



Distribution: GENERAL

C/C.01/96-07/SR/01/final

ORIGINAL: ENGLISH

COUNCIL SESSION 96-07

June 28 1996

Summary Record

Designated Alternate Representatives met via teleconference on June 28, 1996 for a special session. The agenda can be found as Annex "A". Mr. Anthony Clarke chaired the meeting. Mr. William Nitze and Mr. José Luis Samaniego represented the United States and Mexico respectively. Mr. Jonathan Plaut, Chair of JPAC and Mr. Victor Lichtinger, Executive Director of the Secretariat also participated in the teleconference. Other officials were in attendance.

APPROVAL OF AGENDA AND IDENTIFICATION OF PARTICIPANTS

Mexico requested that the Agenda be modified and that discussion on the Article 14 related to Cozumel be deleted at this time. Council Representatives agreed to informally discuss this item via teleconference on Friday 5 July at 8:30 AM. The Agenda was approved.

Action: Parties

REMARKS BY THE CHAIR OF THE JPAC

In his remarks, Jonathan Plaut, Chair of JPAC, reported on the first regional public meeting held in Montreal. He also reported on preparations for the second regional public meeting to be held in San Diego as well as the public portion of the Council Session to be held in Toronto. A draft report of the first meeting will be available in early July. Council will be briefed of the outcome of these meetings over lunch on August 1 (refer to section on "Guidance to JPAC"). A final report will be produced by mid-September.

Action: JPAC

JPAC Chair also informed Council that the JPAC was briefed by the Secretariat regarding the notification to Council concerning the preparation of a Factual Record under Article 14 concerning the construction of a pier and port facilities in Cozumel, Mexico.

Action: None

REMARKS BY THE EXECUTIVE DIRECTOR

The Executive Director offered to withhold his remarks due to the extensive agenda and limited time available.

Action: None

1996 REGULAR SESSION OF COUNCIL

Substantive Agenda: Council Representatives were presented with the final documents for the *Discussion Items* portion of the Agenda for the In-Camera Session.

Next Regular Session: A resolution on the date of the next regular session of Council will be drafted by the US and discussed by the GSC.

Action: US/GSC/Secretariat

Guidance to JPAC: Chair of JPAC presented the items which will be brought up by JPAC members during the course of a lunch with Council. These will include an update on the public meetings and a discussion on the 1997 Annual Program and Budget.

JPAC is responding to Council's request and inviting a Central American observer from The Comisión Centro Americana de Ambiente y Desarrollo (CCAD) and a Chilean observer from the Comisión Nacional del Medio Ambiente (CONAMA) to the JPAC session and Council Public Meeting.

Given the fact that the Secretariat received a request from the Head of UNEP North America to attend the Council Session as an observer, the Executive Director raised the question on the need for a policy concerning observers to the Council in-camera sessions. It was agreed at this time that the in-camera session should remain closed to all observers and that the question of a policy be reviewed at a future date.

Action: None

Update on Public Meeting and Public Participation: 40 requests for presentations have been received so far. The Secretariat and Chair of JPAC will develop a proposal as to the selection of presenters taking into account the balance of nationalities, regions, industry sectors and topics, by July 12.

Action: JPAC/Secretariat

Progress Reports: The items subject to a progress report by the Secretariat were reviewed. Two additional items were added: Maps of North American Ecoregions and North American Integrated System for Environmental Management (including the border mapping initiative).

Action: Secretariat

1997 Program and Budget: The Executive Director updated the Parties on the development of the discussion document for Council. Canada and Mexico will submit their input regarding the 1997 Program to the Secretariat by July 5. Parties may circulate their comments to each other individually if they choose to do so.

Action: Secretariat/Parties

Review and Finalization of Session Communiqué: The proposed draft of the communiqué will be sent out to Council as soon as available. Secretariat is working with the three Ministers' offices on this issue.

Action: Secretariat

Overall Program: Canada reported on the progress of the Overall Program and presented a rough outline of the main events scheduled for Wednesday July 31, starting at 11:30. The Alternate Representatives session remains on the agenda in the morning on a tentative basis.

The provisional ministerial program will be modified to accommodate the press conference at 12:00 PM on Friday.

Action: Secretariat

SUMMARY RECORDS OF SESSIONS 96-5 AND 96-6

The Summary Record for Session 96-5 was approved. Summary Record for Session 96-6 was also approved pending a change of wording in the section dealing with Article 14, which will be discussed during the next teleconference.

