

## REPORT TO COUNCIL 99-03

### RE: Summary of Plenary Discussion on Future Initiatives for the Program Plan of the Commission for Environmental Cooperation

#### Introduction

JPAC is pleased to present this report to the Council members of the Commission for Environmental Cooperation (CEC). It has been prepared following presentations and discussions among the JPAC members, program managers and the public during a round table on future initiatives for the CEC's Program Plan. It was held on 28 June 1999 in conjunction with the 1999 Regular Session of the Council in Banff, Alberta, attended by 75 individuals.

The JPAC Chair for 1999, Jon Plaut, welcomed all the participants to Banff. He explained that the session would be organized around the four existing CEC Program Plan areas and encouraged presenters to focus their comments on each program area. He went on to explain that since this round table was being held in conjunction with the Regular Session of Council, the opening of the public session with Council in the afternoon would consist of a presentation, by selected rapporteurs, of the main points raised at the round table.

The appropriate CEC program managers made brief introductions in advance of each designated discussion period. The Chair encouraged the JPAC members and the program managers to interact with the public. Program managers are being given a copy of this summary to assure communication.

#### Environment, Economy and Trade Program Area

##### CEC Program Manager: Scott Vaughan

The following comments and recommendations came from the public during the presentations and discussions on environment, economy and trade:

- The CEC has an important role to play in the proper management of ecotourism in North America by contributing to the development of international standards, including the ISO 14000 system.
- Market development is an extremely complex area. Caution should be used when relying on survey results in the work on shade-grown coffee. Experience has shown that despite what consumers might say in a survey, they are very reluctant to actually pay more for organically grown products. It is also important not to underestimate the time and costs associated with market development.
- When evaluating the shade-grown coffee initiative, there is also a need to analyze the entire production process and identify any resulting social problems. Fair trade has to be considered as an element in the determination of sustainability.
- When the terms of reference for the project on trade in wildlife species are developed, great care should be taken to avoid repeating the failed model of licensed takes of endangered species.
- With regard to water as an emerging trend, the following points require attention: the relationship of water scarcity and food scarcity, the socio-political conflicts around the use of water, and markets for water and associated infrastructure. Many other organizations are working on water issues, therefore, the CEC should contribute by building on work that is already being done and promoting the development of a North American vision for water use and management.
- Canada, as a country, has to come to terms with the regulation of water. Is bulk water considered a tradable product or not?
- In British Columbia, not everyone agrees that water should be marketed. Many NGOs have a problem regarding water as a trade good, particularly when the rationale for the activity is that there is a surplus available for trade. There is no excess water in any ecosystem. Rather, the focus should be on water quality.
- Any work by the CEC on water issues must include the extraction and export of groundwater.
- Many people and groups in Mexico are very concerned about the trend toward viewing water as a commodity. Food production is already controlled by large agricultural interests. If water is added to this monopoly, local people will suffer.
- Absent from the Environment, Economy and Trade Program Area is a methodology to include investigation into the social impacts of trade. This perspective needs to be better addressed and fully integrated into the program.
- When evaluating the impacts and benefits of organic agriculture, environmental and social costs should be included. This is a very complex, but necessary step. In the absence of international standards, so-called 'safe' products are often too expensive for the poor to acquire and thus they have no choice but to consume lower quality foods, often those that have been produced with the use of pesticides. For example, sustainably-produced Mexican coffee is an export product. It is too expensive to be consumed locally. The result is that Mexicans are consuming inferior products produced with the use of pesticides.
- When the Call for Papers is issued through the NAFTA Environmental Effects project, the matter of trade and investment should be linked to environmental performance, including enforcement. This could provide more concrete and practical advice on how to proceed with the project in the future.

- The entire matter of electricity deregulation should be built into the program. Within such an evaluation, there is a need to look at the harmonization of environmental regulations and standards within Canada and the United States, market instruments and competitive advantage, as well as the implications of Chapter 11 of NAFTA on environmental performance standards in each country.
- There is a need to consider the effects of investment on consumption patterns in North America. This is a subtle, but very important analysis that should take place to produce a broader understanding of the environment, economy and trade equation.
- Consideration of the effects of energy trading on consumption and development patterns should be built into the program. For example, the significant demographic shift toward cities in Mexico has very important environmental impacts.
- The effects of trade on the distribution of exotic species has become a continental problem. The introduction of 'pest' species is having severe impacts in agriculture and on forests.
- A great many primary products are pollutants. The program should consider trade in these products as an unregulated distribution of pollutants. One way to approach this would be a trinational study of labeling.
- The CEC's work must lead to changes in policy. We are not seeing these concrete effects. For example, the failure of environment and trade officials to develop a mechanism for coordinating their work is seen as an impediment to policy changes.
- When assessing NAFTA effects, the primary questions should be..."is a particular environmentally sensitive sector ready for market development?" and, "is the regulatory context adequate?"

Karel Mayrand of the *Revue environnement et sécurité* was selected to make the presentation to the Ministers.

