

**COMMISSION FOR ENVIRONMENTAL COOPERATION**

**Joint Public Advisory Committee**

**1997 Public Consultations**

**Report to Council**

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12 September 1997

The Honorable Christine Stewart  
Minister of the Environment (Canada)

The Honorable Carol Browner  
Administrator of the United States Environmental Protection Agency

The Honorable Julia Carabias  
Secretary of the Environment, Natural Resources, and Fisheries (Mexico)

Dear Members of the Council,

The Joint Public Advisory Committee is pleased to submit to the Council of the North American Commission for Environmental Cooperation (CEC) the executive report on the public consultations held during 1997.

This report includes the recommendations put forth by the public at the meetings conducted on 19-20 March in Mexico City, 14-15 May in Vancouver, and 11-12 June in Pittsburgh.

The underlying purposes of these meetings, convened under the mandate of the Council, were to improve access to information and to encourage the participation of citizens, not only to ascertain their outlook on environmental issues and their priority in the region, but also to pave the way for greater involvement on the part of the public in the real and effective improvement of the environment in North America.

The Joint Public Advisory Committee acknowledges the CEC Council's wish to promote public participation in order to fulfil the objectives of the Agreement signed by the three countries and to encourage the effective operation of the Commission.

Sincerely,

María Cristina Castro  
JPAC President

# 1997 Public Consultations

## Report to Council

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## **Presentation**

Under a mandate of the Council of the North American Commission for Environmental Cooperation (CEC), the Joint Public Advisory Committee (JPAC) has held three annual series of public consultations since 1994, when the CEC was created. The meetings have addressed various issues considered to be essential to the preservation of the region's environment by the environment ministers of the three countries.

The formats applied for public consultations by the JPAC have continuously evolved from one meeting to the next and, as a result, public participation has improved quantitatively and qualitatively. Constant throughout was the CEC's unwavering commitment to listen to members of the public who are interested in halting the deterioration of the environment, making known the priorities held by the public, and participating in environmental decision-making.

In 1997, JPAC tested a new format for public participation. This includes preliminary seminars during which expert consultants provide the attendees with updated information on key points of the issues to be examined. Also, individuals responsible for the CEC programs and projects address the public directly on work in those areas.

The seminars are followed by specific workshops, which allow for an in-depth examination of essential aspects of the topic under consideration and an exchange of ideas among the participants. JPAC members coordinate the tasks and the consultants direct summary report preparation. Workshop discussions are summarized for the public during a closing plenary session.

In order to strengthen the public's connection to the ongoing work of the CEC, the JPAC has elected to hold its first three regular meetings in the same locations as the public consultations. Attendees were invited to participate as observers and then given the opportunity at the end of the meetings to voice their opinions.

There was a considerable increase in the number of participants during the 1997 series of public consultations (199 in the Mexico meeting, 108 in Vancouver, and 162 in Pittsburgh). Beyond the increase in the number of attendees, the participants were also much more knowledgeable. It was notable that two important studies on the implementation of the North American Agreement for Environmental Cooperation (NAAEC) were also received.

This year, the CEC Secretariat provided the public with preliminary reports for the consultations, which allowed attendees to familiarize themselves with the discussions of previous meetings and be briefed on the issues, thereby facilitating greater continuity throughout the three sessions.

In addition to the subjects addressed that were indicated in the Council's mandate, members of the public were afforded the opportunity to voice their opinions about other environmental issues, including the NAAEC evaluation process undertaken in accordance with Article 10.1 (b) of the Agreement.

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At the final session of the Pittsburgh meeting, the JPAC member responsible for coordinating each workshop presented a personal view on the subjects addressed.

The purpose of this report is to submit to the CEC Council the results of its fulfilled mandate, to provide the public with the results of the consultations, and to convey to the Secretariat valuable contributions related to the 1998 Work Program.

Joint Public Advisory Committee, Summer 1997.

## 1. Introduction

The North American Agreement on Environmental Cooperation (NAAEC), which was implemented by Canada, Mexico, and the United States in 1994, was the first formal environmental agreement ever adopted in parallel with a trade agreement. The Commission on Environmental Cooperation (CEC), created by NAAEC, also set a precedent by including as one of its components a public, nongovernmental advisory group.

The Joint Public Advisory Committee (JPAC) was established to advise both to the CEC Council, composed of cabinet-level or equivalent representatives of the three countries, in its deliberations, and to the CEC Secretariat in its planning and activities. Composed of fifteen members, five from each country, JPAC seeks to promote continental cooperation in ecosystem protection and sustainable economic development and to ensure active public participation and transparency in the actions of the full Commission. Based on this principle, JPAC has been charged by the Council with reaching out to members of the public who are interested in and affected by the work of the Commission.

In undertaking this mandate, the Commission convened public consultations in 1997 in Mexico City (19-20 March), Vancouver (14-15 May), and Pittsburgh (11-12 June). The objectives of the consultations were to provide the Council with

- a sense of the concerns, priorities, and aspirations of the participants;
- information for use in shaping CEC programs and policies; and
- when possible, specific recommendations and general proposals put forth by participants in the three events.

The workshops held in conjunction with each public consultation engaged participants in strategic discussions and solicited their ideas on three key issues in North America: the long-range transport of air pollutants; voluntary compliance with environmental laws; and community environmental information networks. Three consultants—James W. S. Young, SENES Consultants Ltd. (air pollutants); Keith Welks (voluntary compliance); and Yuriria Blanco, Instituto de Ecología (networks)—prepared the background reports for these workshops. Participants also were given the opportunity at each consultation to raise environmental issues not covered in the three topical workshops, as well as issues relevant to the upcoming evaluation of the operation and effectiveness of NAAEC, four years after its entry into force. The workshops and plenary sessions attracted a diverse audience, composed of representatives of nongovernmental organizations (NGOs), government, and industry, as well as students, lawyers, and consultants.

This report on the three public consultations reflects the views of the participants on the environmental movement in general and the CEC's mandate and work in particular. The recommendations included in the report—not listed in order of priority—are based strictly on the public comments. The final section of the report, entitled "JPAC Perspectives," was prepared by the JPAC members who chaired the public consultation workshops in the three countries. This report will be presented to the Council and disseminated to the public.

JPAC members:

*María Cristina Castro* (JPAC Chair, 1997)

*T. M. (Mike) Apsey*

*Guillermo Barroso*

*Peter A. Berle*

*Jorge A. Bustamante*

*Michael E. Cloghesy*

*Louise Comeau*

*Jacques Gérin*

*Dan Morales*

*Jon Plaut*

*Ivan Restrepo*

*Jean Richardson*

*Mary Simon*

*John D. Wirth*

## **2. Key Issues**

### **2.1 Long-Range Transport of Air Pollutants in North America**

#### **2.1.1 Context**

Knowledge of the long-range transport of air pollutants dates from the late 1960s when researchers learned that chemicals generated through human activity could be detected in areas (such as the Arctic) remote from their sources of emission to the atmosphere. Indeed, it is now known that many pollutants are transported thousands of kilometers before they are removed from the atmosphere by precipitation.

Mitigating the effects of chemicals that may be transported over distances spanning an entire continent represents a major challenge to lawmakers and regulators in Canada, Mexico, and the United States. These nations recognize that emissions in any one country may affect its neighbors in some way and that their societies and economies are intimately linked.

The identification and management of the significant risks posed by pollutants require determination of their point of release into the environment, the pathways of continental transport, the chemical transformations that occur in the environment, the routes of human and ecological exposures, and monitoring of actual exposure and harm.

