

## COMMISSION FOR ENVIRONMENTAL COOPERATION

### Joint Public Advisory Commission Session No. 98-03

24 and 26 June, 1998

#### Summary Record

The Joint Public Advisory Committee (JPAC) of the Commission for Environmental Cooperation (CEC) held a regular session in Mérida, Yucatan, Mexico, on 24 and 26 June 1998 at the time of the 1998 Regular Session of Council.

This Summary Record reports on each item on the agenda, records all decisions made by the Committee and identifies action items and responsibilities. See Annex A for the agenda, Annex B for the list of participants and Annex C for the JPAC Report to Council.

The full records of discussions, advice from JPAC to Council and other documents pertaining to the Committee may be obtained from the JPAC Coordinator's office or through the CEC's Internet homepage at <http://www.cec.org> under the JPAC header.

Two new Mexican members were introduced during this session: Mr. Jesús Druz and Mr. Raúl Tornel.

Ms. Jean Richardson was absent from the session, having notified the Secretariat in writing as to the reasons for her absence. Mr. Dan Morales was absent without reasons.

#### Welcome and Overview by the Chair

Mary Simon welcomed the members and observers to Mérida and noted the importance of this session. The concurrent Council session and the important issues being discussed would require flexibility in JPACs session in order to maximize opportunities for input in Council discussions.

#### Approval of the Provisional Agenda

The agenda was adopted. The item regarding Articles 14 and 15 of the NAAEC was moved forward in order to permit JPAC to make its views available to the negotiations taking place that same day. It was also agreed to leave enough time to prepare for the private meeting with the Alternate Representatives scheduled for 6:00 PM that day

#### Remarks by the Interim Executive Director of the CEC Secretariat

Janine Ferretti was welcomed to the session. She prefaced her remarks by indicating the importance of this Council session where convergence of the Council's decision to "renew" the Commission and the release of the Report from the Independent Review Committee would lead to some important decisions from the Council later in the week.

Concerning the strategic vision of the Commission, she reported on the Strategic Planning Meeting, held on 8 June 1998, which resulted in a document containing a framework of priorities and directions that would enable the Secretariat to set out a three-year rolling work program. This would provide strategic depth and continuity to the Commission's activities and permit projects to then be tied together.

She tabled two draft charts indicating a proposed schedule for the development of the 1999-2001 Rolling Program and the 1999 Annual Program and Budget and a general overview of the program cycle. This provoked a long but focused discussion resulting in a consensus among the members that JPAC's role in the process was not properly reflected.

The members insisted that JPAC be at the front end of the planning process and that as one of the three components of the CEC, JPAC must be involved in all planning and development directly with the Council and Secretariat. Several strong statements were made, indicating JPAC's dissatisfaction at being presented with proposals developed without its input, with being left out of the planning process and not having access to key documents on a timely basis. It was agreed that the matter would be taken up again by JPAC later in the meeting.

Ms. Ferretti stated that she did not disagree, and encouraged JPAC to communicate these concerns to Council. She also recommended that JPAC use the opportunity of the meeting with the Alternate Representatives scheduled for that evening to make these points, indicating that unless a shift was introduced now, it would be too late.

**Action: JPAC Members**

Concerning the 1998 Program, she reported that it was approved with the exception of Environment, Economy and Trade which would be decided this week. In response to a question, she reported that the delay reflected the desire of Council to expand the scope of this part of the Program and that time had been required to reach an agreement.

Regarding the negotiations on amendments to the Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the NAAEC, Ms. Ferretti reported that the GSC had met that morning and the intention was for JPAC to provide input via a 60-day public review period. She also reported that Secretariat had submitted its recommendation to Council regarding the development of a factual record regarding the public submission on the "Effective Enforcement of Section 35(1) of the *Fisheries Act*" (B.C. Hydro). She further reported that the panel review of the experts' report on *Sustaining and Enhancing Riparian Migratory Bird Habitat on the Upper San Pedro River* would take place in September.

She provided an update on staffing within the Secretariat. In response to a request by a member, she offered to provide a list of professional staff and their nationalities. A member expressed concern that some staff are inappropriately taking on an advocacy role. Ms. Ferretti replied that she would be happy to discuss this matter further.

**Action: Secretariat**



At this point Ms. Ferretti had to leave the meeting. Mr. Greg Block was requested to attend for the discussions on the amendment process for Articles 14 and 15.

