



**OFFICIAL MEETING OF THE
NATIONAL AND GOVERNMENTAL ADVISORY COMMITTEES
(NAC/GAC)**

**MEETING MINUTES
FINAL**

April 26 – 27, 2012

**EPA EAST BUILDING
1201 CONSTITUTION AVENUE, NW
Washington, DC 20460**

Note: The U.S. National and Governmental Advisory Committees (NAC/GAC) are federal advisory committees chartered by Congress, operating under the Federal Advisory Committee Act (FACA); 5 U.S.C., App. 2. The committees provide advice to the Administrator of the U.S. Environmental Protection Agency (EPA) on the implementation of the North American Agreement on Environmental Cooperation. The findings and/or recommendations of the committees do not represent the views of the agency, and this document does not represent information approved or disseminated by the EPA.

Table of Contents

THURSDAY, APRIL 26, 2011

Call to Order and Introductions	1
Welcome and Overview of Agenda.....	1
Opening Remarks.....	1
Update on U.S. Priorities and Guidance	1
<i>Question and Answer Period</i>	3
Update on SEM Trilateral Review Committee	4
<i>Question and Answer Period</i>	6
Public Comment Period	7
CEC Operational Plan Status and Updates on Article 13, Trade & Environment Panel Report	7
<i>Question and Answer Period</i>	9
Update on NAPECA Grants	10
<i>Question and Answer Period</i>	11
JPAC Report Out	12
<i>Question and Answer Period</i>	13

FRIDAY, APRIL 27, 2011

BUSINESS MEETING

Plenary: Joint Committee Meeting	14
Continuation—Update on SEM Trilateral Review Committee	15
Committees Meet Separately	
GAC Session.....	17
NAC Session.....	19
Committees Reconvene in Plenary Session.....	22
Public Comment Period	23
Action Items.....	23
Summary Certification.....	25

APPENDICES

Appendix A: Meeting Participants.....	26
Appendix B: Meeting Agenda	28
Appendix C: Charge Question for April 2012 NAC/GAC Meeting.....	31

THURSDAY, APRIL 26, 2012

Call to Order and Introductions

Oscar Carrillo, Designated Federal Officer, Office of Federal Advisory Committee Management and Outreach (OFACMO), EPA

Mr. Oscar Carrillo provided an official welcome to the participants and audience. He introduced himself as the Designated Federal Officer for the National Advisory Committee (NAC) and the Governmental Advisory Committee (GAC), both of which were established in response to the North American Free Trade Agreement (NAFTA) in 1994. The NAC/GAC committees advise the EPA administrator in her role as Council Member of the Commission for Environmental Cooperation (CEC) on the implementation of the North American Agreement for Environmental Cooperation (NAAEC). Mr. Carrillo invited introductions from all present (please see Appendix A: Meeting Participants).

Overview and Approval of the Agenda

Karen Chapman, Chair of the NAC

Jeff Wennberg, Chair of the GAC

Mr. Jeff Wennberg (senior member of the Development Review Board for the City of Rutland, Vermont), introduced himself as the outgoing chair of the GAC. Mr. Wennberg mentioned the recent budget-driven decision to hold both yearly meetings in Washington, DC, pointed out the advantages associated with this arrangement, and thanked the EPA for hosting the meeting in its offices. He mentioned the tight timeframe for responding to the charge question, which focuses on the Submissions on Enforcement Matters (SEM) process and the Task Force updates, and said that he would attempt to deliver committee recommendations expeditiously.

Ms. Karen Chapman (Great Lakes Regional Director of the Environmental Defense Fund) introduced herself as the outgoing chair of NAC. Ms. Chapman thanked the EPA for hosting the meeting, the members and speakers for their participation, and Ms. Michelle DePass (Office of International and Tribal Affairs [OITA]) and her staff for their careful consideration of the requests and issues brought forth in the advice letters.