#### **2.1.2 Key Considerations**

Workshop participants identified seven key considerations in addressing the long-range transport of air pollutants: equity, economic inequalities, action, vision, public education, common sources, and credibility.

*Equity* must be a vital component of Canadian, Mexican, and US efforts to deal with environmental issues. For example, provision of the requisite training will ensure that pollutants are monitored and inventoried equally in the three countries. This leads to the fundamental premise that actions in this area will require comparable quality of data and understanding across North America. On the regulatory level, such North American products as automobiles should have parity in emission standards. However, equity applied to “standard setting” calls for flexibility that would allow national infrastructures and processes to work. Moreover, a common standard must allow the application of stricter standards to solve a local problem. One may observe that standards are set according to threshold pollutant levels that healthy members of

society can tolerate—a key point in equity for the elderly and the very young who are much more sensitive to pollutants. At the research level, the consultation called for more trinational collaboration in the generation and use of environmental data. In addition, greater attention to quality assurance and quality control in environmental analytical laboratories is required to ensure that data generated by these laboratories are more comparable. Equity was also defined as equal access to measured data and a joint inventory of emission sources. Equity does not mean trading one pollutant for another.

Finally, the question was posed: “Can the environment and equity issues be addressed in a mutually supportive way?”

*Economic inequalities*, that cannot and should not be avoided, require innovative solutions. One example of an innovative approach would be to allow the recipients of pollution to help trace the source of pollution by lending them monitoring equipment and training them in its use. In this area it is important to match the results desired with the correct methodology. A common fund to deal with economic inequalities relating to continental pollutant pathways might take the form of a public/private partnership in which industry becomes a significant resourcing partner to support priority CEC activities. The creation of a “fund” or a “partnership” will inevitably be linked to trade issues. Industrial representatives saw many opportunities for this kind of partnership. The money lenders (banks) are starting to insist that industry think about emissions even if there are no current standards—in other words, they are asking industry to consider future standards now.

*Action* dealing with what is in pollution pathways is far more important than monitoring the pathways. Thus the three countries should not defer action on reducing pollutant emissions. Certain actions were identified that can and should be taken now. For example, diesel soot is a technical problem that can be remedied today. A focus on such problems that can be fixed in the short term is seen as part of the “precautionary principle.”

Decisions should be taken at the right time, using only the data available when the decision is required.

Setting targets and timelines and enforcing them were seen as vital, no matter what the standard (several participants suggested that a reward system would be better than standards). Some speakers wished for specific actions to be taken within a given amount of time. Specifically, the date of 16 April 1997 was proposed as the start of the 1,000-day countdown to the new millennium—it was suggested that CEC actions be tied to deliverables within this timeframe so that Canada, Mexico, and the United States can enter the twenty-first century with clean air.

Survival depends on having a *vision*. The concept of adopting a long-term vision of zero anthropogenic emissions elicited opposing reactions. One side found the concept essential to survival of the human race and one that would bring about real change. Opponents of the idea found the concept impractical on a short time-scale—although nearly all participants agreed that the reduction of emissions over time is important. In fairness to both sides, there was evidence in the discussion of a misunderstanding of the “vision” of zero emissions and how fast one would have to reach this as a “goal.” But it was very clear that adoption of a vision of zero emissions would require a change in regulatory attitudes and a fundamentally new way of dealing with total

emissions than the current approach which deals with emissions source by source. Zero pollution, it was acknowledged, will require zero public waste (entailing reductions in consumption and more intensive recycling).

Generally, the notion of *zero* emissions raises public expectations that this goal can be met soon. A vision with interim targets that reduce risk was felt to be a better approach than a vision alone. A participant at the Vancouver meeting seemed to capture the essence of the discussion when he said: “In environmental decision-making, always move toward less, always move toward cleaner—and as quickly as possible.”

The “ecosystem approach” toward reduced emissions was generally accepted as best because it allows governments to focus on the most important pathways. This requires some precautions, however: carefully avoid the tendency to disconnect ecosystems from human health; do not allow a lack of data on some component of the ecosystem to be an excuse to delay a decision; and recognize that the current organization of the three governments does not favor the ecosystem approach in decision-making. One participant recommended that “environmental standards...be set so as to reduce waste and produce a sustainable environment.” It was generally agreed that standards should be used to protect environmental health. The CEC should focus on the true economic costs of standards to bring the whole subject into balance.

The “Cuixmala Model Draft Treaty for the Protection of the Environment and Natural Resources of North America” was presented and generally supported.

*Lack of public education* was identified as one of the main obstacles to effective action. For example, more information (a *Who's Who*) is needed on North American scientists and their studies so that the available information is not missed, and the public should have free and open access to all databases. In this connection, transboundary transport must be recognized as everything from molecules in the air to passengers on planes. Some simple explanations of how the various chemicals work and affect people (such as the diagram of the grasshopper effect presented at the consultation) are vital to aid public understanding.

*Common sources* are being tied more and more to a range of environmental issues. For example, the transportation and energy sectors have many impacts and must be dealt with in an integrated fashion. The agri-pesticides area needs increased attention since some of its effects are very remote (Canadian Arctic) from the source. “Pollution prevention” from these common sources is a vital part of the solution to many environmental issues. In this, the CEC could play two specific roles as it contributes to understanding and mitigating the effects of NAFTA (such as the burning of more natural gas), and assesses the role that NAFTA plays in creating “common sources” (for example, under NAFTA the three countries are increasingly exchanging wastes).

*Credibility* is vital to future decisions. Concern was expressed, for example, about the scientific basis for current legislated standards and criteria. The CEC is encouraged to request that all countries review the scientific basis of their standards. A common basis for all standards was recommended.

Another aspect of credibility is that some large sources of emissions have been “grandfathered”

(exempted from regulation because of their age). Credibility can be improved by setting standards in the three countries through a trilateral expert committee. The CEC also could establish a moral code of business practice for companies in North America. Finally, it is important that the CEC appear credible and balanced in any recommendation that it makes.

### **2.1.3 The Public's Recommendations**

The following recommendations are based on the assumption that both federal and state/provincial governments will be involved in their implementation.

- Make the pollutant monitoring, inventory systems, and measurement databases more comparable throughout North America. A database of innovative technologies, including traditional knowledge, also would be very useful to the three countries, but it is vital that the data collected be regularly synthesized and verified. The CEC should develop a plan to obtain the relevant documents and information and incorporate them into the database. The administrative procedures for public access to these data must be simple. Help from the three countries in tracking down information would be of great benefit to the public.
- Recognizing that as governments downsize, many databases are being degraded, the CEC should strongly defend the importance of these data and encourage governments to maintain what are critical for an environmental baseline. The CEC should document the declining capacity, develop a cost-effective strategy for obtaining the data needed, and explore alternative funding mechanisms to support a baseline database. The CEC must alert countries to the fact that there are not sufficient funds to understand some of the key environmental processes; reasonable levels of research and monitoring are not being maintained; and the data constitute an international archive—a significant source of information about the three countries.
- The CEC should create a trilateral basis for a North American emissions inventory—in the short term, building knowledge and understanding and, over the longer term, developing or adopting international criteria for data quality.
- Make equity a vital component of any action plan to combat the long-range transport of air pollutants.
- The CEC should recommend that countries stop “grandfathering” sources immediately to derive the maximum benefit from advances in technology.
- Emphasize the important role of public education in environmental decision-making at the national and local levels. The CEC should develop public participation strategies to enhance the public’s contribution to decision making.
- That the CEC, recognizing the need to encourage technology innovation, should give technology transfer the highest priority. For example, the Commission might consider sponsoring an international contest for the development of new technologies that could help to reduce pollution in North America.

