

10 December 2002

COUNCIL RESOLUTION 02-13

Instruction to the Secretariat of the Commission for Environmental Cooperation regarding the assertion that Mexico is failing to effectively enforce its environmental law in relation to the establishment and operation of the Cytrar hazardous waste landfill, in the city of Hermosillo, Sonora, Mexico (SEM-01-001)

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 14 February 2001 relating to the above-mentioned matter by *Academia Sonorense de Derechos Humanos, A.C.* and Domingo Gutiérrez Mendivil, the Secretariat's request of 24 April 2001 to the Government of Mexico for a response, the 1 June 2001 response of the Government of Mexico, and the additional information provided by the Government of Mexico, including that dated 19 July 2001;

NOTING that, in its Party response, Mexico informed the Secretariat, pursuant to Article 14(3)(a) of the NAAEC, that the matter at issue in the submission is the subject of a pending international dispute resolution proceeding before the International Centre for Settlement of Investment Disputes;

MINDFUL that Article 14(3) of the NAAEC states that where a Party has advised the Secretariat within 30 days, or in exceptional circumstances and on notification to the Secretariat, within 60 days of the delivery of a request to the Party for a response, that the matter is the subject of a pending judicial or administrative proceeding, the Secretariat shall proceed no further; and

HAVING REVIEWED the notification by the Secretariat of 29 July 2002 indicating that the development of a factual record is warranted;

HEREBY UNANIMOUSLY DECIDES:

TO INSTRUCT the Secretariat not to prepare a factual record with respect to the above-mentioned submission; and

TO DIRECT the Secretariat to inform the Submitter of the resolution agreed upon by Council, relating to SEM-01-001.

APPROVED BY THE COUNCIL:

Judith E. Ayres
Government of the United States of America

Olga Ojeda
Government of the United Mexican States

Norine Smith
Government of Canada