#### **Conservation of Biodiversity Program Area**

##### **CEC Program Managers Hans Herrmann, Martha Rosas and Marcos Silva**

The following comments and recommendations from the public emerged from the presentations and discussions concerning conservation of biodiversity:

- There was a very strong call for the CEC to assess issues related to the Pacific gray whale whose migratory range includes the three NAFTA countries. There is a particular concern with plans by the government of Mexico and Mitsubishi (*Exportadora de Sal: S.A.*) to expand a salt extraction facility in the *Laguna de San Ignacio, Baja California Sur*. This lagoon is a calving ground for these whales. This area is part of a biosphere reserve and should be protected. Another element to be evaluated is the harvest of these animals by First Nations in Canada and the United States. An aspect of this should be an evaluation of the value to First Nations of ecotourism versus harvesting.
- The use of drag nets by fishermen is affecting fish habitat in the Sea of Cortez. The CEC could play a role in evaluating the problem and assist local environmental organizations to pursue policy changes.
- The CEC should consider bioaccumulation of toxics and the impacts of climate change on migratory marine species and their habitats in the Pacific region.
- There is a growing frustration with how long it takes to move analysis into policy change. The CEC should be using an ecoregional approach. The *State of the Environment report* provides an opportunity to measure progress on the ground.
- In efforts to prioritize, given limited budgets, consideration should be given to using keystone species as indicators. One such species is the burrowing owl.
- There is a need to develop standards for evaluating and assessing issues related to endangered species, enforcement and the listing of species at risk.
- A recommendation was made that Mexico should sign the US/Canadian Memorandum of Understanding on Endangered Species that could then be used by the CEC as a framework document.
- There was a request to use the Public Advisory Committees of the Great Lakes Remedial Action Plans as a network to promote access to the concerned public.

Sarah Dover of the Canadian Endangered Species Campaign was selected to make the presentation to the Ministers.

#### **Pollutants and Health Program Area**

##### **CEC Program Managers: Andrew Hamilton and Nick Nikkila**

The following comments and recommendations from the public emerged from the presentations and discussions concerning pollutants and health:

- All production and use of DDT and hexachlorobenzene must be stopped immediately. Recently, in British Columbia, a report was issued citing significant levels of DDT found in amniotic fluid. This represents yet another potential health risk.

- The public 'right to know,' must be applied to information on toxics. All information on the known or potential health effects that is available in government health, safety and regulatory agencies should be made available to the public. Care must be taken, however, to provide this information in a way that the public can understand and avoid creating false or undue alarm.
- There should be tangible and measurable results from the program. Disappointment was expressed at the limited results from the US/Canadian International Joint Commission, for example.
- It was recommended that a ban be imposed on all pesticides with hexachlorobenzene as a byproduct.
- The Mexican Government is strongly urged to require that Mexican industries provide information for the *Taking Stock* reports, which are a very useful tool for governments and the public. Without this important information, it is not possible to evaluate continental impacts of pollutants released and transferred by facilities.
- In the context of harmonization, there should be a push for all three countries to institute mandatory reporting on the adverse effects of chemicals.
- There is a need for a more holistic approach to environmental protection. This should be obvious, but it is not reflected in current governmental regulatory systems. A 10- to 15-year time frame was suggested in order to allow governments to develop the capacity to deal with the interrelated issues of public health and environmental protection.
- More human and financial resources are needed for monitoring and research. These areas have, and continue to be, severely cut in government budgets.
- The CEC should place more effort on promoting pollution prevention.

Ruth Madsen of the Thompson Institute of Environmental Studies was selected to make the presentation to the Ministers.

#### **Law and Policy Program Area**

##### **CEC Program Manager: Darlene Pearson**

The following comments and recommendations from the public emerged from the presentations and discussions concerning law and policy:

- Amendments to the Guidelines on Articles 14 & 15 of the NAAEC were questioned in view of public input and JPAC Advice.
- The development of conflict resolution mechanisms should be encouraged throughout the CEC.
- Reviewing existing laws and their effectiveness for protecting species and habitats in natural protected areas would make an important contribution towards improving enforcement.
- In 1997, a large die-off of sea turtles in the *Laguna Ojo de Liebre* resulted from the release of salt-brine waste. The company was found to be at fault, however, no fines were levied. Governments are not enforcing their own laws and NGOs have to use limited resources to file penal complaints.
- There was strong support for continuing to pursue the development of a formal relationship between the officials of the Free Trade Commission and their environmental counterparts in the CEC. This is a critical element in the trade/environment equation.
- The lack of compliance incentives at the state and federal levels was identified as a concern. Possible ways to overcome this were proposed: including the public in the working group on compliance indicators; increasing transparency so that self-audits are not removed from the public domain by confidentiality rules; treating analysis as other than a mere statistical exercise, and coupling enforcement with economic disincentives as a means of diminishing competitive advantage.
- Environmental management systems should not replace compliance enforcement.
- The CEC should look at initiatives for early credits as an incentive to reduce emissions of air pollution as permitted by the Kyoto Protocol.
- The CEC should consider acting as a third-party verifier under the Clean Development Mechanism within the Kyoto Protocol framework.
- The protections now in place in Chapter 11 of NAFTA are not adequate. The fact that, thus far, court cases have been withdrawn, is no reason to assume that the protections are satisfactory.

Mark Spalding of the Graduate School of International Relations and Pacific Studies was selected to make the presentation to the Ministers.

The Chair thanked the participants for their focused and constructive input and adjourned the round table session after assuring everyone that their input would be brought to the Council.

Prepared by Lorraine Brooke

APPROVED BY THE JPAC MEMBERS 12 AUGUST 1999