- That the CEC actively develop a North American fund or industrial partnership for mitigating problems stemming from continental pollutant pathways. The monies could be used for defining the problem, quantifying the pathways, or reducing the sources of emissions.
- That the CEC, realizing that transportation is a continental pollutant pathway, call for immediate equalization of standards in the transportation industry. Specifically, vans, jeeps, trucks, two-cycle engines, and large off-road vehicles should meet the same high standards as passenger vehicles. Marine vessels also should be strictly controlled. Diesel engines should have state-of-the-art control technology applied to them immediately. Harmonizing standards should not lead to the lowest common denominator. Over the long term, a strategy should be developed for phasing out certain modes of transportation.
- That the CEC encourage the governments of Canada, Mexico, and the United States to enforce vigorously standards currently in the law. Some participants suggested that there should be minimum standards that any industry must meet as a prerequisite for entering the North American market.
- That the CEC recommend that the “ecosystem approach” be adopted for all future environmental decisions. To accomplish this, the CEC should recommend that government departments be reorganized to support this approach. The first job is to assess how the lakes, rivers, and air are doing, not just focus on the impacts of NAFTA. Some participants suggested that the CEC recommend that the three governments adopt the “Cuixmala Model Draft Treaty” as a framework for the protection of the environment and the natural resources of North America.
- That the CEC use the 1,000-day countdown to the new millennium to establish specific actions and dates to move toward cleaner air in North America. A novel approach proposed that targets be set in terms of “cylinders per family,” moving from a current level of near 8 to 2 by 2005. This will stimulate industrial innovation to meet the new requirements.
- That the CEC commission further study of the broader aspects of continental pollutant pathways focusing specifically on microorganisms, PM<sub>10</sub>, and radionuclides. The CEC should encourage more research on the chronic impact of long-term exposure to low levels of pollutants.
- That the CEC recommend that a “source sector approach,” rather than a chemical-by-chemical approach, be used from now on. Priority should be placed on the energy sector. The CEC could promote a trilateral carbon (energy) tax as a solution to the global change issue.
- That the CEC establish an expert committee to recommend common standards and a technical-socio-political-legal committee to determine how to reach “zero” emissions.
- That the CEC recommend against the export of wastes, since dealing with one’s own wastes is the most useful lever for encouraging waste minimization.
- A *key recommendation* would be to set standards based on the most sensitive receptor, even if that receptor is to be found far down the continental pollutant pathway from the country

setting the standard. This is aimed at protecting an indigenous population that might, for example, be affected by persistent organic pollutants (POPs) or fine particle fractions. The sensitive receptors suggested were women of child-bearing age and people who eat more traditional foods (such as the Inuit). A focus also should be put on intergenerational equity.

## **2.2 Voluntary Compliance with Environmental Laws in North America**

### **2.2.1 Context**

The North American Agreement on Environmental Cooperation includes a number of provisions related to environmental enforcement and compliance within the member countries. These provisions include an obligation assumed by the Parties to enforce effectively their respective environmental laws. Article 5 of the agreement provides a framework for effective enforcement. The third of the twelve courses of action specifically identified within this framework is to seek "assurances of voluntary compliance and compliance agreements."

The inclusion of "compliance agreements" and "voluntary compliance" mechanisms in the agreement presaged the widespread and increasing attention now being devoted in Canada, Mexico, and the United States to a host of innovative "voluntary" approaches designed to increase environmental compliance. These approaches include measures unilaterally instituted by governments or regulated industries as well as mechanisms created through negotiations and discussions between government and industry or within industry.

The CEC has retained experts in each of the three countries to examine experiences to date as the regulated facilities begin to consider and utilize various "voluntary compliance measures" aimed at increasing compliance with external performance obligations. The CEC report is designed expressly to trigger a substantive dialogue about the use of these instruments; it is not designed to endorse or repudiate these innovations. A brief summary of this report was provided to the workshop participants.

Attendance at the JPAC workshops on voluntary compliance appeared weighted more heavily toward representatives of nongovernmental organizations. Several industry and government representatives participated fully, however, and offered substantive comments.

### **2.2.2 Key Considerations**

*Skeptical Views of Voluntary Compliance.* Workshop participants expressed considerable skepticism about employing new voluntary approaches to increase environmental compliance—and even debated the propriety of using the term *voluntary compliance* itself. Some speakers disliked the term even while supporting the use of alternative techniques to improve compliance. Others argued that government should not rely on voluntary measures of any kind as drivers of compliance. In fact, some speakers questioned the basic validity of the notion of government agencies encouraging, and regulated industries implementing, measures for voluntary compliance. The very idea of voluntary compliance, one participant noted, was contrary to Mexican practice, which establishes mandatory obligations for environmental compliance.

Indeed, the entire topic of voluntary compliance measures appeared to introduce confusion about

the ideas of voluntary versus mandatory behavior. The applicable legislation in Mexico establishes norms and standards for behavior for both government and industry, and these various requirements must be met. Many participants implicitly supported the proposition that measures that encourage voluntary compliance, leading perhaps to a reduced emphasis on the role of traditional enforcement, are likely to be effective only when strong support for compliance with environmental controls already exists. There was considerable interest in finding ways to foster a culture that encourages compliance, based on both enforcement responses and voluntary efforts to ensure compliance. At the same time, some participants expressed doubt that the present culture in the three countries accords sufficient importance and status to compliance with environmental requirements.

*Risks and Benefits.* There was some sentiment that new compliance assurance mechanisms might create their own set of risks to the environment, and that these might not be entirely foreseeable. This led to suggestions that risk-benefit analysis be conducted for voluntary compliance measures that may gain widespread usage. While not disagreeing with this proposal, others noted that it already was very difficult to measure both levels of compliance and the relationship between compliance and actual environmental conditions. Any effort to factor in measurements of the effectiveness of voluntary compliance measures in increasing compliant behavior would therefore be even more difficult.

*Role of Government Enforcement.* Concern emerged that the current program to promote “voluntary” compliance could be simply a stalking horse for future efforts either to alter government environmental protection requirements to reflect standards developed by industry through these “voluntary” programs or, at the extreme, to substitute privately developed and voluntarily met standards for all external government regulation. This specter clashed with the belief that the establishment and enforcement of standards by government action had to remain the cornerstone of environmental protection efforts. Several participants argued, however, that governments were insufficiently aggressive in responding directly to violations and overly intrusive in asserting their authority to stay private actions initiated by citizens and groups to enforce environmental laws. Others observed that the Mexican government was still not as effective as it could be in protecting the environment in both its role as regulator and its role as entrepreneur. As a result, some participants worried that formal endorsement of any innovative voluntary compliance program might authorize the government to exercise even greater discretion over compliance and enforcement.

*Voluntary Compliance Measures and Resource Considerations.* The common argument that acceptance of voluntary compliance measures is necessary to address governmental fiscal and resource constraints was challenged directly. Indeed, some governmental participants expected that the introduction of voluntary compliance measures by the private sector would increase the demand on agency resources, at least in the short term. No speaker accepted staff shortages as a valid basis for minimizing traditional enforcement responses in appropriate situations. Several participants suggested that shortages of resources were a function of insupportable prioritization and allocation decisions, not the magnitude of the resources themselves. Others argued that maintenance of public health and welfare should compel governments to make more resources available for environmental protection including enforcement. The need to deploy resources for maximum efficiency in ensuring compliance with applicable standards and environmental

protection was recognized, however. This perception prompted many speakers to offer support for “various new modalities,” “a blend of traditional and alternative methods,” “voluntary mechanisms that facilitate compliance,” and other tropes describing innovative efforts outside the traditional enforcement model which might improve overall environmental performance.