Action: Parties/Secretariat

HEADQUARTERS AGREEMENT

Canada reported on progress and reiterated the need to obtain a Diplomatic Note from Mexico on reciprocity in taxation which would allow the process to be completed. Mexico responded that this note would be sent next week.

The Executive Director pointed out Articles V, XII and XIII which are also pending. The Secretariat recognized the effort that has been made by Foreign Affairs Canada in resolving these issues. The Secretariat expects from Foreign Affairs Canada, the last version of the Headquarters Agreement in order to circulate to Parties and proceed with its signature

Action: Mexico/Canada

AGREEMENT WITH QUEBEC

The Executive Director updated the Parties on this item and observed it was dependent on signature of the Headquarters Agreement

Action: Canada

TAX REIMBURSEMENT AGREEMENT

The US explained that a decision on this issue would be made very soon.

Action: US

PRIVILEGES AND IMMUNITIES

Secretariat to summarize by July 12, comments from the recent discussion held by the Parties.

Action: Secretariat

LANGUAGE ACCURACY

A new French version of the Agreement was sent by Canada to the Secretariat. It was suggested that this version could be approved by the Council in Toronto. The US pointed that it must first be reviewed by the Department of State, which might delay this process.

The Spanish version of the Agreement has been reviewed by Mexico and the US.

Action: US/Secretariat

CEC RULES - SPANISH TRANSLATION

Discussion on this matter was deferred to a later date.

Action: Secretariat

MODEL RULES FOR DISPUTE SETTLEMENT

A proposal to begin negotiations was presented by the US. Parties are holding interagency review processes. Canada and Mexico agreed to provide their comments this fall. Meeting to be set up.

Action: Canada/Mexico

CEC WORKING GROUPS

CEC working groups will be addressed by the GSC and the Secretariat.

Action: GSC/Secretariat

1996 PROGRAM AND BUDGET

This resolution was approved by the Parties and is attached as Annex B.

Action: Parties

NEXT SESSION

A teleconference of Alternate Representatives was scheduled for July 24 at 2:00 PM .

Action: Parties/Secretariat

ADJOURNMENT

The session adjourned at 5:45 PM on June 28, 1996

Prepared by Cristóbal Vignal
July 10, 1996

ALTERNATE REPRESENTATIVES SESSION 96-07

To be held via conference call on Friday, June 28, 1996
from 1:00 to 5:00 PM (Eastern Time) / 12:00 to 4:00 PM (Mexico's time)

Annotated Agenda

CHAIR: A. Clarke (CAN)

- Item 1 Identification of Participants and approval of Agenda
- Item 2 Remarks by the Chair of JPAC
- Item 3 Remarks by the Executive Director
- Item 4 1996 Regular Session of Council
 - Item 4.1 Substantive Agenda
 - Item 4.2 Overall Program
 - Item 4.3 Logistics and other matters
- Item 5 NACEC Article 14 - Process
- Item 6 Items carried over from Session 96-06
 - Item 6.1 Sessions 96-05 and 96-06 Summary Record - approval
 - Item 6.2 1996 Program and Budget - formal approval
 - Item 6.3 Headquarters Agreement (Canada)
 - Item 6.4 Agreement with Québec
 - Item 6.5 Tax Reimbursement Agreement (USA)
 - Item 6.6 Privileges and Immunities - action plan
 - Item 6.7 NAAEC - Language Accuracy
 - Item 6.8 CEC Rules - Spanish translation
 - Item 6.9 Model Rules for Dispute Settlements
 - Item 6.10 CEC Working Groups
- Item 7 Next Sessions

ALTERNATE REPRESENTATIVES SESSION 96-07

ANNOTATIONS

Item 1. Identification of participants and approval of Agenda

DOCUMENTS:

a) Provisional Annotated Agenda

C/C.01/96-07/AGEN/01

Item 2. Remarks by Chair of JPAC

A regular agenda item to allow the Chair of JPAC to update Council Representatives on Committee activities. He will report on the June 21 Public Meeting held in Montreal and on the June 20 JPAC session.