### **Articles 14 and 15 of the NAAEC**

The Chair asked Peter Berle and Jorge Bustamante to report on the meetings with the GSC on this matter. Both expressed concern that the current process is making it more difficult to file a submission and for the Secretariat to respond. Further, the standards established for public participation and transparency in the first round are not being maintained. As one of the most innovative parts of the CEC, it is critically important that the public have a meaningful role in any amendment process.

The consensus was that the advice of JPAC and the Independent Review Committee not to pursue amendments should be followed, and that the process should be allowed to grow and strengthen with the passage of time. It was also agreed that it was totally unacceptable that JPAC was not being treated as a full participant in these deliberations. This position would be brought forward to the Alternative Representatives by Mr. Berle and Mr. Bustamante.

Mr. Block expressed appreciation for having had the opportunity to hear JPAC's discussions on this matter, particularly with regards to public participation.

A member expressed a personal concern that the submission process should not be a substitute for environmental impact assessment, in the sense that a decision taken within a legally constituted environmental review process to go ahead with a project should not be eligible for challenge through this CEC process.

### **JPAC's Report to Council**

The report was reviewed and, with some changes introduced to take into account decisions taken in this meeting, it was approved. It was agreed that it should be released immediately to the public so it would be in time for the public workshop the next day.

It was also agreed that the report built on the priorities and work plan developed in the last three sessions and that it contained more than advice to Council and should remain in the form of a report.

**Action: Secretariat**

In the context of the Report to Council, the discussion on the role of JPAC was taken up again. The members deplored the fact that JPAC was not part of the drafting process leading to the "Shared Agenda for Action" statement. JPAC's involvement at the front end of all planning has to be confirmed and recorded with the Alternate Representatives and Council. The Secretariat should be present when these commitments are made. Once these commitments are made, the process will adjust.

Concerning public participation, a member strongly protested the decisions taken by the Alternate Representatives and the Secretariat for the Mérida meeting. He felt that the decisions taken by JPAC at its session in El Paso were not supported and that there was no real opportunity for the public to participate and influence decisions.

All the members agreed that the agenda for public participation at this Council session was not adequate. It was agreed that this be raised in the scheduled meetings with Council and the Alternate Representatives.

**Action: JPAC Members**

### **Joint Meeting with the GACs and NACs**

Individuals representing the Canadian, United States and Mexican NACs were in attendance. This was the first such meeting. A member of the United States NAC expressed enthusiasm that the Mexican NAC had been recently formed. He also acknowledged sensitivity to the limits placed on interaction between the NACs/GACs and JPAC. He informed JPAC that the EPA had provided more funding to permit its NAC to meet more regularly. They are using the opportunity of the strategic planning process to improve the quality of public participation. He sees these joint meetings as an opportunity to exchange opinions and increase sensitivity to the views of all three countries.

A Canadian NAC member reported that their NAC was pushing to have the issue of the Executive Director resolved, that they agreed with the Independent Review Committee (IRC) recommendation concerning Articles 14 and 15 and they are concerned that the strategic planning process leading to a new vision for the CEC had not involved the public. He also extended an invitation to JPAC to attend Canadian NAC meetings and introduced the idea to consider cross appointments between NACs and JPAC to establish institutional linkages.

The Mexican NAC member was welcomed by the Chair. He noted that since the Mexican NAC had only recently been formed he would defer comments to the next joint meeting.

Picking up on a point made by the Canadian NAC representative, a JPAC member stated a concern over the growing lack of public participation. He felt that the increasing influence of bureaucrats was very worrisome and they were "running the CEC in secret." He wondered if this reflected lack of political interest and commitment to the CEC process, and it was agreed to raise this concern directly with the Council.

After discussion it was generally agreed that some form of sharing of views and interaction would be useful. JPAC would consider the idea of cross appointments. It was cautioned, however, not to forget that the NACs and GACs represent individual governments and report directly to them, whereas JPAC does not. Any formal arrangement would have to be based on a common understanding that national agendas could be 'enriched' by an international view.

JPAC encouraged the representatives to let their governments know their dissatisfaction with the closed process for negotiating amendments to the Guidelines for Articles 14 and 15 Submissions.

The Chair thanked the representatives for their contributions.

**Action: JPAC Members**

**Observers' Comments**

- A representative from STOP was concerned about the continuing lack of opportunity for participation of observers at JPAC sessions. He also strongly objected to the lack of documents. He stated that it was impossible for observers to follow and contribute to discussions without the documents on hand. He also expressed concern about the changing appointments to JPAC and said that the 'balance' was being compromised.