In all instances, however, support for innovative measures was conditioned on their use only to supplement or go beyond mandatory compliance with government-established standards; voluntary compliance measures must not be allowed to derogate the role and rule of law. Several other cautionary notes were sounded about more formal acceptance of these alternative approaches such as the widespread desire for public participation and transparency in the development, application, and evaluation of any new mechanisms of this sort and the critical need to develop tools to measure the effects of various approaches, including traditional enforcement responses, on levels of compliance and improvement of ambient environmental conditions.

*Transparency and Confidentiality.* Voluntary compliance measures also seemed particularly capable of prompting concerns that, at least initially, appeared to be mutually exclusive. For example, several participants offered criteria against which voluntary compliance measures could be evaluated: transparency, measurable effectiveness, and transferability to other companies or sectors. At the same time, others pointed out that voluntary compliance measures to a large extent involve the development of new technologies and new systems, and that some breakthroughs might indeed be considered proprietary. Any corollary interest in protecting such information, however, would be in direct conflict with the proposed criteria for evaluating voluntary compliance measures.

*Increased Local Role.* There also was a broad sense that the implementation of voluntary compliance measures would create new demands and opportunities for local participation. Some suggested that the desired openness and transparency of voluntary compliance measures would draw host communities and industrial facilities closer together, fostering a better working relationship. Others argued that there would soon be a compelling need to increase the capacity of local groups and local governments to conduct the monitoring of both facility compliance and ambient quality indicators in anticipation of the contraction of such activities by state, provincial, or federal agencies. Local academic institutions and grass-roots environmental organizations were identified as capable, after appropriate training, of gathering basic data and submitting it to presumably more expert and objective evaluators for review. It was proposed that funding for such efforts come from the cost savings realized by industry from implementing voluntary compliance measures, or from fines for violations.

*Industry Views.* The industry representatives who spoke fully embraced the view that governmental regulation and enforcement constitute the bedrock of environmental protection regimes. Alternative measures would provide useful options in helping the private sector to comply with standards more efficiently. These participants also insisted that their desire to comply was driven not only by respect for governmental standards but also by appreciation of important market factors. Beyond the need to satisfy external performance requirements, they explained, the private sector must hit its marks in protecting the environment to ensure trust and good relations with host communities, to compete internationally, and to maximize economic performance. One participant suggested that the development and use of voluntary compliance measures were

evidence of growing industry acceptance of "co-responsibility" for ensuring compliance with environmental requirements. Finally, there was support for the view that industry implements those voluntary compliance measures that contribute to bottom-line improvements even without reciprocal government action such as enforcement amnesty or information privileges.

*General Considerations.* Participants raised a number of related considerations under the general theme of dissimilarities and inequities among the three NAAEC member countries. One oft-repeated observation was that profound differences in environmental understanding and compliance behavior existed not only across the three countries but also within Mexico itself. Canada and the United States were far more knowledgeable than Mexico about voluntary compliance measures, some participants noted. Thus it was critical that Mexico not lag behind in the development and implementation of particular innovative measures relevant to the country. Indeed, some speakers speculated that voluntary compliance measures were a topic of concern and significance only in the United States and that the CEC focus on this topic was misplaced. An emphasis on scientific and academic issues, particularly technology transfer, was thought to be far more relevant to environmental protection in the North American region than further dialogue on this aspect of compliance.

### **2.2.3 The Public's Recommendations**

Workshop participants identified the following recommendations in response to the considerations just described:

- For clarity, call the new approaches "voluntary measures to ensure compliance."
- Utilize local or community resources to supplement agency-level inspection and monitoring.
- Maintain enforcement responses as the core of environmental compliance efforts.
- Establish methods to measure compliance levels, both baseline and after the implementation of voluntary compliance measures or other mechanisms. These methods also should measure the effectiveness of voluntary compliance measures in increasing compliance and improving ambient environmental conditions.
- Use voluntary compliance measures to promote better relationships between industry and local interests.
- Develop instruments to inform the public and to guide public opinion about voluntary compliance measures.
- Ensure transparency and full public participation in the development, application, and evaluation of voluntary compliance measures and alternative approaches.
- Harmonize, to the extent appropriate, the voluntary compliance measures in use in the three countries.
- The CEC should foster cooperation and the exchange of information on voluntary compliance measures among the three countries.

- Review the use of voluntary compliance measures on a case-by-case basis.
- Develop and implement monitoring systems to oversee the use of voluntary compliance measures.
- Develop laws, regulations, and policies that limit the discretion of government in approving voluntary compliance measures.
- Prohibit the use of voluntary compliance measures to authorize behavior that fails to comply with requirements of law and regulation.
- Utilize voluntary compliance measures only when in the public good and not derogatory to regulated conduct.
- Allocate government resources more effectively and efficiently to maintain support for enforcement efforts as well as other regulatory activities.
- Mandate the use of alternative measures where they are particularly likely to reduce or eliminate the occurrence of serious environmental events.

## **2.3 Environmental Networking among North American Communities**

### **2.3.1 Context**

Generally, the US and Canadian environmental communities have demonstrated considerable efficiency in reaching their conservationist objectives largely because they have created environmental communication networks that provide the latest information on work under way in environmental protection. Some rural areas of Canada, Mexico, and the United States, however, lack a reliable communications infrastructure; particularly in Mexico, only large cities have telephone and fax services and electronic communications servers.

Because of the high cost of the equipment required to provide and access information, only the small number of NGOs that have the resources and access to the communications infrastructure are able to establish contact with other NGOs in North America—to the disadvantage of other organizations that may have the expertise but not the means. As for information itself, that available in Mexico—and often in Canada—is inadequate, sometimes difficult to access, and somewhat unreliable, particularly in the poor, rural, and native sectors. Finally, both Canadians and Mexicans have experienced problems gaining access to information possessed by government agencies and industry, particularly information on public health and the impact of pollution. “Right to know” laws are needed.

### **2.3.2 Key Considerations**

Workshop participants acknowledged the importance of establishing environmental networks among the communities of North America as an additional means of attaining the goals of protecting the environment and achieving sustainable development. But the creation of

environmental networks is dependent on recognizing the differences between the communication facilities available in Mexico and those of other North American countries and working together to minimize the gap. With this in mind, workshop participants agreed to address issues that fell into three main categories: intragroup communication and data sharing, an Internet task force, and alternatives to the Internet. It is important to note, however, that several recommendations made during the meetings are not mentioned in this report because they already have been achieved or are in the process of being achieved.

*Intragroup Communication and Data Sharing.* What are the obstacles to communication and the establishment of trinational networks? In the context of identifying such obstacles, workshop participants pointed out that strategic planning should be adopted to: focus on health and pollution issues; identify existing communication resources; and assess communications compatibility, equipment availability, incentives, and the experiences of the three countries. Along the way, the importance of networks in promoting awareness to environmental disasters and the potential damage posed to the human health and natural resources by projects in the three NAFTA countries should not be forgotten.

Information on the environment and related areas must be reliable, timely, and comprehensive. The main issues requiring communication among the three countries should be identified and categorized, specifying objectives. One particular need is credible and timely information on capital investments and their possible effects on human health and the environment. Such information should then be disseminated at the state, regional, and local levels and entered into the databases of the affected geographical-political areas by individuals properly trained for these tasks.

Certain basic concepts employed in the networking area such as “public,” “community,” and “environmental communities” are defined differently in the three countries. These concepts, as well as “environmental communications network” and “work methodology,” should be redefined so that a common meaning is available.

