

**Joint Public Advisory Committee  
Report to Council  
Mérida, Yucatán  
24-26 June 1998**

## **Introduction**

JPAC is pleased to present this report to the Ministers. It has been prepared taking into account the deliberations and decisions of JPAC and the results of past public consultation sessions. The JPAC Chair also participated in the 8 June 1998 CEC Strategic Planning Meeting, but did not have access to any resulting documentation.

When planning for the Council Session, the JPAC members agreed it would be desirable to distribute this document in advance of the public workshop to help focus the discussions at the public workshop. At the same time, JPAC will be seeking public input to the three-year workplan and associated priorities.

### **1. The CEC 1999-2001 Program**

JPAC fully supports the decision of Council to adopt a three-year planning horizon for the CEC. It is our hope that this decision will avoid some of the obstacles which have constrained the program in the past, such as delayed Ministerial approval of projects and budgets.

In December 1997, JPAC adopted a series of priorities for its 1998 work plan, but also clearly identified the need for long-term strategic planning. In January 1998, these priorities were further developed and a detailed work plan (attached) was produced and made public. The welcome decision by Council to adopt a longer planning horizon now permits JPAC to elaborate on these priorities and make specific recommendations related to the five CEC program areas.

JPAC has also taken the decision to re-configure its working groups in function of the CEC strategic planning process. Each working group will produce an implementation plan for the first three year period (1999-2001) based on the 1998 JPAC work plan. This will necessitate that the JPAC be involved throughout the CEC's planning process: scoping, program development and project identification.

Although JPAC is orienting its work plan and resulting advice around the CEC program, it has also agreed to do so keeping in mind several important cross-cutting issues which will serve as guideposts for the delivery of the program as well as monitoring criteria.

It is JPAC's view that environment, human health and societal well-being form a matrix within which all the CEC's activities should be developed and evaluated. In order to achieve this, effort and resources are required to develop basic data and indicators in our three countries as a means to measure impact and improvements. Some work in this regard is ongoing within the current program; however, more is required. JPAC feels strongly that one of the most important, long-term objectives of the CEC should be to improve the quality of life for the citizens of Canada, Mexico and the United States.

JPAC also holds the view that the three-year program must include a mechanism for monitoring and reporting on the implementation of the work plan. This mechanism must be sufficiently flexible to permit change in direction or priorities. JPAC must play a role in this monitoring function as part of its responsibilities. By establishing an objective, transparent monitoring and reporting mechanism, the CEC will improve its relationship with the public.

- No. 1: JPAC recommends that a basic data collection task (demographics, vital statistics, etc.) be built into projects when appropriate. For example, Project 98.01.03-Emerging Threats to the North American Commons, will require that such an information base be developed.
- No. 2: JPAC also recommends that a monitoring and reporting mechanism on the progress and results of the CEC work plan be established. This mechanism must be transparent and results reported regularly and be accessible to the public.

#### **1.1. The Environment, Economy and Trade Program**

Environment, Economy and Trade Program remains the cornerstone of the CEC program. A better understanding of the effects of liberalized trade on the environment can lead to the adoption and implementation of policies and legislation to minimize negative effects and promote the positive. Better environmental policies and infrastructure must be created to support changes resulting from new trade arrangements, in order to demonstrate to the public that environmental standards are not being driven down by free trade.

More particularly, this improved understanding must lead to action. Economic activities and trade regulation should promote environmental protection, and in keeping with the responsibilities of the NAFTA partners, must also contribute to improving the social and economic well-being of all their citizens.

At the same time, the CEC cannot be expected to be solely responsible for identifying and implementing solutions. In this regard, one of the CEC's important roles is to bring added value to national and international processes with similar objectives.

JPAC is of the opinion the three-year plan should put a North American stamp clearly on this program. Projects developed to implement the program must be bilateral or trilateral in focus. Decisions taken for the 1998 Program and Budget to introduce new projects will help establish a platform for this approach.

Finally, the scope of the Program should be broadened to include sustainable development objectives. This will provide a window for identifying social impacts and monitoring social conditions. It would also enable projects to be developed expanding the analytical basis of the Program to include the human health, environment and societal well-being matrix. This would assist the CEC in balancing a wider variety of interests and having the scope to identify the full range of socio-economic impacts.

- No.3: JPAC reiterates its advice, provided via Advice to Council 98-01, that a multi-year group of projects be launched, focused on:

a) An activity to facilitate Joint Implementation as a follow-up to the Kyoto Protocol on Climate Change. More specifically, Article 10 of the Protocol provides clear direction in that regard and would be a good starting point for such an activity.