Opening Remarks

Cynthia Jones-Jackson, Acting Director, OFACMO, EPA

Ms. Cynthia Jones-Jackson welcomed members and acknowledged the Committees' vital role in the CEC effort to support the EPA and the Administrator. Ms. Jones-Jackson expressed her thanks to Ms. DePass for her active role in these discussions, all members and participants, and the chairs for their outstanding work. She extolled the Committees for providing excellent advice to the Administrator on issues pertaining to the trilateral efforts under the CEC.

Ms. Jones-Jackson introduced Ms. DePass as the Assistant Administrator. As Assistant Administrator of OITA, Ms. DePass represents the EPA for the U.S. government, works with international organizations, is the alternate representative to the CEC, and is entrusted with the authority to lead the day-to-day operations of the CEC.

Update on U.S. Priorities and Guidance

Michelle DePass, Assistant Administrator, OITA, EPA

Ms. DePass welcomed and thanked all participants on behalf of the EPA Administrator, who could not attend. She also thanked Ms. Jones-Jackson and OFACMO staff for coordinating these meetings. Participants interested in visiting specific offices during their stay are encouraged to speak with

Mr. Carrillo to set up a tour. Ms. DePass mentioned that the agenda contains several presentations describing recent EPA work conducted under the CEC, and Ms. Jocelyn Adkins (International Environmental Law Practice Group, Office of General Counsel [OGC], EPA) would present the recommendations of the Trinational Task Force on the SEM process and guidelines. During the November 2010 meeting, the initial SEM updates were initiated to address issues like transparency, timeliness and language. SEM update meetings had continued throughout the past 1.5 years. Finally, the ministers met for a second intercessional in February 2012 in Washington, DC, and provided feedback and redirection regarding action items and plans determined during the first intercessional.

Ms. DePass mentioned several of the issues raised previously by the committees. Regarding the adoption of the Transboundary Environmental Impacts Assessment (TEIA) process, the United States was unable to obtain consensus with Canada after a number of negotiations. Thus, Ms. DePass was unable to report any formal actions. The Communication Strategy had been a major priority for the CEC. Mr. Patrick Huber (OITA) worked carefully to ensure the finalization and implementation of the Communication Strategy, of which the NAC/GAC input formed the basis for the U.S. submission. Ms. DePass asked the Committee members to act as informal ambassadors for the Communication Strategy. As previously discussed, roundtables are an opportune means of utilizing member expertise. The CEC asked NAC/GAC members to indicate who should be invited to these roundtables. Roundtables will be discussed further at the June 2012 Council meeting. Ms. DePass mentioned that she met and had breakfast that morning with several Committee members who raised important tribal issues. She assured the participants that she works with these issues regularly, whether they are owned by the U.S. Departments of Energy, the Interior, or Health and Human Services. Her office conducts extensive outreach with tribes, communities and involved agencies. Although it speaks on behalf of the U.S. government within a trilateral body, OITA has been trying to determine how to involve partners from other countries and tribes.

Ms. DePass asked Mr. Wennberg to inform the attendees on the response to specific GAC requests. Mr. Wennberg said that the GAC had requested a briefing for this meeting (April 2012) to provide the Joint Public Advisory Committee (JPAC) with background on the legal and historical status of tribes from all three parties. The goal of the briefing was to increase the overall understanding of the complexities inherent to trinational tribal relationships. The EPA had said that it would provide a briefing from the U.S. perspective; however, as the meeting drew nearer, the agency said that it was not ready for Mexican and Canadian representation. Several solutions to this issue were broached by Mr. Wennberg and participants. Dr. Cecilia Martinez (University of Delaware), NAC member, asked whether JPAC could help to facilitate a process by which this could occur, which would allow the EPA no control over the JPAC representatives in attendance. Another possibility discussed was to invite a high-level academic with significant international qualifications but no U.S. government representation. A final point was made that the United States is a recent signatory on the *United Nations Declaration on the Rights of Indigenous Peoples* (http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf). Because Mexico and Canada also are signatories, perhaps NAAEC could host the briefing instead of the CEC. These and other potential solutions would be discussed again in the near future.

