* and section 51 of the Québec *Environment Quality Act (R.S.Q., c. Q-2)*.

**10** - As indicated hereinbelow, everyone involved in this area, as well as the Government of Québec and numerous North American and international bodies recognize that the only way to effectively enforce provisions such as sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere* and section 51 of the Québec *Environment Quality Act* is to implement a *mandatory motor vehicle inspection and maintenance program*, with a sufficient frequency (e.g., annual or biennial inspection), applicable to all motor vehicles in Québec.

The Government of Québec itself has frequently promised that it would implement such a program but has failed to keep its promise, as the discussion below indicates.

**11** - As indicated hereinbelow, the failure to effectively enforce sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere (R.R.Q., c. Q-2, r. 20)* and section 51 of the Québec *Environment Quality Act (R.S.Q., c. Q-2)* is causing serious harm to the population of Québec and of adjacent areas of North America, in terms of the quality of their environment, including the quality of their air and the quality of their land environment, which is affected by acid precipitation and low-altitude ozone.

This failure of effective enforcement is also causing serious harm to the health and safety of these populations. There have been numerous cases of poisoning caused by non-compliant vehicles and at least one case of death linked by the *Bureau du Coroner du Québec* (Office of the Coroner of Québec) to the absence of a *mandatory motor vehicle inspection and maintenance (I/M) program*.

#### 4. CHRONOLOGY OF THE FACTS

12 - On 13 November 1979 in Geneva, Canada signed the *United Nations Convention on Long-Range Transboundary Air Pollution (CLRTAP Convention)*, annexed hereto as **Schedule 6**. Canada ratified it on 15 December 1981. The United States of America also signed this Convention on 13 November 1979 and ratified it on 30 November 1981. The *CLRTAP Convention* entered into force in 1983.

In Article 2 of this Convention, the Contracting Parties affirm their determination “to protect man and his environment against air pollution” and to endeavor “to limit and, as far as possible, gradually reduce and prevent air pollution including long-range transboundary air pollution.”

In Article 3, the Contracting Parties undertake to develop without undue delay “policies and strategies which shall serve as a means of combating the discharge of air pollutants, taking into account efforts already made at national and international levels.”

In Article 6, “each Contracting Party undertakes to develop the best policies and strategies including air quality management systems and, as part of them, control measures compatible with balanced development, in particular by using the best available technology which is economically feasible...”

13 - The aforementioned sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere (R.R.Q., c. Q-2, r. 20)* entered into force in Québec on 9 March 1985, requiring all post-1985 models of light-duty vehicles to be equipped with a properly working device that reduces hydrocarbon, carbon monoxide, and nitrogen oxide emissions into the atmosphere, and prohibiting the removal of or tampering with these devices. However, no measure was taken at that time to guarantee the effective enforcement of these sections by means of mandatory inspection and maintenance.

14 - On 1 November 1988 in Sofia, Canada signed the *Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution Concerning the Control of Emissions of Nitrogen Oxides or Their Transboundary Fluxes*, annexed hereto as **Schedule 7**. Canada ratified it on 25 January 1991. The United States of America also signed this *Protocol* on 1 November 1988 and ratified it on 13 July 1989. The *Protocol* entered into force on 14 February 1991.

Pursuant to Article 2, paragraph 1 [*sic*, paragraphs 2(a)–(b)] of this Protocol, the Parties undertake to “apply,” no later than two years after the date of its entry into force, national emissions standards based on the best available technologies which are economically feasible, taking into consideration the Technical Annex to the *Protocol*, which sets out the following principles regarding inspection and maintenance of motor vehicles equipped with pollution-control devices:

48. It is important to ensure that new-vehicle emission standards are maintained in service. This can be done through inspection and maintenance programmes, ensuring conformity of production, full useful-life durability, warranty of emission-control components, and recall of defective vehicles.

...

62. There should not be any devices to reduce the efficiency or switch off the emission control systems during any operating conditions except conditions which are indispensable for trouble-free running (e.g., cold start).

*Inspection and maintenance*

63. The inspection and maintenance programme has an important secondary function. It may encourage regular maintenance and discourage vehicle owners from tampering with or disabling the emission controls, both through direct enforcement and public information. It should also ensure that emission control systems have not been removed.

...

65. Inspection and maintenance programmes can be beneficial for all types of control technology by ensuring that new-vehicle emission levels are maintained. For catalyst controlled vehicles it is essential to ensure that the new-vehicle specifications and settings are maintained to avoid deterioration of all major pollutants, including NO<sub>x</sub>.

15 - In 1988, concerned by frequent exceedences of the hourly ground-level ozone target of 82 ppb (parts per billion) in several Canadian localities (particularly the Windsor-Québec City corridor and the Lower Fraser Valley), the *Canadian Council of Ministers of the Environment (CCME)* commissioned the drafting of a management plan for nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOC), which are ground-level ozone precursors. This process led to the development of a program (in three phases) comprising more than 80 initiatives to reduce NO<sub>x</sub> and VOC emissions. Among the goals of these initiatives were to:

- meet Canada's international commitments, particularly those linked to the *United States-Canada Air Quality Agreement* and the *Convention on Long-range Transboundary Air Pollution*;
- adopt a multi-pollutant approach, with particular consideration to the issue of particles, as well as measures aiming to resolve other air quality-related issues such as climate change and acid precipitation;
- encourage the United States to strengthen its measures to reduce smog pollution and to establish stricter air quality standards so as to reduce transboundary air pollution;
- to meet, by 2005, the hourly ground-level ozone target of 82 ppb (parts per billion) and to establish a framework making it possible to achieve more stringent targets in the future;
- to implement a dynamic national smog reduction program so as to strengthen Canada's position on transboundary smog-related air pollutants.