ACTION: Information

DOCUMENTS: No document

Item 3. Remarks by the Executive Director

A regular agenda item to allow the Executive Director to update Council Representatives on Secretariat activities

ACTION: Information

DOCUMENTS: No document

Item 4. 1996 Regular Session of Council

This agenda item is to review progress and finalize plans for the August 1-2 Regular Session. The conclusion of the discussion initiated at session 96-06 on the substantive ministerial agenda is critical for the timely organization and finalization of the supporting documentation for the ministerial session. The discussion will focus on the following rubriques:

- Substantive Ministerial Agenda
- Overall Program
- Logistics and Other Matters

Item 4.1 Substantive Agenda

This item is to allow a discussion of those substantive ministerial agenda items that needed revisions or that were left pending at the June 7 session (96-06). Secretariat is seeking guidance for the finalization of the overall provisional agenda and supporting documentation. Secretariat is also seeking guidance in the structuring of the final communiqué.

ACTION: Discussion

DOCUMENTS:

a) Provisional Annotated Agenda, Rev. 5

C/96-00/AGEN/00/Rev.6

b) Pre-session documents (refer to Session 96-00)

Item 4.2 Overall Program

A review of the provisional program for the session with a view to make final adjustments

ACTION: Discussion

DOCUMENTS:

a) Preliminary Overall Program, Rev.4

C/96-00/PLAN/02/Rev.4

b) Provisional Ministerial Program

C/96-00/PLAN/03

c) Provisional Program of the third Regular Session of the Council

C/96-00/PLAN/04

Item 4.3 Logistics and other matters

Secretariat and Canada (host) will provide logistical information. Based on the July 31 - August 2 dates, the Secretariat has identified key planning milestones leading up to the session. Alternate Representatives are asked to review and make observations.

ACTION: Discussion

DOCUMENTS:

- a) Key Milestones, Rev. 4 C/96-00/PLAN/01/Rev.4

Item 5. NACEC Article 14 - Process

This item is a follow-up to session 96-06 and is to initiate a discussion by Council of the process to address Secretariat recommendations made under article 14 of the NAAEC.

ACTION: Discussion

DOCUMENTS: No document

Item 6. Items Carried-over from Session 96-06

This agenda item is to allow consideration of the items that were deferred at the June 7 session (96-06).

Item 6.1 Sessions 96-05 and 96-06 Summary Records - approval

ACTION: Review and approval

DOCUMENTS:

- a) Session 96-05 draft Summary Record C/C.01/96-05/SR/01/
b) Session 96-06 draft Summary Record C/C.01/96-06/SR/01/

Item 6.2 1996 Program and Budget - formal approval

At the time of session 96-05, the approval of a revised draft resolution formally approving the 1996 Program and Budget was deferred to the current session to allow further review by each Party. In the event that Parties are not in a position to approve the draft resolution, Alternate Representatives could decide on a process and deadline to bring this matter to a close prior to the upcoming regular session.

ACTION: Discussion

DOCUMENTS:

- a) Resolution 96-01, Rev. 3 C/C.01/96-06/RES/02/Rev.3

Item 6.3 Headquarters Agreement (Canada)

Canada and Secretariat will report on progress, outstanding issues and time frame to complete the process of amending the HQ Agreement. Through the adoption of a resolution, Council is asked to authorize the Executive Director to sign, on behalf of Council, the amended HQ Agreement once accepted by each Party.

ACTION: Discussion and approval of resolution 96-02

DOCUMENTS:

- a) Draft Resolution and covering memorandum C/C.01/96-06/RES/01
b) Approved Council Resolution 1:4

Item 6.4 Agreement with Quebec

Canada and Secretariat will report on progress, current issues and time frame to conclude the process of negotiation of an Agreement with the Quebec Government.

ACTION: Information

DOCUMENTS: None

Item 6.5 Tax Reimbursement Agreement with the USA

United States and Secretariat will report on likely approach, current issues and time frame to conclude the process of negotiating a Tax Reimbursement Agreement.

ACTION: Information

DOCUMENTS: None

Item 6.6 Privileges and Immunities: Action Plan

At the Council session of March 6-7, Alternate Representatives decided that each Party, in consultation with the Secretariat, would identify the actions that have to be taken to extend to the Secretariat and its staff, the full immunities and privileges provided under Article 44 of the NAAEC. It was further agreed that the actions would be consolidated into an action plan (by a special group created for that purpose on March 7) and that it would be reviewed at the time of the March 28 teleconference. The discussion of an action plan was deferred to the April 22 teleconference at which time Canada and United States informed Council of some of the actions contemplated. A compilation of the comprehensive actions and completion dates by each Party is not available.

