

NAC CCN

Canada - National Advisory Committee

Comité consultatif national - Canada

North American Agreement on Environmental Cooperation ~ Accord nord-américain de coopération dans le domaine de l'environnement

www.naaec.gc.ca/english/nac/ www.naaec.gc.ca/french/ccn/

Mr. William Andrews

Chairperson

Barrister & Solicitor

1958 Parkside Lane

North Vancouver, BC

V7G 1X5

Phone: (604) 924-0921

Fax: (604) 924-0918

E-Mail: wjandrews@home.com

Mr. Stewart A.G Elgie

Sierra Legal Defence Fund

106 Front Street, Suite 300

Toronto, ON

M5A 1E1

Phone: (416) 368-7533

Fax: (416) 363-2746

E-Mail: selgie@sierralegal.org

Ms. Anne Mitchell

Canadian Institute for Environmental

Law and Policy

517 College Street, Suite 400

Toronto, ON

M6G 4A2

Phone: (416) 923-3529

Fax: (416) 923-5949

E-Mail: cielap@web.net

M. Christian Van Houtte

Association de l'industrie de l'aluminium

1010 rue Sherbrooke ouest, suite 1600

Montreal, QC

H3A 2R7

Phone: (514) 288-4842

Fax: (514) 288-0944

E-Mail: associa@login.net

Secretariat:

Jean-François Dionne

Environnement Canada

Environnement Canada

Americas Branch

Direction des Amériques

25^e floor/étage Les Terrasses de la Chaudière,

10 rue Wellington Street

Hull, QC

K1A 0H3

Tel: (819) 994-6051

Fax: (819) 997-0199

E-mail: JeanFrancois.dionne@ec.gc.ca

September 15, 2000

Hon. David Anderson
Minister of the Environment
Terrasses de la Chaudière
10 Wellington Street
Hull, QC
K1A 0H3

M. Paul Bégin
Ministre de l'Environnement
Gouvernement du Québec
Edifice Marie-Guyart
675, boul. René Lévesque E
Québec, QC
G1R 5V7

Hon. Halvar Jonson
Minister of Environment
Government of Alberta
Legislature Building
Edmonton, AB
T5K 2B6

Hon. Oscar Lathlin
Minister of Conservation
Government of Manitoba
Room 344, Legislative Building
450 Broadway Avenue
Winnipeg, MB
R3C 0V8

Dear Ministers:

Re: Proposed CEC Program Plan, JPAC Draft Article 14-15 Process, and NAC
Appointments

On behalf of the Canada National Advisory Committee (Canada NAC), I am pleased to provide the following advice based on the Canada NAC's meetings by conference call on March 16, April 26, May 18, and May 24, 2000, an in-person meeting in Toronto on May 9, 2000, a June 11-13 in-person meeting in Dallas, Texas, in conjunction with the CEC annual meeting, and a conference call on September 11, 2000. NAC members also participated as observers in the March 23-24 meeting of the Joint Public Advisory Committee in Guadalajara, Mexico, the Symposium on Children's Health and the Environment sponsored by the Commission for Environmental Cooperation on May 10, 2000, in Toronto, and, as mentioned above, the CEC annual meeting in Dallas in June.

This letter of advice focuses on three topics:

2. The 2001-2003 Proposed Program Plan and Budget for the North American Commission for Environmental Cooperation, August 2000;
3. The Draft JPAC Public Review of Issues Concerning the Implementation and Further Elaboration of Articles 14 and 15;
4. The process for appointments to the Canada NAC.

2001-2003 Proposed Program Plan

Background. The Canada NAC has received the August 2000 draft of the 2001-2003 Proposed Program Plan and Budget, however not all the members of NAC have yet had an opportunity to review it thoroughly. We understand that Canada is currently developing its initial response to the 2001-2003 Proposed Program Plan and Budget, so we will make the following comments based on our initial review. Later, the NAC may be in a position to provide additional comments.

Recommendation. The Canada NAC recommends that Canada incorporate the following comments in its response to the August 2000 Proposed Program and Budget for the CEC:

1. The Proposed Program and Budget is well written and clearly laid out. One particular strength is the attention given to the linkages between the various CEC programs and projects.
2. The CEC should be congratulated for presenting a high calibre work plan. The plan includes a balanced combination of established programs producing significant results, new projects that show great promise, and almost-completed projects that are being phased out.
3. The CEC Symposium on the environmental effects of NAFTA, scheduled for October 2000 in Washington, D.C., is a major achievement, culminating almost five years of intensive effort. We are pleased to see that the CEC is proposing a follow-up symposium in 2002. Evaluating the environmental effects of NAFTA is an ongoing assignment, one that is central to the North American Agreement for Environmental Cooperation.
4. The proposed project "Comparative Report on Environmental Standards," within the Law and Policy program area, is a welcome addition. As you know, in the past few years the Canada National Advisory Committee has recommended that Canada support such a project. One of the most common fears about NAFTA is that it will lead to a competitive lowering of environmental standards (the 'race to the bottom'). The NAAEC clearly mandates the CEC (and the Parties) to identify environmental standards in the three countries with a view toward upward harmonization and improvement of standards.
5. The Emerging Environmental Trends in North America project deserves particular support. To paraphrase the project Rationale (p.8), it is better to 'anticipate and prevent' than to 'react and cure.' The work done to date provides a strong basis for practical outcomes from this project.
6. The proposed Mapping Marine and Estuarine Ecosystems of North America project is an important extension of the excellent work already done by the CEC on terrestrial mapping in North America. By focussing on compatibility and coordination of existing and developing ecosystem classification systems and mapping, the CEC is maximizing its 'value added' contribution to the achievement of a truly North American perspective on the North American environment.
7. The Sound Management of Chemicals remains the CEC's 'flagship' program area. The successful implementation of the North American Regional Action Plan (NARAP) on DDT (acknowledging that the job is not finished) is a significant achievement. Implementation of the NARAP on mercury is now a high-profile challenge. Notably, success with the mercury NARAP will require substantial action within Canada and the United States, in contrast with the DDT NARAP, where most of the difficult improvements occurred within Mexico. With three new NARAPs proposed for development in 2001 (lindane; dioxins, furans and hexachlorobenzene; and environmental monitoring and assessment), committed participation from the three Parties and the relevant private sectors will be essential.