In November 1990, Phase 1 of the *Action Plan for Nitrogen Oxides (NO<sub>x</sub>) and Volatile Organic Compounds (VOC)* was adopted by the *Canadian Council of Ministers of the Environment (CCME)*. Initiative V601/N601 of this *Plan* recommended the implementation of mandatory vehicle inspection/maintenance (I/M) programs for the Lower Fraser Valley and the urban areas of the Windsor-Québec City corridor by 31 December 1993.<sup>1</sup>

16 - On 13 March 1991, Canada and the United States entered into the *United States-Canada Air Quality Agreement*, in which Canada committed to reducing, by 2000, its nitrogen oxide emissions by 10% with respect to their 1991 level and to implementing programs to reduce mobile-source NO<sub>x</sub> emissions.

17 - On 19 November 1991 in Geneva, Canada and the United States of America, with other countries, signed the *Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution Concerning the Control of Emissions of Volatile Organic Compounds or Their Transboundary Fluxes*. This Protocol, annexed hereto as **Schedule 8**, entered into force on 29 September 1997.

According to Article 2, paragraph 1 [*sic*, paragraph 2(a)] of this Protocol, each Party undertakes to take effective measures as soon as possible to reduce its domestic annual emissions of VOCs by at least 30 per cent by the year 1999, using 1988 levels as a basis or any other annual level during the period 1984 to 1990, which it may specify upon signature of or accession to the Protocol.

Moreover, each Party undertakes to apply, no later than two years after the date of entry into force of the Protocol, appropriate national or international emission standards to new mobile sources based on the best available technologies which are economically feasible, taking into consideration Annex III, which stipulates as follows:

<sup>1</sup> This information is provided on pp. 1–2 of Canadian Council of Ministers of the Environment (CCME), *Environmental Code of Practice for Light Duty Motor Vehicle Emission Inspection and Maintenance Programs*, October 1994 (second edition, 1998), cited hereinbelow.

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9. It is important to ensure that vehicle designs are capable of meeting emission standards in service. This can be done through ensuring conformity of production, full useful-life durability, warranty of emission-control components, and recall of defective vehicles. For in-use vehicles, continued emission-control performance can also be ensured by an effective inspection and maintenance programme, and measures against tampering and misfuelling.

**18 -** In order to implement the numerous aforementioned commitments, the Ministry of the Environment of Québec created a steering committee in 1993 to develop an approach that would enable Québec to implement a vehicle inspection and maintenance (I/M) program in line with other initiatives designed to reduce air emissions from the transport sector. This committee included representatives of the Ministry of the Environment of Québec, the Montreal Urban Community (*Communauté urbaine de Montréal—CUM*), the Ministry of Transport of Québec (MTQ), the Québec Automobile Insurance Corporation (*Société de l'assurance automobile du Québec—SAAQ*) and Environment Canada.

**19 -** On 14 September 1993, with a view to achieving high levels of environmental protection and observing its environmental laws and regulations, the Government of Canada, by means of Article 5 of the *North American Agreement on Environmental Cooperation (NAAEC)*, undertook to effectively enforce its environmental laws and regulations through appropriate governmental action such as:

- (a) *appointing and training inspectors;*
- (b) *monitoring compliance and investigating suspected violations, including through on-site inspections;*
- (c) *seeking assurances of voluntary compliance and compliance agreements;*
- (d) *publicly releasing non-compliance information;*
- (e) *issuing bulletins or other periodic statements on enforcement procedures;*
- (f) *promoting environmental audits;*
- (g) *requiring record keeping and reporting;*
- (h) *providing or encouraging mediation and arbitration services;*
- (i) *using licenses, permits or authorizations;*
- (j) *initiating, in a timely manner, judicial, quasi-judicial or administrative proceedings to seek appropriate sanctions or remedies for violations of its environmental laws and regulations;...*

Canada, pursuant to this article, also undertook to enact in its domestic law judicial, quasi-judicial or administrative proceedings to enforce its environmental laws and regulations.

**20 -** In October 1994, the *Canadian Council of Ministers of the Environment (CCME)* published the first edition of its *Environmental Code of Practice for Light Duty Motor Vehicle Emission Inspection and Maintenance Programs*. A copy of this Code (second edition, 1998) is annexed hereto as **Schedule 9**.

The purpose of the Code is to inform and guide the provincial bodies responsible for transportation and environmental issues in their choice of an inspection/maintenance program to reduce emissions of volatile organic compounds (VOC), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO) and particulates from light-duty vehicles currently in use, all of which substances have a potential impact on human health.