- Other projects should be identified, such as:

b) The development of cooperation and information exchange on vehicle emission programs.

c) Contributing to the pursuit of 'state-of-the-art' sustainable and organic agriculture.

- These projects should have a clear time frame, in order to yield concrete and measurable results.

### **1.2 The Biodiversity and Ecosystems Program**

It is JPAC's view that this program may not be receiving the attention it should. With the decision in the 1998 CEC Program to launch Project 98.01.03-Emerging Threats to the North American Commons, the issues of biodiversity and habitat protection will inevitably be highlighted.

It is premature to bring specific advice at this time, particularly since JPAC has not received the draft CEC Strategic Plan. During the CEC Strategic Planning Meeting, managing the collective commons was introduced as a theme and biodiversity identified as a subject requiring more attention and focus. Ecosystem management and matters concerning cross-border species, therefore, will likely become increasingly important within the CEC process and the JPAC will prepare specific advice after further discussions and consultations.

### **1.3 The Pollutants and Health Program**

The Sound Management of Chemicals project, and the pollution prevention and cooperative initiatives undertaken by the Parties should be continued and enhanced by Council resolution and support.

### **1.4 The Capacity Building and Education Program**

JPAC is disappointed at some of the cuts in the 1998 Program, particularly in this area. JPAC is of the opinion that this is an important niche for the CEC to fill. Capacity building and education from an independent, international perspective are areas which require improvement.

Public participation and transparency can only be achieved through adequate information. Producing high-quality technical reports and surveys is necessary to this process. Making that information available and understandable to the public is another matter. JPAC feels that this is also part of the CEC's mandate. Rather than eliminating the educational component of this Program, the JPAC would rather see it better developed. JPAC will prepare a detailed proposal for the three-year plan, focusing on improved communications and recommendations for outreach.

### **1.5 The Enforcement Cooperation and Law Program**

Enforcement activities are a measure of the effectiveness of NAAEC and affect how the public perceives the work plan of the Commission.

- No.4: The Enforcement Cooperation Program, with its limited resources, should be focused on areas of cooperative, transboundary activities by the Parties, in direct response to Council priorities.

## **2. NAFEC**

JPAC is of the opinion that the North American Fund for Environmental Cooperation (NAFEC) is one of the CEC's successes. Referring back to an earlier point, NAFEC is an entry point to the CEC process for local communities, indigenous peoples and grass roots organization. One has only to visit projects sponsored by NAFEC (as JPAC has done) to be struck by the dedication, enthusiasm and energy of these front-line workers.

- No.5: JPAC strongly recommends that existing funding levels be maintained and separated from the CEC budget so as to return funding the CEC projects to pre-NAFEC levels.
- No.6: JPAC recommends that NAFEC begin to align its grant process with the CEC's program, now that the CEC is adopting a three-year planning cycle. Any changes in the solicitation procedures, however, must not exclude other deserving projects.
- No.7: JPAC recommends that the NAFEC staff provide appropriate technical assistance in preparing applications, in order to attract a wider range of potential grant applicants.

## **3. JPAC's Role in Public Consultation and its Interaction with the Institutions of the CEC**

There has been much discussion, criticism and debate concerning the extent to which JPAC is responsible for organizing and conducting the public consultations necessary to involve the North American public in the CEC process.

The capacity of the CEC to attract and engage the public must be improved. The work plan should reflect the priorities of the Parties as expressed by the Council. These priorities, in turn, should reflect the views and concerns of the public. The

commitment to public participation is both an obligation and a defining feature of the CEC. It is our view that the CEC is still "confused" by this responsibility.

JPAC is intended to be a microcosm of the public served by NAFTA and NAAEC. As an independent body of experts, it seeks to represent the complexities of the North American public and its differing cultural perspectives. The body's deliberations, therefore, can reflect the debates, commonalities, frustrations and expectations of the public. Public consultation is a component of JPAC activities meant to enrich and enhance JPAC's advice.

Though appointed by the Parties, the Committee acts as a public, non-governmental advisory group responsible for advising Council on the direction and impacts of the CEC's program and projects. It also provides advice to the Secretariat on the delivery of the program and implementation of the projects. To this end, the JPAC Chair will be taking a much more proactive role in activities of the CEC, with the parties and the public. The Chair, or a member appointed by the Chair, should be attending all key meetings and working groups.