JPAC Article 14-15 Public Review Process

At the annual meeting in Dallas in June 2000, the Council decided to develop a process for reviewing possible changes to the Article 14-15 public submission process (Council Resolution 00-09), with JPAC providing the vehicle for public input. As you know, the NAC members present at the Dallas meeting strongly commended this approach. In furtherance of this decision, JPAC has recently released a proposal titled "Draft JPAC Public Review of Issues Concerning the Implementation and Further Elaboration of Articles 14 and 15." Again, not all the members of the Canada NAC have had the opportunity to review this proposal in detail. As a general comment, however, it appears that the draft is consistent with the intention of Council Resolution 00-09.

In addition to the proposed public review process, we understand that a report on the history of the application of Articles 14 and 15 is being prepared (as required by Council Resolution 00-09). The content of this report will in many ways set the stage for the ensuing discussion of Article 14-15 issues. Our comment is that it is important that this report include a fair and accurate description of the perspectives of the organizations that have made Article 14 submissions, as well as the perspectives of the three Parties.

NAC Appointments

Background. The official terms of the current members of the Canada NAC expired in August 1999. Since that time we have been serving on a *pro tem* basis. In the NAC's October 7, 1999, letter of advice we encouraged the Governmental Committee to make appointments to the NAC as soon as possible in order to maintain the NAC's momentum and to provide direction for the future. In that letter, the NAC also proposed the following qualifications that we believe are important to maintaining a strong Canada NAC:

1. that the individual contributes to balance on the NAC in terms of geography, gender, social background, and sector;
2. that the individual has experience and interest in public policy matters going beyond the concerns of his or her own sector;
3. that the individual be willing and able to participate constructively regarding matters of trade and the environment; and
4. that the individual be in a position to devote consistent personal time and attention toward participating in the NAC.

In the NAC's January 26, 2000, letter of advice we noted that appointments had not yet been made and again we encouraged the Governmental Committee to act as soon as possible. At that time we understood that the federal ministers' office was reviewing possible appointments to the Canada NAC and to other CEC-related positions (e.g., Canadian appointments to JPAC and to the Selection Committee for the North American Fund for Environmental Cooperation). In the Spring of 2000, the NAC urged the federal government to make the appointments in time for the new committee members to attend the June annual meeting. At the June 2000 meeting in Dallas, members of the Canada NAC met with the federal minister and reiterated the importance of these appointments. It is now more than one year since the appointments of the NAC members officially expired and the new appointments have not been made.

The NAC is concerned that the failure of the Governmental Committee to appoint new members to the Canada NAC (and to the other CEC committees) reflects badly on Canada's commitment to the CEC. The

lack of a properly appointed Canada National Advisory Committee at the annual meeting in Dallas was widely known among the participants from all three countries. In our view, this was a source of significant embarrassment to Canada and undermines the credibility of Canada's positions and proposals regarding the CEC.

At the meeting of NAC members with the federal minister in Dallas, the minister acknowledged the importance of the NAC appointments. We are aware that some progress was made toward making the appointments over the following months. However, almost three months later no appointments have been made. In our respectful opinion, it has to be concluded that the Governmental Committee's process for making committee appointments is dysfunctional. There appears to be a lack of sufficient political will and administrative efficiency.

In its most recent conference call meeting, the NAC discussed options that might improve the appointments process. One possibility that warrants consideration is for the NAC or the Governmental Committee to invite the public to make nominations for the committee positions. The final decision would be made by the Governmental Committee, of course. This system would promote public interest in the NAC and the other CEC committees. It would also provide a public accountability function in that the schedule for nominations and appointments would be well known to those interested in the CEC. In addition, a nomination process would ensure that the individuals being considered for appointment have committed that they are willing to devote the necessary time and attention to the committee obligations. I should repeat that this is merely a suggestion for consideration. The NAC is convinced, however, that something must be done to establish a functional process for making appointments to the NAC and the other CEC committees.

Conclusion

On behalf of the Canada NAC I would like to thank you for your attention to the above comments. The Canada NAC looks forward to your response to this letter of advice in due course.

Speaking for myself, I would like to take this opportunity to inform you that I intend to resign from the Canada NAC when this letter of advice is completed. I have enjoyed my years on the Canada NAC very much, and I thank you for providing me with that opportunity. At this point, however, I am finding it impossible to carry out my role as Chair of the NAC in planning upcoming NAC activities in the absence of certainty as to when the new members of the NAC will be appointed. When the incoming NAC is appointed, I would be happy to provide it with whatever assistance I can, in order to facilitate a smooth transition.

Best wishes to you in your ongoing efforts to protect the environment.

Yours truly,

William J. Andrews

Chair, Canada National Advisory Committee

cc. distribution list attached

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