

14 January 2002

Ottawa ON K1A 0H3

Ms. Janine Ferretti  
Executive Director  
Secretariat  
Commission for Environmental Cooperation  
393 St. Jacques Street West, Suite 200  
Montreal QC H2Y 1N9

Dear Ms. Ferretti:

Canada is pleased to offer its comments on the five work plans to develop factual records which were provided to the Parties on December 14, 2001.

First, we note that – unlike the work plans the Secretariat provided for the “B.C. Hydro” and “Metales y Derivados” factual records – these five are quite general, and that the Secretariat has chosen not to include specific information on the methods that will be used to gather the facts, or any criteria to determine the relevancy of those facts. As a result, Canada is limited in its ability to provide comments that may be helpful to the Secretariat in ensuring the timely and efficient development of factual records. Should the Secretariat provide the Parties with a more detailed account of what it intends to do to develop the factual records, Canada would be pleased to offer comments which would facilitate the fact gathering process.

In regard to the scope of the fact finding defined in each of the five work plans, it is Canada’s understanding that this scope is limited to the instructions provided by Council with respect to the specific cases identified in Council Resolutions 01-08, 01-09, 01-10, 01-11, and 01-12. As it is made clear in the scope of the fact finding for the Aquanova Factual Record, Canada understands that the facts in the other four factual records will also be gathered strictly with respect to the cases identified in the council resolutions, and not in any other factual context.

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With respect to the scope of the fact finding and the overall plan for the Oldman River Factual Record, Canada notices that references are made to the "Sunpine Project". To avoid any misunderstanding, Canada recommends that all references regarding this case be made to the "Sunpine Forest Products Forest Access Road case" referred to in Council Resolution 01-08 and in the background section of the work plan for the Oldman River Factual Record.

With regard to the scope of the fact finding and the overall plan for the B.C. Logging Factual Record, Canada notices that references are made to sections "35 and 36" of the *Fisheries Act*. Canada believes that this is inaccurate and that these references should be changed to sections "35(1) and 36(3)" of the *Fisheries Act* as is identified in Council Resolution 01-12.

Canada is pleased to submit the above comments for consideration by the Secretariat and offers its full assistance in providing any other relevant information which may facilitate the fact gathering process. We note in this regard that, in order to ensure full access to the appropriate Canadian governmental authorities (federal, provincial, and local) and expedite the compilation of facts, it would be preferable that all information requests made to the Canadian Party regarding the Oldman River, B.C. Mines, and B.C. Logging factual records be addressed to the following contact:

Ms. Jenna MacKay-Alie  
Director  
Americas Branch  
Policy and Communications  
Environment Canada  
10 Wellington Street, 23<sup>rd</sup> Floor  
Hull, Québec  
K1A 0H3

We will follow-up with the Director of the Submission on Enforcement Matters Unit to determine if this offer is helpful in expediting the process.

Yours sincerely,

[Original Signed]

Norine Smith  
Assistant Deputy Minister  
Policy and Communications

c.c.: Ms. Olga Ojeda  
Ms. Judith E. Ayres