

22 April 2003

COUNCIL RESOLUTION: 03-05

Instruction to the Secretariat of the Commission for Environmental Cooperation Regarding the Assertion that Canada is failing to effectively enforce section 6(a) of the *Migratory Bird Regulations* (MBR) adopted under the *Migratory Birds Convention Act, 1994* (MBCA) (SEM 02-001).

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 4 February 2002 relating to the above-mentioned matter by Canadian Nature Federation, Canadian Parks and Wilderness Society, Earthroots, Federation of Ontario Naturalists, Great Lakes United, Sierra Club (United States), Sierra Club of Canada, Wildlands League, all represented by the Sierra Legal Defense Fund, and the response provided by the Government of Canada, dated 11 April 2002;

HAVING REVIEWED the notification to Council by the Secretariat on 12 November 2002 indicating that the development of a factual record is warranted in relation to the submission (SEM-02-001); and

NOTING that the submission, as it is based in large part on an estimation derived from the application of a descriptive model, and does not provide facts related to cases of asserted failures to enforce environmental law, does not contain the sufficient information required to proceed with the development of a factual record at this time;

HEREBY UNANIMOUSLY DECIDES:

TO DEFER consideration of the Secretariat's notification of 12 November 2002, pending the following:

- a) the submitters being provided a period of 120 calendar days from the date of this resolution to submit the requisite sufficient information in support of the allegations set forth in SEM-02-001;
- b) the termination of the submission process for SEM-02-001 if the submitters elect not to provide further information within the 120 calendar day time frame;
- c) in the event such further information is provided, the Secretariat determining whether that information warrants a response from Canada or whether the submission process should be terminated;
- d) in the event such a response is requested and provided by Canada, the Secretariat, after considering both the new information provided by the submitters and the response of Canada to that information, notifying Council whether it recommends the preparation of a factual record.

TO INSTRUCT the Secretariat to forthwith notify the submitters of this resolution.

APPROVED BY THE COUNCIL:

Judith E. Ayres
Government of the United States of America

Olga Ojeda Cárdenas
Government of the United Mexican States

Norine Smith
Government of Canada