JPAC aligns its activities with the priorities and projects of the CEC, as established by Council, in order to draw on its own expertise and maximize the possibilities for public input on issues most relevant to the CEC. This does not exclude other issues being raised by the public or put forward by JPAC. In this way, JPAC can work more effectively with the Secretariat as the work program evolves, to involve the public and provide it with information on issues which the Council has decided require attention.

JPAC feels that public consultation should remain a flexible process. Each issue or challenge may require a different technique or venue. It is JPAC's view that it will advise how best to engage the public as the need arises, and that the Secretariat, within budgetary limitations, be responsible for the organization.

- No.8: JPAC recommends that Council endorse JPAC's involvement and flexible approach to public consultation.
- No.9: JPAC recommends that it develop its own operating budget, in consultation with the Secretariat to ensure that it complements the JPAC work plan.

Having said this, JPAC feels strongly that the institutions of the CEC have not succeeded in casting a consultation net broad enough to permit the effective involvement of remote communities and indigenous peoples. This is particularly true in Mexico, where such groups often lack access to telecommunications and information technology. The CEC relies heavily on these communication tools to advise and inform the public. These groups have an interest in each of the CEC's program areas, and in all of its projects JPAC will be addressing this challenge at its fall session and would welcome any input.

- No.10: JPAC recommends that Council endorse an effort to better involve remote communities and indigenous peoples in the CEC process.

involvement. In particular, these include the business sector and environmental nongovernmental organizations. The public have also indicated the need for improved environmental organizations.

#### **4. Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of NAAEC**

JPAC does not support a revision process at this time. JPAC agrees with the Independent Review Committee and recommends that the present process be permitted to grow and strengthen from experience. When a revision process does take place, it cannot seek to create barriers for public accessibility or make it more difficult for the Secretariat to respond as is evidenced in the present text under negotiation. The existing efforts to develop revisions do not meet the criteria for transparency and public participation that were achieved in the first round of Guideline development. Any future efforts must build on, and not undermine the principles of public participation and transparency.

#### **5. Transboundary Environmental Impact Assessment**

JPAC strongly supports this cooperative process and would ask the Council to maintain it as a priority.

#### **6. Other Matters**

##### **6.1 An Expanded North American Trade Agreement**

JPAC reiterates its concern to the Parties that any initiative to create an expanded North American trade agreement must maintain and build on the three-pronged approach of trade, environment and labor, and ensure that all signatories commit, as a minimum, to the environmental standards established by NAAEC. (Please refer to Advice to Council No. 95.01 re: Expansion of NAFTA)

##### **6.2 Disposal of Toxic Materials**

JPAC has identified this issue as one needing specific attention in the CEC program.

- No.11: JPAC recommends the development of a process for cooperation among the NAFTA partners concerning the disposal of toxic materials. Such a process should not compromise existing principles or agreements, for example, concerning the long-range transport of pollutants. On the other hand, specific attention should focus on the breakdown of agreements dealing with the disposal of PCBs.

##### **6.3 Relationship with the National and Governmental Advisory Committees**

The JPAC supports improved linkages with the National and Governmental Advisory Committees (NACs and GACs) and will continue to encourage their participation at JPAC regular sessions. In addition, informal meetings with the NACs and GACs may be organized to share experiences and views, and begin a collegial dialogue for the benefit of all concerned.

##### **6.4 Equity Criteria**

JPAC remains concerned that there is unequal access to the CEC process. Aside from financial support provided for annual sessions of Council, nongovernmental organizations, local groups, and concerned citizens with limited resources and technological capacity are less able to participate and interact with the institutions of the CEC on any regular basis.

As noted above, the JPAC will be paying particular attention to this issue at its September regular session and will prepare advice at that time.

### **Conclusions**

JPAC welcomes the decision to engage in longer-term strategic planning. The committee also acknowledges that it now has an increased responsibility to provide practical advice through the planning process, advice that reflects the opinions of its members as well as that of the public. In order to meet its responsibilities, JPAC must reorganize itself to play a more active and independent role within the CEC process.