*Access to Information.* Participants agreed that society should be able to retrieve information from a wide variety of technical and information media. Those providing environmental information should look for ways to disseminate it, and include actions taken by governments, academics, NGOs, communities, and economic sectors in their material. Such an effort will reveal the information available from these groups, aid in the development of techniques for exchanging information, and facilitate joint activities.

The handling and availability of information provided through channels of public communication must be reliable—a problem solved perhaps by creating reliable information banks that do not centralize these services. It is hoped that the electronic media will be able to devote more resources to environmental awareness and, perhaps as a public service, allow access to members of the public and environmental groups, particularly on television.

Because Internet access (equipment, servers, training, etc.) is costly and not widespread, the governments should provide fiscal incentives to facilitate networking activities, access to the Internet, and data sharing.

*Alternatives to the Internet.* Participants recognized that the Internet is the best way to communicate and share information but agreed that it should not be promoted to the exclusion of television, radio, newspapers, publications, and other media that also play an important role in communication. A related observation is that environmental education plays an important role in establishing networks and creating effective grassroots work.

### **2.3.3 The Public's Recommendations**

The public recommends that the CEC:

- Prepare for wide distribution an environmental bulletin that includes a directory of governmental, academic, and nongovernmental organizations related to the environment; funding sources; and information on groups interested in skills-sharing. A trilateral effort will be required to obtain this information. The *National Wildlife Federation Conservation Directory*, a directory of directories, could serve as a model.
- Include information or updates in the CEC annual report on the work of the national advisory committees.
- Employ a consultant to determine what means and infrastructure available to environmental communities and NGOs can be incorporated into an environmental network. New funding should be provided by the Parties for this initiative.
- Recognizing that much of the environmental research and monitoring in Mexico must be carried out by universities and NGOs, expand the CEC's present communications efforts to help integrate and publicize the results of Mexican research with- the overall North American research community.
- Add networking/public participation to the CEC's *State of the Environment Report*.
- Add networking and experimental, community-based, environmental education-related criteria to the North American Fund for Environmental Cooperation.
- Establish a networking task force composed of members of the CEC Secretariat, JPAC, and citizens, including members of the national and governmental advisory committees.
- Establish an annual award for trilateral networking achievement as part of the annual meeting of the Commission. New funding should be provided for this initiative.
- Ensure that all CEC projects and contracts include networking and outreach in their designs and follow-up, with an evaluation to ensure that success was attained.
- Involve private enterprise in networking, including the scientific community and industry.
- Facilitate the dissemination of information to stakeholders, including NGOs, about the government's participation in national and international environmental programs and policies.
- Support capacity-building for use of the Internet.

- Establish reliable and timely databases on the environment, natural resources, health, risk, and trade-related issues with Internet access.
- Promote public outreach through the employment of a full-time staff member to contact NGOs and the use of the pro bono services of public relations and marketing firms. New funding should be provided for this initiative.
- Establish public outreach campaign training programs (community organizing methodologies).
- Use radio for outreach, including public media such as National Public Radio in the United States.
- Create and disseminate radio spots and public service announcements on environmental topics, making them accessible through the Internet. New funding for this should be provided by the Parties.

The CEC Council should:

- Call for a trilateral meeting on networks, identifying beforehand those most important in North America. Funding should be provided to participants to attend this meeting and future ones.
- Establish/encourage fiscal and other incentives to facilitate networking activities, access to the Internet, and data sharing. Among other things,
  - ⇒ promote agreements among universities and other academic institutions to offer low-cost Internet access;
  - ⇒ establish public access points for the Internet at public libraries with government funding and initiatives; and
  - ⇒ encourage public and private institutions such as schools that have computers at their disposal to become environmental information centers, open to the public, that are integrated with environmental networks to provide efficient information awareness programs.
- Guarantee access to reliable and timely information on the environment, natural resources, health risk, and trade-related issues.
- Implement provisions of the NAAEC calling for communication among the national advisory committees and councils.
- Encourage basic education in the three countries to provide training in the use of communications media, where possible including public telecommunications networks.
- Establish an independent environmental ombudsman in the three countries. Financial and institutional support should be provided by the Parties.

- Promote donations of equipment from the private sector to NGOs, making tax-deductibility available to both.
- Disclose information about investments made in any of the three countries that may affect the environment.

## **2.4 Other Environmental Issues, Including Evaluation of NAAEC**

### **2.4.1 Context**

At each public consultation participants were given the opportunity to raise environmental issues not covered in the three topical workshops. In Mexico City, a fourth workshop on “General Issues” was convened, and in Vancouver a portion of the opening day’s plenary session was devoted to presentations, questions, and concerns. In Pittsburgh, participants were able to voice their concerns and questions at three points during the two-day event: during a plenary session, at a workshop session devoted to “Other Environmental Issues, Including Evaluation of NAAEC,” and at a second plenary session featuring the CEC Council. Notable formal presentations were made in the course of the three public consultations on a “Cuixmala Model Draft Treaty for the Protection of the Environment and the Natural Resources of North America” and a review/critique of the implementation of NAAEC.

### **2.4.2 Key Issues**

In general, participants urged a revitalization of environmental efforts, as the 1990s has witnessed in many quarters a backsliding of the environmental movement, characterized by the devolution of regulatory responsibility, deregulation, self-regulation, reduced enforcement, and cuts to monitoring and research stemming from efforts to reduce national budget deficits and maintain or increase economic competitiveness. Speakers called specifically for more regulations and tougher enforcement, greater access to information, a greater political commitment on the part of the Parties to the work of the CEC, and even constitutional changes conferring on the individual the right to act as the first protector of the environment, thereby enabling citizens to act rapidly to protect their immediate environment.

#### **2.4.2.1 North American Agreement for Environmental Cooperation (NAAEC)**

*Article 14 Submissions.* Article 14 of NAAEC, which allows citizens of the member countries to file a complaint with the CEC alleging that one of the countries is failing to enforce effectively its environmental law, sparked many comments. They included calls for the factual records to be made public; for changes to the submission process enabling submissions to be tabled or put on hold (rather than simply rejected) for the appropriate reasons such as the need for more information; and for CEC assistance, either directly or at arm’s length, in preparing submissions.

*Funding.* Since funding is so integral to most of the initiatives put forth at the public consultations, participants urged the Parties to increase their annual contributions to the CEC to the US\$ 5 million per country envisioned when the agreement was originally put into force. It also was suggested that the three countries consider devoting a percentage of their defense budgets to the environmental efforts of the CEC.

*Provincial (Canadian) Participation in NAAEC.* Many participants expressed their concern about the fact that only three of the ten Canadian provinces had signed NAAEC and urged the Council to review the situation in Canada and the possibility of additional provincial participation.

*Political Commitment of Parties to NAAEC.* Finally, a theme underlying the public presentations was the need for the Parties to increase their political commitment to aggressive implementation of NAAEC.

#### **2.4.2.2 CEC Work Program**

Comments on the program and priorities of the Commission echoed some of those voiced by the committee reviewing the effectiveness of NAAEC.