ACTION: Discussion

DOCUMENTS:

- | | |
|------------------------------------|--------------------------|
| a) Draft Summary Record 96-05, p.2 | C/C.01/96-05/SR/01/ |
| b) Final Summary Record 96-04, p.1 | C/C.01/96-04/SR/01/final |
| c) Final Summary Record 96-03, p.5 | C/C.01/96-03/SR/01/final |

Item 6.7 NAAEC - Language accuracy

At the time of Session 96-03, the Secretariat informed Council that it is often required to distribute copies of the Agreement to experts, consultants and the public at large and that until now the CEC as such has not presented an official version. Alternate Representatives concurred with a proposal to review the French and Spanish versions of the NAAEC to ensure language accuracy and to publish an official CEC trilingual text of the Agreement following an exchange of diplomatic notes between the Parties. Each Party and the Secretariat designated a representative to complete this undertaking by mid-June.

Parties and the Secretariat will report on progress made, outstanding issues and time frame for completion.

ACTION: Information

DOCUMENTS:

- | | |
|------------------------------------|--------------------------|
| a) Final Summary Record 96-03, p.5 | C/C.01/96-03/SR/01/final |
|------------------------------------|--------------------------|

Item 6.8 CEC Rules - Spanish translation

At the time of Session 96-03 Council acknowledged the need to have an official Spanish version of the CEC Rules and asked the Secretariat to undertake this task in consultation with the Parties. The Secretariat will report on progress and time frame for completion. An initial draft of the Rules (4) was distributed on May 17.

ACTION: Information

DOCUMENTS:

- | | |
|------------------------------------|--------------------------|
| a) Final Summary Record 96-03, p.5 | C/C.01/96-03/SR/01/final |
| b) Council Rules of Procedures | C/C.01/96-06/DISC/01 |
| c) JPAC Rules of Procedures | C/C.01/96-06/DISC/02 |

- d) Financial Rules
- e) Rules of Employment

C/C.01/96-06/DISC/03

C/C.01/96-06/DISC/04

Item 6.9 Model Rules for Dispute Settlements

This item was added to the agenda at the time of the June 7 session. The United States will present this item.

ACTION: Information

DOCUMENTS: No document

Item 6.10CEC Working Groups

This item was added to the agenda at the time of the June 7 session at the request of Mexico and as a result of the Memorandum from the Executive Director on the matter.

ACTION: Information

DOCUMENTS:

- a) Memorandum from Executive Director dated April 26, 1995

Item 7. Next Sessions

This item is to review a proposed schedule of forthcoming teleconferences and meetings based on the dates for the regular session of Council:

July 31 Meeting in Toronto

August 1-2 Annual Regular Session of Council

September (tent) Teleconference

October (tent) Meeting in Montreal

December (tent) Teleconference

ACTION: Confirm the date and key agenda items of the next session.

Montreal, June 28, 1996

COUNCIL RESOLUTION: #96-1

1996 Program and Budget

THE COUNCIL:

APPROVES the 1996 Program and Budget submission dated March 7, 1996;

AUTHORIZES the Executive Director to implement the 1996 Program in conformity with the *North American Agreement on Environmental Cooperation*, the CEC rules and the relevant resolutions adopted by the Council;

AUTHORIZES AND DIRECTS, notwithstanding *Financial Rules 5.3, 5.4 and 5.6*, the immediate credit to the General Fund of the Commission, in accordance with *Financial Rule 6.2(b)*, of that portion of the surplus funds for financial year 1995 equal to five percent (5%) of the Commission's budget for financial year 1995;

WAIVES, notwithstanding *Financial Rules 5.3 and 5.4*, the application of *Financial Rule 5.6(b)*, to that portion of the surplus funds for financial year 1995 that would normally be credited thereunder in due course by the Commission against assessments of the United States and of Mexico and, at the request of such Parties, directs that such funds be applied to project 96-09-02 set forth in the 1996 Program and Budget submission dated March 7, 1996;

DIRECTS that the portion of the surplus funds for financial year 1995 which is to be credited against Canada's assessment in accordance with *Financial Rule 5.6(b)* be credited in financial year 1996;

REQUESTS the Executive Director to effect the definitive adjustment of the above application or crediting of surplus funds upon the close of the Commission's financial year 1996 as at December 31, 1996.

APPROVED ON BEHALF OF COUNCIL:

Jose Luis Samaniego (Government of the United Mexican States)

William Nitze (Government of the United States of America)

Anthony Clarke (Government of Canada)

CERTIFIED BY:

(S) Victor Lichtinger

Victor Lichtinger
Executive Director