- The JPAC Chair intends to be a regular spokesperson with governments, the public, and within the Secretariat.
- JPAC should be responsible for identifying its own budgetary needs.
- JPAC will reconfigure its working groups to respond to the challenge of the new planning process. These working groups will be responsible for developing an implementation plan for the 1999-2001 period, based on the priorities identified in JPAC's 1998 work plan. These implementation plans will include provisions for monitoring and modification.
- JPAC will not be responsible for organizing public meetings, the proper role of the Secretariat, although it may be involved from time to time. JPAC is responsible, however, for helping shape the substance of public consultations and ensure that they remain a flexible and evolving process. JPAC has also agreed to align its activities with the CEC process in order that its advice and activities remain focused on the program of the CEC.
- JPAC acknowledges the need to better engage remote communities and indigenous peoples in the CEC process and will develop specific advice for Council and the Secretariat in this regard.

### **List of Recommendations**

JPAC:

1. Recommends that a basic data collection function (demographics, vital statistics, etc.) be built into projects when appropriate. For example, Project 98.01.03 Emerging Threats to the North American Commons will require that such an information base to be developed.
2. Recommends that a monitoring and reporting mechanism on the progress and results of the CEC work plan be established. This mechanism must be transparent and results reported regularly and be accessible to the public.
3. Reiterates its advice, provided via Advice to Council 98-01, that a multi-year group of projects be launched focused on:
  - a. An activity to facilitate Joint Implementation as a follow-up to the Kyoto Protocol on Climate Change. More specifically, Article 10 of the Protocol provides clear direction in that regard and would be a good starting point for such an activity.
  - b. The development of cooperation and information exchange on vehicle emission programs.
  - c. Contributing to the pursuit of 'state-of-the-art' sustainable and organic agriculture.

These projects should have a clear time frame to achieve concrete and measurable results.

1. Recommends that the Enforcement Cooperation Program, with its limited resources, be focused on areas of cooperative activities by the Parties, in direct response to Council priorities.
2. Strongly recommends that current funding levels be maintained and that NAFEC funding separated from the CEC budget so as to return CEC project funding to pre-NAFEC levels.
3. Recommends that NAFEC begin to align its grant process with the CEC's program, now that the CEC is adopting a three-year planning cycle. Any changes to the grant solicitation procedures, however, must not to exclude other deserving projects.
4. Recommends that NAFEC staff provide appropriate technical assistance to applicants in order to attract the widest possible range of potential grantees.
5. Recommends that Council endorse JPAC's involvement and flexible approach to public consultation.
6. Recommends that the JPAC develop its own operating budget in consultation with the Secretariat to ensure that it compliments the JPAC work plan.
7. Recommends that Council endorse an effort to better involve remote communities and indigenous peoples in the CEC process.
8. Recommends the development of a process for cooperation among the NAFTA partners concerning the disposal of toxic materials. Such a process should not compromise existing

principles or agreements, for example, concerning the long-range transport of pollutants. On the other hand, specific attention should focus on the breakdown of agreements dealing with the disposal of PCBs.

Attachment: 1998 JPAC Priorities

DATE/LOCATION	PRIORITIES IDENTIFIED IN DECEMBER 1997	ACTIONS PROPOSED
22-23 January Montreal, Quebec	<ul style="list-style-type: none"> <li>• CEC Proposed Program and Budget for 1998 * JPAC Working Group: M. C. Castro, M. Simon, J. Wirth</li> <li>• NAFEC Evaluation * JPAC Working Group: P. Berle, J. Bustamante, M. Simon</li> </ul>	<ul style="list-style-type: none"> <li>• JPAC Regular Session 98-01 * Advice 98-01: 1998 CEC Program and Budget</li> <li>* Advice 98-02: NAFEC Evaluation</li> </ul>
March 1998 Via e-mail	<ul style="list-style-type: none"> <li>• CEC 1997 Annual Report *JPAC Working Group: M. Apsey, J. Bustamante, J. Wirth</li> </ul>	<ul style="list-style-type: none"> <li>• JPAC Advice 98-03: CEC Draft Annual Report for 1997</li> </ul>
[6-7-8 May 1998 El Paso/Juarez] (*)	<ul style="list-style-type: none"> <li>• Environment and Trade * JPAC Working Group: M. C. Castro, M. Cloghesy, J. Plaut</li> <li>• Human Health * JPAC Working Group: I. Restrepo, J. Richardson, M. Simon * Advice to Council to ensure that human health aspects are taken into account in all CEC Program Areas. J. Richardson, an American and a Canadian</li> <li>• Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the NAAEC * JPAC Working Group: P. Berle, M. C. Castro, M. Cloghesy</li> <li>• Kyoto Conference on Climatic Change * JPAC Working Group: P. Berle, J. Bustamante, J. Gérin * Advice to Council on how to assure compliance with decisions during the Kyoto Conference on Climatic Change held in December 1997.</li> <li>• Equity Criteria * Advice to Council</li> </ul>	<ul style="list-style-type: none"> <li>• JPAC participation in public meeting organized in the context of the NAFTA Effect Project (*)</li> <li>• JPAC Regular Session 98-02 * Advice 98-04: Environment, Economy and Trade</li> <li>* Advice 98-05: Kyoto Conference on Climatic Change</li> <li>* Advice 98-06: Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the NAAEC</li> <li>* Advice 98-07: Equity Criteria</li> </ul>
[24-25-26] June 1998	<ul style="list-style-type: none"> <li>• CEC Program and Budget for 1999-2000</li> </ul>	<ul style="list-style-type: none"> <li>• JPAC participation in public meeting including workshops</li> </ul>

