

## NATIONAL WILDLIFE FEDERATION

September 22, 2000

The Hon. Sra. Regina Barba, Chair  
c/o Manon Pepin, Liaison Officer  
Joint Public Advisory Committee  
Commission for Environmental  
Cooperation  
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By Telefax, Electronic Mail, and First Class Mail

**RE: Draft JPAC Public Review of Issues Concerning the Implementation and Further Elaboration of Article 14 and 15 (J/DISC/Rev.4)**

Dear Ambassador Barba:

The National Wildlife Federation (NWF) is pleased to provide the following comments in response to the Joint Public Advisory Committee's (JPAC) request for comments on the *Draft JPAC Public Review of Issues Concerning the Implementation and Further Elaboration of Article 14 and 15 (J/DISC/Rev.4)* (hereinafter *Draft JPAC Public Review*). We appreciate this important opportunity to present our views on the implementation of the Commission for Environmental Cooperation (CEC) Council's commitment to enhance public review of the citizen submission process.

The National Wildlife Federation is the United States' largest not-for-profit conservation education and advocacy organization with over four million members and supporters. We welcome CEC Council Resolution 00-09 "Matters Related to Articles 14 and 15 of the Agreement (June 13, 2000) and we look forward to the immediate implementation of Resolution 00-09. As part of our commitment to constructive participation in this important initiative, the National Wildlife Federation offers the following comments on the major steps of the process as presented in the current *Draft JPAC Public Review*:

### **I. How JPAC Receives and Transmits Issues from the Public**

- The *Draft JPAC Public Review* assigns JPAC the responsibility to determine whether an issue raised by a member of the public is relevant to the implementation and further elaboration of Articles 14 and 15. JPAC should elaborate in greater detail and through a process allowing for public input, the broad manner and approach, including the establishment of appropriate

timelines for action, it will employ to guide JPAC in these important determinations.

- JPAC should clarify whether it will provide a written explanation to Council when it determines that a written public submission does not raise an issue relevant to the implementation and further elaboration of Articles 14 and 15 *and* when JPAC determines that a written public submission *does* raise an issue relevant to the implementation and further elaboration of Articles 14 and 15. The current Draft JPAC Public Review is unclear as to whether a relevant public concern will be sent forward to Council as written, or accompanied by JPAC advice;
- JPAC should clarify when it receives Council's decision to address or not to address the issue raised by the member of the public, the *Council's written decision* (and not simply JPAC's version of the decision) will be transmitted through the JPAC Liaison Officer. The Council must explain in writing any decisions taken following advice received from JPAC and make those explanations public. Council Resolution 00-09, para. 7, appears to support the public dissemination of a Council's written decision as it states: "Any decision taken by the Council following advice received by the JPAC shall be explained in writing by the Parties and such explanations shall be made public.";

## **II. How JPAC Reviews Issues Referred to it by the Council**

- in order to succeed and earn the confidence of all stakeholders, the process established by Council Resolution 00-09 must move forward with a presumption in favor of the Council referring most, if not all, issues concerning the implementation and further elaboration of Articles 14 and 15 to the JPAC. A presumption in favor of referring all issues addressing Articles 14 and 15 to the JPAC is consistent with the recognition in Council Resolution 00-09 of "the need for transparency and public participation before decisions are made concerning implementation of the public submission process under Articles 14 and 15 of the NAAEC " and it is consistent with the articulation of the Council's responsibilities in the current *Draft JPAC Public Review*;
- JPAC should clarify and elaborate in greater detail and through a process allowing for public input, the broad manner and approach, including the establishment of appropriate timelines for action, it will employ to "hold a public review in such a form as it determines is necessary". Further elaboration of JPAC's options for "form" of public review is necessary and issues for consideration include: opportunities for the public to provide oral and written comments; JPAC holding a public discussion of each issue, and; the possibility of drawing on experts or consultants or even government representatives to offer different perspectives and analysis of an issue;

### **III. Other Issues**

#### **Timelines:**

The *Draft JPAC Public Review* document does not designate specific timelines in which action must be taken. While we recognize the difficulties inherent in assigning specific time-sensitive deadlines for completing various portions of the process without the benefit of knowing the issues that will be raised, we believe that a better attempt at establishing timelines to ensure responsiveness and improved accountability is needed.

#### **Resources:**

Adequate and sufficient funding for the JPAC to carry out the public review process must be provided to ensure a transparent process with wide participation from civil society. The CEC's Proposed Program Plan and Budget should provide for other funds to be made available to the JPAC if issues arise requiring additional resources such as legal advisors, consultants, or extended public meetings.

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Thank you for the opportunity to submit these comments and we look forward to working with you as the implementation of Council Resolution 00-09 progresses in a timely and effective manner.

Respectfully submitted by,

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