The Code presents a standard model or benchmark for Canadian light-duty motor vehicle maintenance and inspection programs. In addition to legislative aspects and several considerations of a general nature, the Code discusses the basic program parameters, testing procedures, testing equipment, quality control and quality assurance, repair technician and repair facility certification, and public information, awareness, and relations. The CCME Code recommends the following:

### 2.3 Test Frequency

2.3.1 If it does not compromise I/M program efficiency, an inspection frequency that harmonizes with a province's normal relicensing or re-registration process is recommended. Estimates reveal that an annual inspection will achieve slightly higher emissions reduction than a biennial inspection, particularly for older-technology vehicles. However, for programs employing a dynamometer emissions test, a biennial inspection should be sufficient for newer technology vehicles and is recommended as the benchmark. I/M programs based solely on idle emissions tests could consider retaining an annual test requirement. Administrators could also consider the introduction of a two-tiered program that would require older-technology vehicles to be tested annually and newer-technology vehicles only every two years. (CCME, Environmental Code of Practice, 2<sup>nd</sup> ed., 1998, p. 13. Our emphasis.)

**21 -** Phase 2 of the *Federal Smog Management Plan* of Canada of November 1997 mentioned the utility of this Code for the establishment of vehicle inspection and maintenance programs for the purpose of smog reduction in Canada (source: <http://www.ec.gc.ca/p2progress/1997-1998/fr/sec2-1.cfm>).

**22 -** Following the publication of the *Environmental Code of Practice* by the *Canadian Council of Ministers of the Environment (CCME)*, the author of this submission, *Association québécoise de lutte contre la pollution atmosphérique (AQLPA)*, was mandated in 1996 by the Ministry of the Environment of Québec to conduct an exhaustive study with the aim of designing a Québec motor vehicle inspection and maintenance program to provide for the effective enforcement of sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere (R.R.Q., c. Q-2, r. 20)* and section 51 of the *Québec Environment Quality Act (R.S.Q., c. Q-2)*. The mandate of *Association québécoise de lutte contre la pollution atmosphérique (AQLPA)* was to:

- inform and sensitize the public to the magnitude of motor vehicle pollution and the importance of creating an ongoing vehicle inspection and maintenance system in Québec;
- update the data on the Québec motor vehicle fleet;
- compile knowledge on the links between pollution, health, and the environment;
- evaluate the available technologies and existing inspection programs in North America and internationally;
- evaluate the training of technicians and mechanics;
- evaluate potential additional program components (e.g., old car buyback programs, vehicle repair granting programs for low-income persons, or tree planting for carbon sequestration);
- evaluate the relevance and feasibility of an inspection program for diesel vehicles;
- develop the parameters of a permanent structure.

**23 -** This exhaustive study was conducted by *Association québécoise de lutte contre la pollution atmosphérique (AQLPA)* in collaboration with some forty major partners in the automotive, environmental, and public health sectors of Québec divided into seven (7) working groups under the umbrella of the *Un air d'avenir* project.

**24 -** In April 1999, after more than two years of intensive work, *Association québécoise de lutte contre la pollution atmosphérique (AQLPA)* delivered a voluminous report of the *Un air d'avenir* project to the Minister of the Environment of Québec so as to give the government an in-depth view of the situation.

This report and its recommendations were the subject of a very broad consensus. The report discusses the major air-related issues, the various air pollution reduction commitments taken by Québec, the numerous inspection programs existing in North America, and the various technologies available. Furthermore, the report details the main parameters of such programs, including inspection frequency, repair cost, training of mechanics, quality control, pollutant reduction targets, etc. A copy of this report is annexed hereto as **Schedule 10**.

**25 -** It emerges from this report (p. 106) that a *motor vehicle inspection and maintenance program* applicable to all light-duty vehicles in Québec aged three years and older (beginning with the Montreal metropolitan area) and providing for mandatory biennial inspection is unanimously recognized by all the stakeholders as essential to the effective enforcement of sections 96.1 and 96.2 of the *Regulation*

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respecting the quality of the atmosphere (R.R.Q., c. Q-2, r. 20) and section 51 of the Québec Environment Quality Act (R.S.Q., c. Q-2).

**26 -** On 1 December 1999, in Göteborg (Sweden), Canada and the United States of America, with other countries, signed the *Protocol to the 1979 Convention on Long-range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-Level Ozone*. This *Protocol*, a copy of which is annexed hereto as **Schedule 11**, has not yet entered into force.

The preamble to this protocol states that, “emitted nitrogen oxides, sulphur and volatile organic compounds, as well as secondary pollutants such as ozone and the reaction products of ammonia, are transported in the atmosphere over long distances and may have adverse transboundary effects.” It rightly notes that, “techniques and management practices are available to reduce emissions of these substances.”

Furthermore, the preamble to this protocol announces that, “Canada and the United States of America are bilaterally negotiating reductions of emissions of nitrogen oxides and volatile organic compounds to address the transboundary ozone effect.”

**27 -** In December 1999, the Minister of the Environment again mandated AQLPA and its partners to pursue their work and clarify certain aspects considered to have high priority, such as training of mechanics, the portion of the program applicable to heavy-duty vehicles, energy efficiency promotion, and better characterization of environmental gains associated with the implementation of the inspection and maintenance (I/M) program, especially in regard to greenhouse gas reduction. The principal objectives of this second phase of the *Un air d’avenir* project were articulated as follows:

- to respond to questions raised at the conclusion of the first phase;
- to intensify the public awareness work;
- to consolidate and develop links with stakeholders in the program;
- to update the recommendations;
- to reassess the environmental gains attributable to the program;
- to more thoroughly document the portion of the program applicable to heavy-duty vehicles;
- to promote energy efficiency measures.