Mérida, Yucatán Council Annual Session	<p>* JPAC Working Group: M. C. Castro, J. Gérin, J. Plaut</p> <p><i>Note:</i> The CEC will offer financial assistance for travel to qualifying participants registered to attend this public meeting. This financial assistance will help to ensure that a broad cross-section of North American interests are represented at this session. Special attention should be addressed to grass roots organisations and local communities with an emphasis on indigenous communities. (*)</p>	<p>on the five CEC program areas: (*)</p> <p>I- Environment, Economy and Trade</p> <p>II- Biodiversity and Ecosystems</p> <p>III- Pollutants and Health</p> <p>IV- Capacity Building and Education</p> <p>V- Enforcement Cooperation and Law</p> <ul style="list-style-type: none"> <li>• Meeting with the Council members and JPAC members</li> <li>* Report on workshops outcome on the CEC programs</li> <li>* Report on JPAC current actions and activities</li> <li>• JPAC Regular Session 98-03</li> <li>* Advice 98-08: CEC Program and Budget for 1999- 2000</li> </ul>
[24-25 September 1998 Yellowknife, North West Territories] (*)	<ul style="list-style-type: none"> <li>• Mercury Related Studies</li> <li>* JPAC Working Group: J. Richardson, a Mexican member and a Canadian member</li> <li>• JPAC 1999-2000 Strategic Action Plan</li> <li>* JPAC Working Group: To be identified</li> </ul>	<ul style="list-style-type: none"> <li>• JPAC participation in context of the workshop organized by the Mercury Task Force under the Sound Management of Chemical Project (*)</li> <li>• JPAC Regular Session 98-04</li> <li>* Advice 98-09: Mercury related Studies</li> <li>* Advice 98-10: CEC Proposed Program and Budget for 1999 from the Secretariat</li> <li>* Preparation of JPAC 1999-2000 Strategic Action Plan</li> </ul>
[2-3 December 1998 Washington,	<ul style="list-style-type: none"> <li>• Continental Pollutant Pathways</li> <li>* JPAC Working Group: J. Richardson, a Mexican member and a Canadian member</li> <li>• Transportation</li> </ul>	<ul style="list-style-type: none"> <li>• JPAC participation on the Trinational Workshop on air issues, including the production of formal</li> </ul>

DC] (*)	* JPAC Working Group: M. Cloghesy, J. Wirth, a Mexican member	<p>proceedings. Under the Cooperation on Long Range Transport of Air Pollution in North America Project (*)</p> <ul style="list-style-type: none"> <li>• JPAC Regular Session 98-05</li> <li>* Advice 98-11: Continental Pollutant Pathways</li> <li>* Advice 98-12: Transportation</li> </ul>
JPAC Internal Work For 1998	<ul style="list-style-type: none"> <li>• Public Participation <i>Note:</i> Special attention should be addressed to grass roots organisations and local communities with an emphasis on indigenous communities.</li> </ul>	<ul style="list-style-type: none"> <li>• Public Meetings related to the CEC Projects</li> <li>• Council Annual Session of June</li> <li>• Five JPAC Regular Sessions</li> </ul>
	<ul style="list-style-type: none"> <li>• Information Dissemination</li> </ul>	<ul style="list-style-type: none"> <li>• Dissemination to the North American Community the JPAC Advice, Summary Records</li> <li>• Linkages with the NACs/GACs. Send them the information about JPAC actions and invite them as guests to the JPAC Regular Sessions</li> <li>• Invitation the North American Community to JPAC Regular Sessions. Focus on grass roots organisations and local communities with an emphasis on indigenous communities.</li> </ul>

\* Project should be confirmed in function of the 1998 Proposed Program and Budget