*Environment and Trade.* Identification of the linkages between the environment and trade is central to the CEC's mission, and, some argued, the environment-trade link should be extended to a study of its implications for agriculture. Solutions to the problems identified—especially the need to minimize the impact of trade on the environment—will require an integrated ecosystem approach that includes, among other things, clear indicators of progress toward sustainability. Efforts to measure economic progress in trade and environment issues would benefit from the application of Genuine Progress Indicators

*CEC Work Program.* Various speakers at the consultations suggested that the parties formulating the work program of the Commission incorporate the following priorities which, for the most part, cut across various program areas:

- Assess the impacts of trade (such as the long-distance transport of air and water pollutants) on the environment and human health.
- Promote technical assistance, capacity-building, training, and the exchange and transparency of information. All these aspects of environmental research and cooperation are especially important for incorporating Mexican experts into North American environmental research and monitoring efforts but are equally important throughout Canada and the United States. In Mexico, educational issues should be combined with the social sector in working on conservation and agriculture projects. Moreover, fostering local sensitivity and participation in environmental issues is essential. To this end, the CEC could begin both formal and informal efforts to stimulate environmental education, including convening a workshop on the subject.
- Investigate the issues that link the environment and economy, such as subsidies and internalizing environmental costs, and promote the notion that, to create a healthy ecosystem, environmental considerations should be the basis of economic structures and decisions—not the other way around.
- Utilize Genuine Progress Indicators (a modeling program that determines and internalizes some variables that the three countries normally tend to externalize) in the Commission's *State of the Environment Report* rather than economic indicators based on gross national product (GNP) or gross domestic product (GDP).

- Incorporate a longer-term vision into strategic planning (for instance, the necessity of applying conservation forward as far as the seventh generation in the future).
- Clarify where public health fits into all areas of the work program.
- Seek earlier approval of CEC's annual program and budget; 1997 program and budget was not fully approved until midway through the year.

*Sound Management of Chemicals Initiative.* The draft North American Regional Action Plan for mercury, one element of the CEC's Sound Management of Chemicals initiative, was roundly criticized for not focusing enough on reducing mercury emissions (it is an action plan lacking action, one participant noted). Speakers suggested that the draft plan include more of CEC's own findings in this area and the findings of a recent comprehensive report by the US Environmental Protection Agency on mercury (as yet unreleased), as well as the results of work being undertaken by the New England states and the eastern Canadian provinces in their Northeast States/Eastern Canadian Mercury Study. Many speakers called for releasing the new draft plan for public comment.

*NAFTA Effects Project.* A representative of several prominent environmental nongovernmental organizations expressed these organizations' dismay at the prospects that the CEC might halt the NAFTA Effects project before its timely completion. It was pointed out that a baseline understanding of the relationship between NAFTA and the environment is necessary if the CEC is to fulfill its core trade and environment mission.

*Cooperation and Outreach.* Participants called on the CEC to identify in its work program opportunities to foster cooperation among the Parties on implementation of the various international treaties, conventions, and agreements related to environmental issues. Linkages between the CEC and other North American institutions working in relevant areas should be identified and strengthened as well.

In a related area, in seizing the opportunity to relate "local to global" and to build public support for environmental cooperation, the CEC should expand its outreach to environmental nongovernmental organizations. This is likely to require the services of a full-time staff member experienced in the techniques for stimulating public involvement.

#### **2.4.2.3 North American Fund for Environmental Cooperation (NAFEC)**

*Selection Criteria.* Citing the example of a current NAFEC project carried out in Mexico but funded through a US NGO, a representative of a Mexican NGO pointed out that such projects should be headed by NGOs in the countries where the projects are actually being carried out. Moreover, guidelines for projects should be developed in the countries home to the projects. The Commission's response to these suggestions was that NAFEC funds must be distributed evenly among the three countries and that projects bilateral or trilateral in nature have priority because of the Commission's mandate to foster cooperation among the Parties. It was acknowledged, however, that while US and Canadian NGOs often may provide leadership and act as the primary project holder in NAFEC grants, the interests of the Mexican communities and organizations

involved must be recognized and represented in the nature of the grant.

Another concern: are project selection criteria sensitive enough to the fact that environmental problems often do not require high-tech solutions? Solutions may be as simple as the extension of a sewage system. The importance of sophisticated chemical/toxic substance issues cannot be denied, but in Mexico, one participant explained, sewage issues dominate, especially at the border. In the same vein, potential problems, such as the extinction of some flora and fauna in Mexico, often are lost in the stampede toward more high-risk projects dealing with more sophisticated issues.

*Other Sources of Funding.* Participants urged the Commission to serve as a source of information on other sources of funding for environmental projects—a role consistent with CEC's mandate. In addition to providing lists of other possible sources of support for grant recipients and grant applicants, the CEC could identify key people within foundations and open doors.

#### **2.4.2.4 Organic Agriculture**

Facing urban expansion and unfavorable trade conditions, farmers, for example in Morelos, Mexico, are converting to organic crops, which have promising markets. They face the problem, however, of how to meet North American and European certification requirements for export. A related problem is the introduction of standard guidelines and environmentally sound procedures for harvesting and processing herbs, including indigenous wild species gathered for their medicinal or aromatic value.

#### **2.4.2.5 Harmonization of Environmental Laboratory Measurements**

The harmonization of certification for agricultural and other products is part of the larger problem of harmonization of the measurements made in environmental analytical laboratories. Such harmonization will require the incorporation of quality assurance management systems such as those outlined in ISO Guide 25 in order to promote and enhance the comparability of environmental measurements among the NAFTA countries. It also will require the development and proper use of the reference materials needed for assuring the quality of environmental measurements. A major objective would be the accreditation of participating laboratories and the reciprocal acceptance of analytical measurements made in accredited laboratories in the three countries.

#### **2.4.2.6 Manufacturing Standards**

Manufacturing operations in the United States and Canada are adopting the ISO 14000 standards, but Mexico, to stay competitive, must obtain the green light from the government to implement these higher standards.

#### **2.4.2.7 Management of Protected Areas, Farmland, and Urban Development**

The preservation and management of protected areas, including forests threatened by fire, and continued urban development of farmland, concerned workshop participants. Although efforts are under way to facilitate the exchange of information and establish linkages between the managers of protected areas in the United States and Mexico, more such efforts are needed, particularly

given the encroachment of urban areas, especially in central Mexico, on nearby parklands, which often contain the only remnants of many of the country's flora and fauna. CEC representatives pointed out that the Commission may wish to coordinate and spotlight ongoing efforts in the area of the management of protected areas and parklands, but that this area largely falls within the jurisdictions of federal, state, and provincial governments. They acknowledged, however, that the technology needed to control the forest fires threatening parklands is lacking in Mexico, as well as the techniques needed for using fire as a method of forest management.

A related problem is the loss of farmland to urban development. Because this phenomenon appears in all three countries and has trade-environment implications, it was suggested that the Commission may wish to examine this problem through a study group. It is true that 70 percent of Mexicans now live in urban areas, which are subject to pollution and water and sewage problems. Nevertheless, the preservation of farmland and villages based on a communal way of life is important. CEC representatives confirmed that the loss of farmland to developers is growing problem in all three countries, not just Mexico, and that it has attracted the attention of several NGOs, including the American Farmland Trust which recently issued a report on the loss of US farmlands. In Mexico the World Wildlife Fund and Pronatura are addressing the preservation of open space and biodiversity.

#### **2.4.2.8 Ecotourism**

One solution to many of the problems described in the previous section is ecotourism, which provides growing urban populations with access to green space, allows visitors to see ecologically sound practices while enjoying the natural environment, provides incomes for local farmers as they make the transition to sustainable agriculture, and demonstrates to farmers and municipalities that it is economically viable to preserve farmland and green belts in urban areas. Although an ecotourism project in Mexico is currently the recipient of a NAFEC grant, ecotourism has attracted interest from the Arctic to the Lacandona rainforest—in fact throughout North America where it is viewed as a means of allowing rural dwellers to retain their way of life and generate income and as a means of preserving the environment.