Ms. Octaviana Trujillo (Pascua Yaqui Tribe), GAC member, emphasized the importance of the special briefing, pointing out that international agreements serve to increase the inherent complexities associated with tribal nations and governments. The NAC/GAC should become very familiar with those rights and what they represent to tribal nations. Mr. Gerald Wagner (Blackfoot Nation), GAC member, agreed and likened the overall effort to assisting a relative in need. He thanked Ms. DePass and the EPA for enabling the important dialogue during breakfast that morning and identified it as a step in the right direction to achieve these goals. Dr. Martinez echoed these comments and added that bringing these issues to NAC/GAC via briefings, shared meals and other formats allows members to educate each other on indigenous peoples' concerns and is critical to the democratic process. Ms. DePass stated her dedication to these conversations and the efforts required to make progress.

Ms. DePass encouraged participants to attend the next Council session in New Orleans, Louisiana, on July 10–11, 2012 (<http://www.cec.org/Page.asp?PageID=751&SiteNodeID=1155>). She described several ways in which the meeting would differ from previous Council sessions, which consisted mostly of one-way conversations. With the JPAC meeting format as an inspiration, the Council session is undergoing a major overhaul by, for example, engaging students, importing information using the “Twittersphere” and other major media, dialoguing on topics related to the North American Partnership for Environmental Community Action (NAPECA) grants, and otherwise moving closer to a model for public forums about environmental issues.

Ms. DePass thanked the Committees for their tremendous insights and potential resolutions regarding many important issues that her office addresses daily. Finally, she extended personal thanks to Mr. Wennberg and Ms. Chapman for their work as Committee Chairs.

Member Comments and Discussion

Ms. Chapman inquired about TEIA, recognizing that establishing a process by which countries can bring issues with potential impacts across the border to public awareness is not easy. Understanding that Canada is the obstacle, she asked whether the United States could begin discussions with Mexico. Ms. DePass said that the EPA maintains a number of bilateral relationships with Mexico via vehicles other than TEIA. She believes that the trilateral nature of the CEC precludes the initiation of discussions with Mexico, noting that Canada-Mexico discussions in the absence of the United States would cause some issues. These decisions are made at a higher level and involve close work with the U.S. Department of State and the White House. Ms. Jane Nishida (OITA) added that the TEIA issue is not just a concern to the EPA and the NAC/GAC but also to other federal partners. Fortunately, internal agreement was obtained to begin the dialogue. Unfortunately, because the CEC is a trilateral structure, negotiations cannot commence until all three parties have expressed agreement that they wish to engage in the dialogue. The United States plans to try again to obtain consensus on this conversation in the future. Mr. Brian Houseal (Adirondack Council), NAC member, pointed out that TEIA is a protocol similar to National Environmental Protection Act (NEPA) on a large scale; at the state level, TEIA is similar to Article 78, which stipulates that any citizen can sue the state if he or she believes that the agency has violated its agreements. He suggested beginning a dialogue on how to move forward by inviting experts in this topical area to provide white papers within a democratic roundtable process.

Dr. Robert Pastor (American University), NAC member, asked why environmental issues were not discussed at the North American Leader Summit briefing on April 2, 2012, in Washington, DC. Ms. DePass said that the decision was made at a higher level not to include environmental matters at the meeting.

Dr. Pastor noted that during the last meeting, members proposed many ways to explore TEIA with the other countries. He expressed concern that these ideas were only discussed within the United States. Ms. DePass said that the agency held discussions with other countries, but Canada declined, and the discussion had to cease because they were operating within a trilateral body. Dr. Pastor contended that two sets of bilateral discussions—(1) United States and Mexico and (2) United States and Canada—have taken place throughout the last 30 years. Ms. DePass replied that her office conducts bilateral work daily with Mexico and Canada but cannot within the parameters of the trilateral CEC. The United States had received internal approval to raise the topic with the other countries, but one country declined to discuss the matter further, and the discussion had to end; however, the EPA is exploring potential ways to raise the matter again in the future. The United States will try to maintain internal clearance with the White House and U.S. Department of State and otherwise be ready to re-engage and continue the dialogue when the time is right. Mr. Wennberg agreed with this approach, noting that, historically, a converging opportunity to pursue this type of agreement is rare given the varied issues and concerns between the United States and Mexico, the United States and Canada, and possibly Mexico and Canada. Ms. DePass

agreed and said although she cannot confirm that the EPA, White House and U.S. Department of State will remain aligned over time, she will try to maintain it.