**28 -** On 27 March 2000, Jean-Pierre Létourneau of the *Air Quality Division (Service de la qualité de l’atmosphère)* of the *Ministry of the Environment* of Québec noted, in a memo to the director of the division, Raynald Brulotte, that the enforcement of sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere (R.R.Q., c. Q-2, r. 20)* was ineffective and that convictions obtained by the Ministry for violation of these sections were rare, due to systemic difficulties with the enforcement of these provisions. A copy of this memo is annexed hereto as **Schedule 12**.

He recommended the implementation of a vehicle inspection and maintenance (I/M) program that could be administered by the mechanical inspection agents of the *Société de l’assurance automobile du Québec (SAAQ)*, an agency of the Government of Québec.

**29 -** Mr. Létourneau verbally confirmed to the President of the AQLPA, André Bélisle, that to his knowledge, sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere (R.R.Q., c. Q-2, r. 20)* had given rise to fewer than 10 indictments for violations since the sections in question had come into force. It is unknown how many convictions were obtained from these cases, nor how many of them were subsequent to the entry into force of the *North American Agreement on Environmental Cooperation (NAAEC)*.

Moreover, AQLPA notes that there has been no body or employee of the Government of Québec with the responsibility to enforce sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere (R.R.Q., c. Q-2, r. 20)* and section 51 of the Québec *Environment Quality Act (R.S.Q., c. Q-2)* since these sections have come into force. Neither do Québec police officers have any responsibility in this regard; at any rate, they possess neither the training nor the equipment necessary to determine whether pollution control devices on light-duty vehicles using Québec’s roads are in proper working order.

AQLPA further notes that, since these sections have come into force, there has been no budget allocated to the enforcement of sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere* (R.R.Q., c. Q-2, r. 20) and section 51 of the Québec *Environment Quality Act* (R.S.Q., c. Q-2).

Thus, since these sections have been in force, there has been no annual report by the government on the enforcement of sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere* (R.R.Q., c. Q-2, r. 20) and section 51 of the Québec *Environment Quality Act* (R.S.Q., c. Q-2).

**30 -** In December 2000 in Washington, the Government of the United States of America and the Government of Canada amended the *Agreement Between the Government of the United States of America and the Government of Canada on Air Quality* of 1991, adding an Ozone Annex, which is annexed hereto as **Schedule 13**. Part II of this Annex establishes a *Pollutant Emission Management Area (PEMA)* comprising:

- A. For Canada, the area of 301,330km<sup>2</sup> that covers all of the Canadian territory south of about the 48th parallel beginning east of Lake Superior to the Ottawa River, and south of the corridor that extends from the Outaouais Region east to Quebec City,
- B. For the United States, the area comprising the states of Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New York, New Jersey, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, and Wisconsin, and the District of Columbia.

Parts I and IV of this *Ozone Annex* set out Canada's commitment to take additional measures to reduce NO<sub>x</sub> and VOC emissions so as to meet, by 2010, the *Canada-wide Standard for Ozone* of 65 ppb (parts per billion) and, particularly, in the portion of Québec within the *Pollutant Emission Management Area (PEMA)*, to study the implementation of measures to reduce NO<sub>x</sub> and VOC emissions from existing light- and heavy-duty vehicles.

**31 -** In 2000, the Government of Québec tabled its *Québec Action Plan on Climate Change 2000–2002*, in which it undertook to implement an ongoing inspection and maintenance program for light- and heavy-duty vehicles.

It emphasized that this measure would have the advantage of making for reductions in emissions of greenhouse gases and other air pollutants such as nitrogen oxides, volatile organic compounds, and carbon monoxide. This action would also help to sensitize and empower citizens and businesses with respect to air pollution problems.

According to the *Québec Action Plan on Climate Change 2000–2002*, “this program for heavy- and light-duty vehicles will be based on a regulation. It will be phased in starting in 2002. The first phase of the program will apply to heavy-duty vehicles in all regions with the exception of the Arctic, and to light-duty vehicles in the Montreal region. Subsequent phases would cover the regions of Québec City, Hull and the rest of the province.” (p. 36). A copy of this *Action Plan* is annexed hereto as **Schedule 14**.

**31 A -** Also in 2000, the *Commissioner of the Environment and Sustainable Development* of Canada tabled a report on smog emphasizing the absence of an effective management framework for the *NO<sub>x</sub> and VOC Management Plan* in Canada, which would require cooperation between the federal government and the provincial governments as well as the implementation and follow-up of specific measures (paragraphs 4.1.72 *et seq.*). A copy of this report is annexed hereto as **Schedule 31**.

**32 -** In April 2001, AQLPA filed the result of its second study (*Un air d'avenir*, Phase II) on the matters it had been tasked with addressing in 1999 with a view to implementing a *mandatory motor vehicle inspection and maintenance program* with respect to the pollution control systems of these vehicles. A copy is annexed hereto as **Schedule 15**.

**33 -** In its 2001 progress report on the implementation of the *Québec Action Plan on Climate Change 2000–2002*, the Government of Québec reiterated its intention to reduce emissions from in-use light- and heavy-duty vehicles by implementing a mandatory vehicle inspection and maintenance program.

The Government of Québec stated that, “the preparatory stages for the implementation of a mandatory vehicle inspection and maintenance program are in progress. This program aims to ensure that the pollution-control systems on vehicles remain functional. The program would thereby have positive air quality and health impacts for Québécois.” The government went on to announce that, “work relating to this program is continuing.” Excerpts from this report are annexed hereto as **Schedule 16**.