#### **2.4.2.9 Waste Incineration**

Medical waste incinerators are major sources of mercury and dioxin pollution, but two-thirds of all such incinerators in the United States have no pollution control devices. Organic mercury is a known developmental toxin that is readily absorbed by humans and easily distributed to fetuses. Dioxin has been linked to endocrine disruption, cancer, developmental abnormalities, and lowered testosterone levels. PVC products, such as IV and blood bags and respiratory therapy equipment, create dioxin when they are incompletely combusted during incineration. One low-tech solution to the problem is merely segregating waste into pathological waste (body parts) and certain pharmaceuticals for incineration at an off-site commercial facility and biohazardous waste for autoclaving and disposal in a landfill. Other segregation programs can be used to capture mercury wastes, batteries, fluorescent fixtures, and other hazardous wastes for recycling or disposal as hazardous waste. It was suggested that waste segregation education be mandatory for all health care workers.

#### **2.4.2.10 Water**

Water management suffers from the fragmented approaches being adopted across North America in response to regional concerns and problems. Participants observed that North America needs an integrated water management policy that includes rules for the use of underground and aboveground water resources. Thus they called on the CEC to recognize that water issues are too fragmented and to develop a more holistic approach to the quality and quantity of water and its regional use, focusing on conservation and protection. Such an initiative could include coastal waters and their role in the transport of pollutants as well as wetlands.

#### **2.4.2.11 Protection of Wide-ranging Terrestrial Mammals**

Ecologists working in the Rocky Mountains have suggested that by conserving self-sustaining populations of just four species—grizzly bears, wolves, wolverines, and lynx—North Americans can conserve 80 percent of the rest of the Rockies' native flora and fauna. To support this finding, 82 organizations are participating in the Yellowstone to Yukon Conservation Initiative, a binational effort that seeks to restore and maintain the native biodiversity of the Rocky Mountains by establishing a 3,000-kilometer long interconnected system of protected areas and wildlife habitat corridors.

#### **2.4.2.12 New Substances Notification**

The Canadian and US governments each have assessment programs for new chemicals to provide public confidence in their safety, but there is no mutual recognition of the new assessments conducted in each country. It was claimed that such a policy has economic implications, such as trade barriers, and environmental implications, such as delays in the introduction in other countries of the new “greener” chemicals often available first in the United States. Although Mexico apparently does not have a new chemicals assessment program, it was reported that it is considering how such a program could be developed to meet Mexican needs and to take into account assessment work already under way in Canada and the United States.

### **2.4.3 The Public's Recommendations**

The following recommendations apply to issues identified as common to Canada, Mexico, and the United States.

- *North American Agreement on Environmental Cooperation (NAAEC)*. The Council should review the efficacy of the Article 14 submission process, seeking more flexibility when possible in the process. More generally, the Council should encourage the Parties to increase their funding and political commitments to implementation of the agreement, and should seek full participation by the Canadian provinces who have yet to sign onto NAAEC.
- *Environment and Trade*. The linkage between environment and trade, and the impacts of trade on the environment and human health, should assume a central role in the CEC mission, supported by an integrated ecosystem approach to the problems identified.

- *CEC Work Program (General)*. Inclusion of the following priorities in the CEC work program is encouraged: promoting technical assistance, capacity-building, training, and information transparency and exchange; investigating issues that link the economy and environment such as subsidies and the internalization of environmental costs; utilizing Genuine Progress Indicators in the CEC's *State of the Environment Report* rather than economic indicators based on GNP or GDP; incorporating a longer-term vision into strategic planning; improving comparative databases and monitoring; clarifying where public health fits into all areas of the work program; identifying both opportunities to foster cooperation among the Parties on the implementation of international agreements related to the environment and linkages among North American institutions addressing environmental issues; and pursuing aggressive outreach efforts toward environmental NGOs. From a practical standpoint, the CEC should seek earlier approval of its annual program and budget.
- *Sound Management of Chemicals Initiative*. The draft North American Regional Action Plan for mercury should be thoroughly revamped to reflect recent work conducted on mercury, including that by the CEC, US Environmental Protection Agency, and the Northeast/Eastern Canadian Mercury Study. The revised draft report should be released for public comment.
- *NAFTA Effects Project*. The Council should ensure that this project is carried to its timely completion.
- *North American Fund for Environmental Cooperation (NAFEC)*. In situations in which a US or Canadian NGO serves as the primary project holder for NAFEC projects conducted in Mexico, the Commission should ensure that the interests and concerns of the Mexican community are recognized and represented in the nature of the grant.
- *North American Fund for Environmental Cooperation (NAFEC)*. CEC should try to arrange foundation support for NAFEC projects and provide information through its Web site and other venues on additional sources of funding for projects that address environment and trade issues.
- *Appropriate Technology/Low Technology*. A focus on the multiple dimensions of water use by the Commission may be the best route toward addressing sewage issues in Mexico. The larger issue, however, is CEC awareness of the importance of the application of appropriate technology.
- *Organic Agriculture*. Recognizing that it is within the Commission's mandate to examine trade-environment issues and to promote the harmonization of standards for products that do not have negative environmental effects, the CEC should convene a trilateral panel of experts to address the need in Mexico for certification of organic products, including wild and cultivated herbs, as well as what steps should be taken toward the formulation of shared North American guidelines for environmentally sound production, harvesting, and processing techniques for these products.
- *Harmonization of Environmental Measurements*. A comprehensive trilateral effort to improve the comparability of environmental measurements made in chemical analytical

laboratories in the three countries should be instituted, perhaps building on quality assurance management systems such as those outlined in ISO Guide 25. Such an effort should include the development and proper use of the reference materials needed for assuring the quality of environmental measurements. An objective of this initiative would be the accreditation of participating laboratories and the reciprocal acceptance of analytical measurements made in accredited laboratories in the NAFTA countries.

- *Manufacturing Standards.* Building on the memorandum of understanding signed by the Commission and three business groups (one from each country) to promote ISO 14000 workshops and training for Mexican companies, CEC should encourage greater recognition within Mexico of the value of ISO standards for competitiveness, perhaps by incorporating a dimension of this problem into one of its ongoing programs. The private sector, however, should play the leading role in this effort.
- *Forest Management and Certification.* A collaborative effort by the three governments or a statement of priority by the Commission should address the problems associated with forest management, such as fire fighting, in Mexico. Forest certification may serve as a solution to some of these problems. The participation of the native peoples of the southwestern United States and Mexico, as well as ecologists and fire managers, would be essential to such an effort. Any relevancy of the trinational Model Forests project to this problem should be explored.
- *Waste Incineration.* The nonessential incineration of medical waste should be eliminated in all countries. Wastes other than body parts and certain pharmaceuticals can be safely treated using alternative technologies such as autoclaving. PVC products should be phased out of use in the health care industry.
- *Water.* In its work plan, the CEC should incorporate an initiative that addresses, on a holistic basis, the quality and quantity of water resources in North America, focusing on conservation and protection.
- *Protection of Wide-ranging Terrestrial Mammals.* To demonstrate its commitment to biodiversity and grass-roots and community-based programs, the CEC should include the Yellowstone to Yukon Conservation Initiative as a pilot project in its 1998 work plan, perhaps in tandem with the Sky Island Project, a similar effort that spans the US/Mexican border.

### **3. JPAC Perspectives**

#### **3.1 Long-Range Transport of Air Pollutants in North America**

*Peter A. Berle, JPAC Member*

In the course of public consultations in Mexico City, Vancouver and Pittsburgh on the subject of the Long-Range Transport of Air Pollutants in North America, several key themes emerged. They include:

The need for strong immediate and coordinated action to deal with the transport of pollutants

which affect Canada, the United States and Mexico. Emphasis should be on action rather than simply more monitoring of pollutant pathways.

