

Montreal, November 16, 2001

COUNCIL RESOLUTION 01-08

Instruction to the Secretariat of the Commission for Environmental Cooperation Regarding the Assertion that Canada is Failing to Effectively Enforce sections 35, 37 and 40 of the *Fisheries Act*, Section 5(1)(d) of *Canadian Environmental Assessment Act* (CEAA) and Schedule 1 Part 1 Item 6 of the *Law List Regulations* made pursuant to paragraphs 59(f) and (g) of CEAA (SEM-97-006).

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 The Friends of the Oldman River and the response provided by the Government of Canada on July 13, 1998;

NOTING that the one specific case presented in the submission is the Sunpine Forest Products Forest Access Road case;

FURTHER NOTING that Sunpine Forest Products Forest Access Road case is no longer the subject of administrative or judicial proceedings and, as noted in Resolution 00-02, Council has reviewed the notification by the Secretariat of July 19, 1999 that the development of a factual record is warranted in relation to the submission (SEM-97-006); and

CONFIRMING that the submitter has not, pursuant to Resolution 00-02, provided relevant assertions of fact about other cases of asserted failures to enforce the environmental law identified in the submission;

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* on whether Canada, in the Sunpine Forest Products Forest Access Road case, is failing to effectively enforce sections 35, 37 and 40 of the *Fisheries Act*, Section 5(1)(d) of *Canadian Environmental Assessment Act* (CEAA) and Schedule 1 Part 1 Item 6 of the *Law List Regulations* made pursuant to paragraphs 59(f) and (g) of CEAA;

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:

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

Government of the United Mexican States
by Olga Ojeda Cárdenas

Government of Canada
by Norine Smith