Ms. Adkins briefly summarized the legal history of TEIA. The Negotiations Article 10(7) committed the parties to reach an agreement on TEIA by 1997, but they did not meet that deadline. Negotiations stalled in May 1998 because the parties did not want to commit to an agreement that lacked coverage on radioactive waste; however, this motion was outside of NEPA duties. The transboundary ('T') impact is likely the strongest in Canada, where projects within and outside of the federal purview are subject to TEIA discretion. The matter has been complicated further by the long-standing disagreement surrounding NEPA policy by the U.S. Departments of State and Defense. At present, Canadian provinces have Environmental Impacts Assessment (EIA) laws, no Mexican states have EIA laws, and the United States lies somewhere in the middle. Progress could change on either side at any time. The Secretariat conducted a TEIA evaluation in 2000 and offered to supplement the discussion, but Canada declined the discussion. Ms. DePass noted that Canada offered no satisfactory explanation; as a sovereign nation, it simply declined. Ms. DePass motioned to proceed to SEM discussions and revisit TEIA in the future.

Mr. Martín Gutiérrez Lacayo (JPAC) mentioned that TEIA is a great opportunity for JPAC. Mexico seeks changes to the agreement and is willing to work with the NAC/GAC on the best approach. Ms. Chapman appreciates the suggestion. The NAC/GAC will continue to monitor and seek opportunities alongside JPAC.

Regarding TEIA, Dr. Dave Markell (Florida State University), NAC member, agreed with Mr. Wennberg. He is compiling a list of high-level agreements between the states and provinces to determine the kinds of successful bilateral agreements in place. It may be helpful to identify the key features of bilateral agreements that are and are not useful. Ms. DePass responded that she interacts with national provinces on a nearly daily basis regarding cross-border issues, and the actual impact plays an important role in how the work is conducted.

Ms. Chapman thanked Ms. DePass for addressing most concerns in the advice letter and moved on to ask about the process used to solicit projects for the Operational Plan. She is aware only of broad criteria. Ms. DePass noted that, many years ago, less focus was placed on ensuring whether projects fit under the CEC's 5-year plan. A review of past submissions did not reveal measurable objectives for environmental protection, but some clearly did stem from a trilateral perspective. The U.S. government must have measurable progress to have accountability. She is pleased with the selection of the projects in the three predetermined priority areas. She asked Ms. Sylvia Correa (OITA) to provide details.

Ms. Correa drafted the plan in 2010 directly in response to the feedback received during the Council session in Denver, Colorado. To enable the administrator to defend these project funds to Congress, the projects need to yield concrete results that are useful to the nation. The three overall objectives within the 2010–2015 Strategic Plan (http://www.cec.org/Storage/58/10115_Strategic_plan_2011_en.pdf)—healthy communities and ecosystems, greening the economy, and low carbon economy—coupled with guidance from local leadership have provided a foundation for the ideal types of work. The project selection process begins with consultation with government experts. If they do not exist, sister offices are involved, during which experts are asked to design a project about an issue important to all three countries that could approach necessary goals. The projects are designed from the bottom up and generally reach out to and work with the community. In addition, this process represents the first Operational Plan to span 2 years instead of 5 (2011–2012), which enables a more targeted focus and decreased potential for dilution from too many objectives. Ms. DePass added that every decision must be agreed on by three countries, and as budgets tighten in all three countries, the ability to call on experts for weeks-long consultations has grown more difficult. The EPA is under a great deal of pressure to produce domestically and internationally. Ms. Correa's response on the process will be distilled into a series of steps.