Equity must be a vital component in the formulation of policy and action plans. The calls for equity took various forms. It is recommended that standard setting be done to protect the most vulnerable populations, even though they may live in a different country than the pollution source. Examples are the very young and very old indigenous people of the Arctic who are affected by airborne pollutants that emanate from Mexico and the United States. But equity also means the ability to set different standards that allow for differences in process and economic structure in the three countries. An element of the concept of equity is to insure equal access to data, and commonality underlying data acquisition or collection to enable data comparisons across the three nations. In order to facilitate collection of sufficient data to support action it was suggested that economic inequalities be addressed through a common fund to be established from major pollution sources.

There was universal support for an eco-system approach to control of long-range pollutants as opposed to substance-by-substance strategies. A component of this could be treatment of pollution by source sector, e.g., agriculture, transportation, etc.

Representatives of air pollution control agencies in all three countries expressed concern over threatened or actual cutbacks in their ability to monitor air quality. They also asserted that more needs to be done to establish an accessible common data base. It is felt that the need for monitoring and gaps in data should NOT be an excuse for delaying actions to curb emissions.

Public education must be an essential component of any strategy. Public education coupled with agreed upon protocols and accessible data will build credibility. Without credibility no public action to limit pollutants can be effective.

The workshops produced a variety of specific recommendations that are included in this Report.

### **3.2 Voluntary Compliance with Environmental Laws in North America**

*Michael E. Cloghesy, JPAC Member*

There was general agreement among participants of the three consultations that the term *voluntary compliance* should be replaced by the phrase "*voluntary measures to ensure compliance*." The following points summarize a number of the major themes that emanated from the public consultation:

- Voluntary measures should not be viewed as a substitute for government's role in setting basic environmental standards and retaining enforcement responsibility.
- Voluntary measures can supplement or complement a regulatory system.
- In the short term, a government involved in a voluntary measures program would not benefit from a lower demand on its resources.
- The increased use of voluntary measures could result in a greater exclusion of the public from

important decisions, resulting in the need to emphasize continuing respect for the values of transparency, openness, and public participation in the process.

- For voluntary measures to be successful, a cultural change must occur in society, including government, industry, and the public. But at the same time, it was recognized that the new experience of embarking on a voluntary program has the potential of bringing about a cultural change on the part of the parties involved.
- Several pilot projects involving voluntary measures in Canada and the United States, at the state or provincial levels, appear to be successful at this point.
- Comments were received from government and industry representatives indicating that the environment can be viewed as an opportunity for reducing costs. Rather than seeking “end of pipe” solutions, there may be greater advantage in seeking more lasting measures, such as process design changes that have the potential of eliminating emissions altogether, thus removing a company from regulatory oversight.
- A small manufacturer in Mexico suggested that voluntary measures could include governmental flexibility on the often burdensome administrative aspects of regulation. It was clearly recognized during the consultation process that small and medium-size companies may require special assistance and/or governmental flexibility to achieve compliance.
- Voluntary measures may provide a winning solution for both government and the private sector if they are properly designed to include public and local community involvement.

### **3.3 Environmental Networking among North American Communities**

*Ivan Restrepo, JPAC Member*

The participants recognized the need to establish or, in some cases, strengthen environmental networks among communities in North America, given the importance of these communities in the task of protecting the environment and achieving sustainable development.

However, large populations possess neither the technical expertise nor the access to adequate communications, which constitutes a major obstacle to the achievement of common objectives. An example of this are the ecosystems surrounding many aboriginal and rural communities where important natural resources and biodiversity are to be found and where the risk of environmental harm is latent. Often those communities are best suited to serve as examples of how to manage resources rationally.

The participants mentioned that there was a need for adequate, reliable and timely information on issues related to the environment, health, and trade, and that proper coordination among the government agencies responsible for providing it is necessary. The information must also be accessible to all members of society.

Throughout the workshops, the participants emphasized that it would be advisable to improve the technical capabilities of existing environmental networks, set up new ones, and link users. Since

there is no single technical way to set up and integrate networks, those systems that best reflect the social, cultural, and economic conditions of the various groups of the population are the ones that should receive the greatest promotion. This point was strongly insisted upon.

In order for appropriate networks to be installed and information disseminated, financial and logistic support is required to facilitate the acquisition of the most appropriate systems, the loading of information and the interconnection with various users. This might be achieved through fiscal incentives and special rates granted by the public sector, and through private initiatives.

It was stressed that the media need to allocate greater space and resources to the environmental agenda. On the other hand, government agencies should provide training to their communication branches so that, indeed, they may carry out their duties of communicating and disseminating information, as well as attempting to ensure coordination among other data sources such as universities, research centers, industry, and NGOs.

Although most of the many proposals made would involve CEC responsibility over the long term, the participants agreed on various actions that must be carried out in the short term since they are now within the capability of the Commission and the corresponding governments. In summary, these actions aim at:

1. Diagnosing the current state of environmental information networks within the three countries, in particular, focusing on difficulties with accessing information systems and investigating areas for priority consideration.
2. Sponsoring a post-diagnosis meeting of operating network managers. The participation of those responsible for dissemination of environmental information within various governmental agencies would be highly desirable. As a result of the diagnosis and the meeting, a series of actions may be initiated, among others:
  - acknowledging the needs for financing to train personnel in the various means of communication: from the Internet to the radio, television, and the press;
  - establishing priorities and standardize criteria, methodologies, and environmental indicators; and
  - setting up a communications system among existing networks.
3. Promoting the installation of the Internet and other communications systems in public libraries of the three countries as a pilot project. This will be more feasible if support from the private sector is provided.
4. Endeavoring to interest the private sector in providing the technical support required for network installation and operation.
5. Augmenting the CEC's dissemination of its work and certain other environmental information through links established with the media, universities, industry, NGOs, and other potential users.
6. Not postponing further the implementation of communications systems among the national

councils of the three countries, an issue still unresolved.

Successful management of environmental communications requires participation by the community, not only as an information receptor but also as a source. Within this context, it is fundamental that access to information on environment, health, and trade issues, and other related activities, be guaranteed.

### **3.4 Other Environmental Issues, including Evaluation of NAAEC**

*Jean Richardson, JPAC Member*

*General Observations on Public Consultations.* Over the last three years the comments made by the public at the meetings have changed, both in substance and in presentation. Three years ago public comments often were limited to local issues, and the tone of presentation frequently reflected anger at the governments and fear of pollution. By 1997 the public comments have become very much more trilateral in nature and filled with possibilities for upward harmonization of environmental issues. Presentations now consider “green” issues as well as pollution problems, and the public offers low-technology options for resolving possible problems. The public also sees more clearly now the linkages between environmental protection and conservation, as well as long-term economic and health benefits.

This suggests that we are building trust among citizens and providing for them an organization, the CEC, which offers hope for a better future. This, however, also means that we have raised expectations that the Parties will make improvements which will lead to an improved environment, diversified economies, and better health for the next generation.

*Issues of Concern.* Issues of concern presented by the public this year often focused on environmental and economic links to human health, for example:

- The need for a trilateral approach to water issues, involving both conservation and preservation in quantity and quality.
- The need for a trilateral approach to the incineration of waste, medical waste, and industrial waste and the use of low-tech solutions to reduce the amount of material entering the waste stream for incineration.
- The need for evolving certification standards for organic agriculture trilaterally and for increased sharing of techniques.
- The need for a trilateral approach to forest certification standards and for the harmonization of standards across the industry.

#### *Evaluation of NAAEC*

- The public is very pleased with the NAAEC and with the ability it allows for providing information to the CEC.
- The public asks the CEC to address more clearly environment and trade linkages.

- The public urges increased political commitment of the Parties to the vision and objectives embodied in the Agreement, and greater commitment to the working of the CEC.

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