**34 -** The Ministry of the Environment of the Government of Québec then mandated AQLPA to undertake a third phase of the *Un air d’avenir* project in accordance with the *Environmental Code of Practice* of the *Canadian Council of Ministers of the Environment (CCME)*, the purpose being to invite the agencies responsible for implementing vehicle inspection and maintenance programs to put forward complementary initiatives designed to achieve greater reductions in air pollution caused by the transportation sector.

**35 -** In 2002, AQLPA delivered technical reports on the following five subjects:

- The organization and management of an advisory committee for the implementation phase of the *Québec Vehicle Inspection and Maintenance Program*.
- A status report on standards governing the manufacture and installation of catalytic converters.
- A report on vehicle mechanical inspection measures relating to fuel economy.
- A feasibility plan for a Québec scrapping program.
- A study, complementary to the *Vehicle Inspection and Maintenance Program*, on the implementation of a tree-planting program to address the problem of global warming and achieve CO<sub>2</sub> sequestration.

Copies of these reports are annexed hereto as **Schedule 17**.

**36 -** Today, more than 19 years after the entry into force of sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere (R.R.Q., c. Q-2, r. 20)* and after more than 15 years of studies, reports, consultations, and promises, the Government of Québec and its Ministry of the Environment are still failing to effectively enforce these sections. They are still delaying fulfillment of their promise to implement a Québec mandatory biennial inspection and maintenance program for light-duty vehicles aged three years and over.

## 5. ENVIRONMENTAL AND PUBLIC HEALTH ASPECTS

**37 -** Québec’s failure to effectively enforce this environmental law has considerable consequences for the environment, public life, and public health.

**38 -** It is evident from the various studies performed by AQLPA for the Ministry of the Environment of Québec that a *light-duty motor vehicle inspection and maintenance program* would lead to reductions of approximately 33.9% in carbon monoxide (CO) emissions, 28.9% in volatile organic compound (VOC) emissions, and 16% in nitrogen oxide (NO<sub>x</sub>) emissions, all of these being pollutants responsible for smog and acid rain. This program would also lead to approximately 5% fuel economies for the Québec automobile fleet, equivalent to monetary savings four times greater than the costs of the inspection program. This decreased fuel consumption would represent an equal decrease, in CO<sub>2</sub> equivalents, of carbon dioxide (CO<sub>2</sub>), nitrous oxide (N<sub>2</sub>O) and methane (CH<sub>4</sub>), all of these being greenhouse gases responsible for climate warming, all as stated on pages 65 and 67 of the aforementioned report of Phase 2 of the *Un air d’avenir* project published by AQLPA in April 2001.

**39 -** The harmful environmental and public health effects of smog, much of which is generated by motor vehicle pollution, are amply described in Chapter 4 of the 2000 Report of Canada’s *Commissioner of the Environment and Sustainable Development* titled “*Smog: Our Health at Risk*,” annexed hereto as **Schedule 31**. They are also described in the report *The Smog Primer* by the organization *Pollution Probe*, excerpts of which are annexed hereto as **Schedule 32**.

More specifically, on 4 April 2002, a report by Norman King (M.Sc. Epidemiology), Louis Drouin (M.D., MPH) and Jo Anne Simard (B.Sc. Humanities), produced by the *Unité Santé au travail et*

*environnementale* (Occupational and Environmental Health Unit) of Montreal's *Hôpital Maisonneuve-Rosemont* (Maisonneuve-Rosemont Hospital) for the *Direction de la santé publique* (Department of Public Health) of the *Régie régionale de la santé et des services sociaux de Montréal-Centre* (Montréal-Centre Regional Health and Social Services Board) discussed the serious public health problems caused by motor vehicle pollution in the Montreal metropolitan area. A copy of this report is annexed hereto as **Schedule 18**.

**40 -** The Ministry of Health and Social Services of the Government of Québec, in its *Québec Public Health Program 2003-2012* published in early 2003, reiterated these observations and affirmed the urgency of implementing a mandatory vehicle emission inspection program to reduce mortality and morbidity rates. The Ministry noted, during air pollution peaks in Montreal, an average daily mortality excess of 5% in people suffering from respiratory diseases and 4.2% in people suffering from heart failure (see *Québec Public Health Program 2003-2012*, pp. 59–62). Excerpts from this *Program* are annexed hereto as **Schedule 19**.

**41 -** The 1997 report of the *Commission for Environmental Cooperation (CEC)* on continental pollutant pathways recommends a North American ecosystemic approach to the analysis of the problem of air pollutants (including those from motor vehicles) and the implementation of integrated solutions. A copy of this report is annexed hereto as **Schedule 30**.

It should be noted that on 23–24 May 2002, in Montreal, the *Conference of New England Governors and Eastern Canadian Premiers* and the Government of Québec jointly held a *Symposium on Air Pollution and Public Health*, which addressed, *inter alia*, the issues surrounding motor vehicle pollution as a means of reducing health impacts as well as the implementation of mandatory vehicle emission inspection programs where these do not exist.

**42 -** On 2 October 2003, the Minister of Transportation of Québec, Julie Boulet, confirmed during a speech that deteriorating air quality entails a significant rise in health care costs. She stated (page 4 *in fine*) that a study conducted for the Ministry had evaluated the costs associated with the environment at more than 860 million dollars annually for the Montreal area only. A copy of the text of this speech is annexed hereto as **Schedule 20**.