- A representative from STORM expressed appreciation for the attention the public participation issue was receiving. She pointed, however, to what she considered conflicting messages from JPAC: on the one hand, minutes of meetings stress the need to improve public access and, on the other, the annual budget for public participation has been reduced. She also encouraged the public workshop to be handled in a manner fair to all participants.

- A representative from the Canadian Nature Federation reiterated the sense of frustration felt by the public. He noted that the failings may not all be JPAC's doing, but it is time for the public to be more frank with their comments: "It is time for the grass roots to express themselves forcefully."

- A representative from the World Conservation Union reported that his organization was seeking a partnership with the CEC. There are many issues in common where the organizations could cooperate. For example, restocking deer in Mexico, protecting wetlands for waterfowl, working against illegal trade in species, encouraging conservation.

- A representative of the academic community in Mexico called for research on environmental pollution from chemicals used in large-scale agriculture and on the health hazards to workers.

- A representative from the New Brunswick Lung Association stressed the need to introduce human health as a priority issue.

The session was adjourned until 8:00 AM on 26 June. In the interval, JPAC participated in the final negotiations on amendments to the Guidelines for Article 14 and 15 submissions, met privately with the Alternate Representatives and participated in the public workshop.

The JPAC reconvened at 8:00 AM, 26 June, and held a short, private working meeting to prepare for the in-camera meeting with Council, scheduled for 9:00 to 11:00 AM.

The JPAC regular session reconvened for 30 minutes prior to the Council Press Conference.



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## Follow-up of Council Session

The members expressed satisfaction with the outcome of their meeting with the Council members and efforts with the Alternative Representatives.

- The participation of JPAC positively influenced the outcome of the Article 14 and 15 negotiations and the public review to follow. JPAC is satisfied that the draft amendments do not diminish access to the submission process nor do they hamper the ability of the Secretariat to respond. The 90-day public review and comment period will be conducted through JPAC.
- JPAC's role as a CEC partner in the Shared Agenda for Action is now clearly specified, in writing.
- In addition to the JPAC chair attending meetings of the Alternate Representatives, the entire JPAC and the Alternate Representatives will meet twice per year.
- JPAC will work directly with the Secretariat in the preparation of the Rolling Program for 1999-2001 and the Work Plan for 1999.

A list of priority issues for JPAC involvement was given to JPAC by the Council. It was agreed that JPAC would respond and the Chair prepare a draft work plan and identify any need for new working groups. This list, however, should not diminish JPAC's on-going activities, but rather contribute to them. The draft would be sent to members for review and finalization.

**Action: JPAC Chair/JPAC Members/Secretariat**

## Next JPAC Meetings

It was agreed that the meeting schedule may have to be adjusted to respond to the new CEC program cycle and schedule. A proposal will be made by the Chair after consulting with the Secretariat.

It was noted, however, that a year-end meeting is required for strategic planning and this should be kept in mind.

It was also noted that at the first formal meeting with the Alternate Representatives the issue of public participation will be raised.

**Action: JPAC Chair/Secretariat**

## Observers' Comments Continued

- The representative from STOP once again raised the need to share documents with the observers. He also asked that the new Mexican members be formally introduced.

The meeting was adjourned at 12:30 PM on 26 June 1998.

**Note:** It was brought to the attention of the members, that Summary Record 98-02 (El Paso, Texas) did not properly reflect the views of an observer representing business. It was agreed that his comments would be added to this Summary Record:

- JPAC is seen as a group than can receive concerns from a wide "public," including business. JPAC should look to the public to provide input and information. We can reinforce the message that JPAC is important and should be listened to and included by the Council.
- Encourage as broad a public as possible to attend annual Council Sessions by setting an agenda that will attract them. Perhaps Council members could be invited to attend other meetings with the public. The Council members are a "draw."
- Emphasize climate change and the Kyoto climate change resolutions.

