

1 April 2005

COUNCIL RESOLUTION 05-04

**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-04-006).**

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 above noted submission filed on 12 October 2004 by the Canadian Nature Federation, Canadian Parks and Wilderness Society, Earthroots, Federation of Ontario Naturalists, Great Lakes United, Sierra Club (U.S. and Canada) and Wildlands League, all represented by Sierra Legal Defence Fund (SLDF), and the 7 December 2004 response provided by the Government of Canada;

HAVING REVIEWED the Secretariat's notification to Council of 17 December 2004 which recommended the development of a factual record with respect to the submission, and also recommended, in accordance with Guideline 10.3 of the *Guidelines for Submissions on Enforcement Matters* under Articles 14 and 15 of the NAAEC, that the submission be combined with the Ontario Logging submission (SEM-02-001) for the purpose of developing one consolidated factual record for both;

NOTING that the submission and Canada's response address clearcutting activities carried out during 2001 in four (4) forest management units in the Province of Ontario, particularly with respect to the migratory bird nesting season;

RECOGNIZING the close relationship between this submission and SEM-02-001, as was acknowledged in both the submission and Canada's response;

FURTHER NOTING that, pursuant to Council Resolution 04-03, the Secretariat is currently developing a factual record for SEM-02-001.

HEREBY UNANIMOUSLY DECIDES TO:

INSTRUCT the Secretariat to consolidate this submission (SEM-04-006) with the Ontario Logging submission (SEM-02-001) for the purpose of developing one consolidated factual record for both submissions,

FURTHER INSTRUCT, for greater clarity, the Secretariat to include in the consolidated factual record the four (4) forest management units identified by the submitters in SEM-04-006, with respect to the alleged failure by Canada to effectively enforce Section 6(a) of the MBR in regard to clearcut logging activities carried out from 1 January to 31 December 2001 in those units;

DIRECT the Secretariat to provide the Parties with an amended overall work plan to address the four forest management units identified by the submitters in SEM-04-006 and with the opportunity to comment on the amendments; and

REMIND the Secretariat to otherwise prepare the consolidated factual record in accordance with Council Resolution 04-03.

APPROVED BY THE COUNCIL:

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Judith E. Ayres  
Government of the United States of America

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José Manuel Bulás  
Government of the United Mexican States

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Norine Smith  
Government of Canada