**43 -** More recently, on 19 February 2004, following the tragic death of Annabel Deslauriers, a girl left for 15 minutes last winter in an older vehicle whose exhaust system was non-compliant with section 96.1 of the *Regulation respecting the quality of the atmosphere*, Coroner Rafael Ayllon (of the Office of the Coroner of the Government of Québec) recommended that the *Société de l'assurance automobile du Québec (SAAQ)* apply "*mandatory inspection for all motor vehicles aged 7 years or more, this inspection to take place at re-registration and to be followed by impoundment of the vehicle in the event of failure to make the mandatory repairs required further to the inspection,*" he too echoing the recommendations of our client and its partners.

The coroner's review of the link between this death and the absence of a vehicle inspection and maintenance program followed on the heels of representations by the author of this submission, *Association québécoise de lutte contre la pollution atmosphérique (AQLPA)*, to the effect that the same week as this death, seven (7) other cases of carbon monoxide poisoning under similar circumstances had been reported in Québec and had required hospitalization. Copies of AQLPA's representations, the coroner's report, and newspaper articles on this report are annexed hereto, bound, as **Schedule 21**.

## **6. ASPECTS RELATED TO EQUITY WITH OTHER NORTH AMERICAN JURISDICTIONS**

**44 -** Québec's failure to effectively enforce its environmental law on pollution control systems in light-duty motor vehicles is inequitable both for the citizens of Québec and the citizens and governments of neighboring states and provinces.

45 - Since the early 1990s, programs of this type covering light- and heavy-duty vehicles have been implemented in Ontario and British Columbia as well as in forty US states, including Maine, Vermont, and New York. Québec is one of the last jurisdictions in North America to be lacking a program of this type.

A report by the *Manufacturers of Emission Controls Association (MECA)*, published 30 June 1997 and annexed hereto as **Schedule 22**, analyzes approximately thirty light-duty vehicle inspection and maintenance programs operating in various provinces and states.

46 - Appendix 7 of AQLPA's report of Phase 1 of the *Un air d'avenir* project (annexed hereto as **Schedule 10**) summarizes and compares these programs.

47 - The Québec model proposed by AQLPA and its partners under the auspices of the *Un air d'avenir* project has already been comprehensively implemented in 1999 by the State of New Jersey when it was updating its inspection and maintenance program, this state having been a pioneer in this field since 1947. A presentation of this program is annexed hereto as **Schedule 23**. (However, it should be noted that the program proposed by AQLPA and its partners includes a more limited inspection system in certain sparsely populated regions of Québec, which would not apply in New Jersey since the entire state is more densely populated).

48 - The Québec model proposed by AQLPA and its partners under the auspices of the *Un air d'avenir* project also displays similarities with the program implemented by Ontario. A presentation of this program is annexed hereto as **Schedule 24**.

49 - As appears from these documents, nearly all of the provinces and states (except Michigan, Wisconsin, and Québec) comprising the *Pollutant Emission Management Area (PEMA)* contained in the Ozone Annex of December 2000 to the *Agreement Between the Government of the United States of America and the Government of Canada on Air Quality* have adopted effective light-duty vehicle inspection and maintenance programs providing for mandatory inspection at least every two years of all in-use vehicles aged at least five years. Thus, Québec is surrounded by jurisdictions that are applying effective light-duty vehicle inspection and maintenance programs with respect to their atmospheric emissions.

50 - The implementation of such a program takes approximately two years, as is evident in the documentation. This is a substantially shorter period than the 19 years that Québécois have been waiting for the government to effectively enforce sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere (R.R.Q., c. Q-2, r. 20)* and section 51 of the *Québec Environment Quality Act (R.S.Q., c. Q-2)*. There is no justification for this delay in Québec and it would be unreasonable to call for any additional delay in the implementation of a comprehensive and effective inspection and maintenance program applicable to all light-duty vehicles aged three years and over, with mandatory biennial inspection upon renewal of the registration.

## 7. HARM INCURRED

51 - The aforementioned failures of the Government of Canada and the Government of Québec are causing severe harm to the population of Québec from the standpoint of the protection of their environment, their public health, and their public safety, as set out hereinabove.

52 - The author of this submission, *Association québécoise de lutte contre la pollution atmosphérique (AQLPA)*, has a mission of advocacy on behalf of environmental, public health, and public safety interests related to air pollution issues in Québec, as appears from its aforesaid letters patent, a copy of which is annexed hereto as **Schedule 1**.

53 - The aforementioned failures of the Government of Canada and the Government of Québec have, furthermore, caused direct harm to the author of this submission, *Association québécoise de lutte contre la pollution atmosphérique (AQLPA)* and its partners, who have invested their credibility, efforts,

in-kind resources, and considerable direct monetary resources in numerous procedures and studies mandated by the Ministry of the Environment of Québec, which resources were only partially subsidized, still without giving rise to an effective program after eight years of work.

## **8. NOTIFICATION OF THIS MATTER GIVEN TO PARTY'S COMPETENT AUTHORITIES AND FOLLOW-UP**

**54 -** After more than 15 years of studies, consultations, and promises, the Government of Québec and its Ministry of the Environment have yet to adopt or implement a *light-duty vehicle inspection and maintenance program* for Québec.