Prepared by Lorraine Brooke



**Joint Public Advisory Commission Session No. 98-03**

**24, 25 and 26 June 1998**

**Hyatt Regency Hotel  
Mérida, Yucatàn, Mexico**

**JPAC AGENDA**

**Wednesday, 24 June 1998**

- 1:00 AM – 3:00 PM JPAC Regular Session N° 98-03
1. Welcome and Overview by the Chair
  2. Approval of the Provisional Agenda
  3. Remarks by the Interim Executive Director of the CEC Secretariat
  4. JPAC Advice to Council on the CEC Three-Year Plan
  5. Articles 14 & 15 of the NAAEC
  6. Next Council Regular Session
  7. Other Issues
  8. Observers' Comments
- 3:00 PM – 3:30 PM Break
- 3:30 PM – 5:00 PM JPAC Regular Session N° 98-03 (continued)
9. Joint Informal Meeting with NACs/GAC
  10. Observers' Comments
  11. Adjournment

**Thursday, 25 June 1998**

- 9:00 AM – 7:00 PM Public Council Session and Workshop on Priorities for North American Cooperation for 1999-2001

**Friday, 26 June 1998**

- 8:00 AM – 9:00 AM JPAC Private Working Meeting
- Preparation for the meeting with Council
- 9:00 AM – 10:30 AM Council In-Camera Session with JPAC
- 10:30 AM – 11:00 AM Break
- 11:00 AM – 1:00 PM JPAC Regular Session N° 98-03 (continued)
12. Follow-up of Council Regular Session
  13. JPAC Working Groups
  14. JPAC Internal Communication
  15. Next JPAC Meetings
    - a) 24-25 September 1998, Yellowknife, North West Territories (to confirm)
    - b) 2-3 December 1998, Washington, DC (to confirm)
  16. Other Issues
  17. Observers' Comments
  18. End of the Session



**Joint Public Advisory Committee Session N° 98-03**

**24 and 26 June 1998**

**List of Participants**

**JPAC Members:**

**Canada**

Michael Cloghesy  
Jacques Gérin  
Mary Simon (Chair)  
Donna Tingley

**Mexico**

Guillermo Barroso  
Jorge Bustamante  
Jesús Druk (26 June)  
Iván Restrepo  
Raúl Tornel (26 June)

**United States**

Peter Berle  
Jonathan Plaut  
John Wirth

**Observers**

Salvador Acosta Romero	<i>CUCSUR, University of Guadalajara</i>
Eva Aguilar	<i>Consejo Estatal de Organizaciones no Gubernamentales de Quintana Roo</i>
Sergio Alonso Alferez	<i>Red Interacional de ONG's contra la desertificació</i>
William Andrews	<i>Canadian National Advisory Committee</i>
Esther Aranta	<i>City Planner, Environmental Specialty</i>
Raul Arriaga	<i>Instituto de Ecología de Guanajuato</i>
Regina Barba	<i>Unión de Grupos Ambientalistas</i>
Peter Birney	<i>Union of New Brunswick Indians</i>
Lorraine Brooke	<i>JPAC Consultant</i>
Mateo Castillo	<i>Mexican National Advisory Committee</i>
Alejandro Cruz	<i>Private sector, Sinaloa, Mexico</i>
Elizabeth De La Rosa Romero	<i>Fuerza Forestal A.C. QRO</i>
Robert Donnelly	<i>The News, Mexico City</i>
Geraldo Gold Bouchot	<i>Mexican National Advisory Committee</i>
Ignacio Galindo	<i>University of Colima &amp; Mexican National Advisory Committee</i>
Adam Greene	<i>US Council for International Business</i>
Miguel Angel Guzman	<i>Consejo Regional del Café de Coatepec A.C.</i>
Blanca Laborde	<i>Texas Senate NAFTA Committee</i>

Victor Lara Martínez	<i>Novedades de Mérida y Yucatán</i>
Carlos Lascurain Fernández	University of Essex
Andrew Mangan	Business Council for Sustainable Development for the Gulf of Mexico
Carlos Marentes	Sin Fronteras
Kenneh Maybee	New Brunswick Lung Association
Karel Mayrand	<i>Environnement &amp; Sécurité</i>
Karel Ménard	<i>FCQCED (Québec)</i>
Alfredo Millán Alarid	<i>Fundación Topolobampo y la Cuenca del Pacífico</i>
Sergio Monroy	<i>CANAIPES</i>
Anrea Morrison	Canadian Institute of Conflict Resolution
Oscar Pedrin Osuna	<i>SEMARNAP</i>
Pedro Peon Roche	<i>Industria Salinera de Yucatán</i>
Hilda Pérez Andrade	<i>Cámara Minera de México (ICME)</i>
Rubén Presuel Polanco	<i>Presidencia Municipal Carmen, camp. México</i>
Virgilio Reyes	FLASCO – Guatemala
Julio César Rodríguez Pérez	Mexican National Advisory Committee
May Sutter	Journal of Commerce
James Teer	North American Sustainable Use Specialists
Dan Torrez	Office of the Attorney General, State of Texas
Don Wedge	STOP
Clotilda Yakimchuk	Exchange Visit Project (USA & Canada)
Dan Yakimchuk	Exchange Visit Project (USA & Canada)
Andrés Zeromski	University of Guadalajara

