

Statement of the Government of the United States of America Concerning the Reasons for its Vote on SEM-13-001 (*Tourism in the Gulf of California*)

The United States does not think a factual record should be prepared on the assertions made in SEM-13-001 that Mexico is failing to effectively enforce its environmental law with regard to the Ramsar Convention. The Secretariat's analysis seems to indicate that the Ramsar Convention may be part of the supreme law of Mexico under Mexico's Constitution, but does not fully explain how Articles 3.1 and 3.2 of the Ramsar Convention have been integrated into Mexico's law such they could constitute a "statute or regulation of a Party, or provision thereof," as defined by Article 45(2) of the NAAEC.

The United States also is of the view that a factual record should not be prepared concerning the assertions in the submission that Mexico is failing to effectively enforce Article 36 of the REIA. In this instance, the United States did not find the Article 15(1) Notification to be persuasive in light of the points made by Mexico in its Response.

On the remaining issues raised in the submission in relation to which the Secretariat's Article 15(1) Notification recommends that a factual record be developed, the United States is in favor of the preparation of a factual record. The United States wishes to emphasize that its decision in favor of the preparation of a factual record on these remaining issues is based on a long-standing U.S. policy which favors the preparation of factual records by the CEC Secretariat as an important means of increasing public participation, transparency and openness on issues related to enforcement of environmental law in the United States, Canada and Mexico. This longstanding U.S. policy is reflected in Executive Order 12915 of May 13, 1994, which requires the United States, to the greatest extent practicable, to vote in favor of a factual record being prepared whenever such preparation is recommended by the CEC Secretariat. The United States wishes to stress that its position in favor of certain issues being included in a factual record does not reflect any judgment on the part of the United States as to whether Mexico is failing to effectively enforce its environmental law.