**55 -** In April 2002, the Government of Québec gave an indication of the possibility of implementing a light-duty vehicle inspection and maintenance program that would be limited to very old vehicles (aged 10–15 years or more) in which inspections would occur only at time of resale.

This intent on the part of the government caused an outcry among the many stakeholders who had participated in producing the recommendations of the reports of the *Un air d'avenir* project in favor of a mandatory biennial inspection program, with inspection at time of registration renewal, applicable to all light-duty vehicles aged three years and over, all as appears from a series of newspaper articles published 16–17 April 2002 and annexed hereto as **Schedule 25**.

Such a program would have affected only 15% of vehicles, would not have encouraged regular vehicle maintenance, would not have significantly reduced air emissions, and would not have made for the effective enforcement of sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere* (R.R.Q., c. Q-2, r. 20) and section 51 of the *Québec Environment Quality Act* (R.S.Q., c. Q-2). Furthermore, such a program would have contravened the *Environmental Code of Practice for Light Duty Motor Vehicle Emission Inspection and Maintenance Programs* of the *Canadian Council of Ministers of the Environment (CCME)* as well as the unanimous consensus of the stakeholders reflected in AQLPA's *Un air d'avenir* project reports.

In the wake of this outcry on the part of the stakeholders, the Government of Québec abandoned this project, and rightly so. Unfortunately, it still has not implemented the effective program recommended by the stakeholders.

**56 -** On 25 October 2003, faced with the Government of Québec's persistent inaction, the author of this submission, *Association québécoise de lutte contre la pollution atmosphérique (AQLPA)*, publicly announced its intention to file an NAAEC Article 14 submission due to the government's failure to effectively enforce sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere* (R.R.Q., c. Q-2, r. 20) as well as the *Québec Environment Quality Act* (R.S.Q., c. Q-2) with respect to atmospheric emissions of hydrocarbons, carbon monoxide, and nitrogen oxides from light-duty motor vehicles, as appears from a newspaper article annexed hereto as **Schedule 26**.

**57 -** On 10 March 2004, the Ministry of the Environment of Québec announced in a press release that the implementation of the heavy-duty vehicle inspection and maintenance program would be delayed until 2005 while further studies and consultations were carried out. In addition, in this press release, the Ministry did not promise any date for the implementation of the previously announced inspection and maintenance program for light-duty vehicles (biennial, and for all light-duty vehicles aged three years and over). A copy of this press release is annexed hereto as **Schedule 27**.

**58 -** It appears evident that the Government of Québec is piling delay upon delay and no longer has any intention of adopting a mandatory *light-duty vehicle inspection and maintenance program* that is biennial and applies to all vehicles aged three years and over, which is necessary for the effective enforcement of sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere* (R.R.Q., c. Q-2, r. 20) as well as sections 19.1, 20 and 51 of the *Québec Environment Quality Act* (R.S.Q., c. Q-2), with respect to atmospheric emissions from light-duty motor vehicles, pursuant to the commitments

applicable to Canada and Québec under Article 5 of the *North American Agreement on Environmental Cooperation*.

**59** - On 24 August 2004, the Government of Québec was notified of this matter by means of a formal notice of demand from the counsel to the author of this submission, M<sup>e</sup> Dominique Neuman, enjoining the government to announce, by 7 September 2004, specific measures along with a specific timeline for the implementation in Québec of a *light- and heavy-duty vehicle inspection and maintenance program* designed to effectively enforce sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere*, in respect of the applicable commitments of Canada and Québec under Article 5 of the *North American Agreement on Environmental Cooperation*. A copy of this notice of demand is annexed hereto as **Schedule 28**.

**60** - In this notice of demand, AQLPA announced that failing an announcement of such specific measures by the government, AQLPA would have no choice but to file a submission with the Secretariat of the *Commission for Environmental Cooperation (CEC)* pursuant to Article 14 of the *North American Agreement on Environmental Cooperation* on the grounds that the government is failing to effectively enforce its environmental law.

**61** - The Government of Québec has not given any response to this notice of demand.

**62** - On 28 September 2004, the *Organization for Economic Cooperation and Development (OECD)* published an environmental performance review of Canada (excerpts of which are annexed hereto as **Schedule 29**) in which it concluded (pp. 40–41) that “*Canada has met only some of its domestic, bilateral and international commitments related to air pollution,*” as the following table illustrates:

Pollutant	Canada's commitment			Results	
	Protocol or Plan	Target period	Target	Observed period	Observed change (and net value in millions of tons)
Nitrogen oxides (NO <sub>x</sub> )	Sofia Protocol (1988)	1987–94	0 %	1987–94	-0.4 % (3.0)
	Canada-US Air Quality Agreement (1991)	1991–2000	-10 %	1991–2000	-4 % (2.8)
	Canada NOx/VOC Management Plan (1990)	1985–2005	-11 %	1985–2001	0 % (2.8)
	Ozone Annex (2000)	1990–2010	-44 %	1990–2001	-6 % (2.8)
Volatile organic compounds (NMVOCs)	Geneva Protocol (1991)	1988–99	-30 %	1988–99	-14 % (2.5)
	Canada NOx/VOC Management Plan (1990)	1985–2005	-16 %	1985–2001	-20 % (2.5)