**CEC Staff members:**

Janine Ferretti  
 Greg Block  
 Andrew Hamilton  
 Manon Pepin  
 François Tanguay-Renaud



**JOINT PUBLIC ADVISORY COMMITTEE**

**REPORT TO COUNCIL**

**MÉRIDA, YUCATAN**

**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 work plan 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 is 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 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 compliments 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.

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

- 4. 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.
- 5. 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.
- 6. 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.
- 7. Recommends that NAFEC staff provide appropriate technical assistance to applicants in order to attract the widest possible range of potential grantees.
- 8. Recommends that Council endorse JPAC's involvement and flexible approach to public consultation.
- 9. Recommends that the JPAC develop its own operating budget in consultation with the Secretariat to ensure that it compliments the JPAC work plan.
- 10. Recommends that Council endorse an effort to better involve remote communities and indigenous peoples in the CEC process.
- 11. 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

## 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</li> <li>• ⇒ 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>
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>

## 1998 JPAC PRIORITIES

DATE/LOCATION	PRIORITIES IDENTIFIED IN DECEMBER 1997	ACTIONS PROPOSED
<p>24-25-26 June 1998 Mérida, Yucatán Council Annual Session</p>	<ul style="list-style-type: none"> <li>• CEC Program and Budget for 1999-2000 ⇒ JPAC Working Group: M. C. Castro, J. Gérin, J. Plaut</li>   <li>Note: 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. (*)</li> </ul>	<ul style="list-style-type: none"> <li>• JPAC participation in public meeting including workshops on the five CEC program areas: (*) <ul style="list-style-type: none"> <li>I- Environment, Economy and Trade</li> <li>II- Biodiversity and Ecosystems</li> <li>III- Pollutants and Health</li> <li>IV- Capacity Building and Education</li> <li>V- Enforcement Cooperation and Law</li> </ul> </li>   <li>• Meeting with the Council members and JPAC members <ul style="list-style-type: none"> <li>⇒ Report on workshops outcome on the CEC programs</li> <li>⇒ Report on JPAC current actions and activities</li> </ul> </li>   <li>• JPAC Regular Session 98-03 <ul style="list-style-type: none"> <li>⇒ Advice 98-08: CEC Program and Budget for 1999-2000</li> </ul> </li> </ul>
<p>[24-25 September 1998 Yellowknife, North West Territories] (*)</p>	<ul style="list-style-type: none"> <li>• Mercury Related Studies ⇒ JPAC Working Group: J. Richardson, a Mexican member and a Canadian member</li>   <li>• JPAC 1999-2000 Strategic Action Plan ⇒ 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 <ul style="list-style-type: none"> <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> </li> </ul>
<p>[2-3 December 1998 Washington, DC] (*)</p>	<ul style="list-style-type: none"> <li>• Continental Pollutant Pathways ⇒ JPAC Working Group: J. Richardson, a Mexican member and a Canadian member</li>   <li>• Transportation ⇒ JPAC Working Group: M. Cloghesy, J. Wirth, a Mexican member</li> </ul>	<ul style="list-style-type: none"> <li>• JPAC participation on the Trilateral Workshop on air issues, including the production of formal proceedings. Under the Cooperation on Long Range Transport of Air Pollution in North America Project (*)</li>   <li>• JPAC Regular Session 98-05 <ul style="list-style-type: none"> <li>⇒ Advice 98-11: Continental Pollutant Pathways</li> <li>⇒ Advice 98-12: Transportation</li> </ul> </li> </ul>

### 1998 JPAC PRIORITIES

<b>DATE/LOCATION</b>	<b>PRIORITIES IDENTIFIED IN DECEMBER 1997</b>	<b>ACTIONS PROPOSED</b>
JPAC Internal Work For 1998	<ul style="list-style-type: none"> <li>• Public Participation</li> </ul> <p>Note: Special attention should be addressed to grass roots organisations and local communities with an emphasis on indigenous communities.</p>	<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