The OECD report states (p. 201) that NO<sub>x</sub> emissions continue to raise concerns, particularly in eastern Canada, where acid rain is still attaining damaging levels. On pages 19–20 and 36, it notes that “*NO<sub>x</sub> and VOC emissions have increased since the early 1980s, partly reflecting sustained growth in vehicle use... Although levels of primary airborne pollutants have decreased, many parts of Canada (both urban and rural) continue to experience unacceptable air quality, including for fine particles and ground-level ozone (there are high levels in the Windsor-Quebec City corridor).*” The OECD further notes (p. 202) that, “*Canada did not ratify the 1991 protocol on VOCs when it became clear that the goal of a 30% VOCs reduction could not be achieved in the Lower Fraser Valley or in the Windsor-Québec City area, where smog problems are the most severe.*”

The report explains (p.17) that, “*despite efforts to strengthen the implementation of legislation, doubts remain about the capacity to fully implement and enforce legislation and standards at federal*

level... and sometimes at provincial level. In the second half of the 1990s there were large cuts in federal and provincial environmental budgets as a result of fiscal consolidation efforts at both levels of government." The report therefore recommends (p. 18), "further implement[ation of] federal and provincial environmental legislation, ensuring that federal and provincial compliance and enforcement programs are well co-ordinated and adequately resourced."

The authors of the OECD report appear to believe, wrongly, that the *Environmental Code of Practice for Light Duty Motor Vehicle Emission Inspection and Maintenance Programs* of the Canadian Council of Ministers of the Environment (CCME) is being enforced (p. 46, lines 19–20). However, this Code (annexed as **Schedule 9**), which would make possible the effective enforcement of sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere* (R.R.Q., c. Q-2, r.20) and section 51 of the Québec *Environment Quality Act*, is not being enforced by the Government of Québec, despite the recommendations of AQLPA and its partners.

**63 -** This OECD report states (p. 201) that the prime ministers of the eastern Canadian provinces and the governors of the New England states have made a joint appeal to the federal governments of Canada and the United States to realize considerable new reductions in SO<sub>2</sub> and NO<sub>x</sub> emissions.

## 9. CONCLUSIONS

**64 -** For all the foregoing reasons, the author of this submission, *Association québécoise de lutte contre la pollution atmosphérique*, respectfully requests the *Commission for Environmental Cooperation* to prepare a factual record on the failure by the Government of Canada to effectively enforce sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere* (R.R.Q., c. Q-2, r.20) and section 51 of the Québec *Environment Quality Act*.

**65 -** Further study by the *Commission for Environmental Cooperation* of the facts set out herein would advance the goals of the *North American Agreement on Environmental Cooperation* (NAAEC), as set forth in its article 1, and more particularly, to:

- (a) foster the protection and improvement of the environment in the territories of the Parties for the well-being of present and future generations;
- (b) promote sustainable development based on cooperation and mutually supportive environmental and economic policies;
- (g) enhance compliance with, and enforcement of, environmental laws and regulations;
- (h) promote transparency and public participation in the development of environmental laws, regulations and policies;
- (i) promote economically efficient and effective environmental measures;...

Further study of the facts would specifically enable the *Commission for Environmental Cooperation* (CEC) and the Parties to the *North American Agreement on Environmental Cooperation* (NAAEC) to:

- a) confirm that, during the 19 years elapsed since the entry into force, on 9 March 1985, of sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere* (R.R.Q., c. Q-2, r. 20) and section 51 of the Québec *Environment Quality Act* (R.S.Q., c. Q-2), there have been, in total, *fewer than ten indictments* laid by the Government of Québec and its Ministry of the Environment for violations of these sections. Of this number, the number of convictions is unknown, and it is in fact unknown whether there have been any indictments laid since the entry into force of the NAAEC;
- b) confirm that since the entry into force of sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere* (R.R.Q., c. Q-2, r. 20) and section 51 of the Québec *Environment Quality Act* (R.S.Q., c. Q-2), there has never been any department or employee of the Government of Québec whose responsibility it is to enforce them, and that neither do the Québec police officers have any responsibility in this regard; that at any rate, they possess neither the training nor the equipment necessary to determine whether the pollution control devices on the light-duty vehicles using Québec's roads are in proper working order;
- c) confirm that since the entry into force of these sections, there has never been any budget allocated to their enforcement;
- d) confirm that since the entry into force of these sections, there has been no annual report by the government on the status of their enforcement;

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- e) assist the Government of Canada in facilitating the implementation, in the province of Québec, of a mandatory biennial inspection and maintenance program for light-duty vehicles aged three years and over, as described herein, for the purpose of effectively enforcing sections 96.1 and 96.2 of the *Regulation respecting the quality of the atmosphere (R.R.Q., c. Q-2, r. 20)* as well as sections 19.1, 20 and 51 of the Québec *Environment Quality Act (R.S.Q., c. Q-2)* with regard to atmospheric emissions of hydrocarbons, carbon monoxide, and nitrogen oxides from post-1985 models of light-duty motor vehicles.

The facts alleged in this submission, with very few exceptions, are not derived from mass media reports but rather from reports and actions of the Government of Québec and from environment and/or public health-related organizations, as well as the specific actions and reports of the author of the submission vis-à-vis the Government of Québec and these organizations, as appears in detail herein.

The environmental law in question in this submission does not provide for any private remedy that would allow for its effective enforcement, and no such remedy is the subject of a pending legal proceeding.

All of which is respectfully submitted.

3 November 2004

Dominique Neuman, LL.B.  
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