Ms. Chapman thanked Ms. Correa and Ms. DePass for their combined response and added that she would like to know more details about the process; for example, how a specific issue (e.g., electronic waste [e-waste]) is selected and how the Secretariat is involved in the process.

Update on SEM Trilateral Review Committee

Jocelyn Adkins, OGC, EPA

Mr. Wennberg indicated that the SEM Update, which was presented to JPAC on April 18, 2012, was the main focal point for the April 2012 NAC/GAC meeting and the subsequent advice letters to the EPA.

Ms. Adkins introduced herself and explained that she serves in policy and legal roles for the EPA. During the past year, the Task Force learned of a general disconnect between the actual and perceived purpose and function of the SEM process. SEM is an information-sharing process intended to bring awareness to environmental law failure by public submission of an issue (<http://www.cec.org/Page.asp?PageID=924&ContentID=1389>) and the establishment of a Factual Record (*Bringing the Facts to Light: A Guide to Articles 14 and 15 of the North American Agreement on Environmental Cooperation*, http://www.cec.org/Storage/41/3331_Bringing%20the%20Facts_en.pdf). Informal redress or a formal Article 14 party response potentially may occur following submission but separately from the SEM process. The submission process does not dictate specific enforcement actions; the Factual Record should serve as a guiding factor for the Secretariat to request a party response. Ms. Adkins emphasized this aspect of the SEM process and indicated that it was a source of confusion during the JPAC public session; many believed that it included redress as well. Ms. Adkins added that the process should not be the initial course of action; the submitter first should raise the matter with the relevant party.

Established in 1994, the SEM process is based on NAAEC Articles 14 and 15 and is defined as a mechanism enabling any nongovernmental organization or individual to file a submission asserting that a party is failing to enforce its environmental law effectively. A number of SEM ambiguities began to emerge as the process evolved over time. Thus, in May 2011, the Trilateral SEM Task Force was established and met to begin evaluating and modernizing the SEM process. The Task Force comprises government and legal representatives from each of the three countries. The Task Force is completing this task primarily by revising the guidelines, which originally were established to improve the process and ensure its consistency with CEC Ministerial Statements, the CEC Governance Proposal and the 2010–2015 Strategic Plan. By the July 2012 Council session, the Task Force will submit its proposal, consisting of revised SEM guideline text and a compilation of the supporting memorandums (available on the CEC website in all three languages—English, Spanish and French [<http://www.cec.org/>]), which the participants received in their meeting materials. The Task Force seeks NAC/GAC feedback in written form (i.e., advice letters) for consideration prior to the Council session.

A major criticism of the SEM process is that it has grown more political and legally influenced. Ms. Adkins assured the Committees that the Council wants a process implemented that is accessible to any member of the public. Based on feedback, the Task Force focused on four key areas of revision to the SEM guidelines:

- **Modernization**
 - Institute technological developments (e.g., electronic submissions).
 - Address the increasing number and complexity of submissions.
- **Clarification**
 - Explain party interpretations.
 - Illustrate potential public perception of implementation.

- Remove ambiguous wording.
- **Timeliness**
 - Establish target deadlines (e.g., Council votes for or against a Factual Record within 60 days of submission) to increase speed, predictability and shared understanding.
 - Decrease the process duration by 50 percent.
 - Less than 1 year for submissions that do not result in a Factual Record (approximately 70% of all submissions).
 - 2.5 years for submissions that result in a Factual Record (approximately 30% of all submissions).
- **Transparency and Accessibility**
 - Enhance the translation processes for all key documents (benefitting both submitters and Council members).
 - Institute a longer time period for the original submitter to revise a submission that does not meet NAAEC criteria (e.g., 60 days instead of 30).
 - Request a Secretariat explanation for the creation of a Factual Record.
 - Request a Secretariat explanation regarding any delays beyond target deadlines.

The Task Force also proposed a follow-up addition to the process but did not include it in the revised guidelines because follow-up is not included in the NAAEC. Members suggested the creation of a formal framework for submission follow-up, regardless of whether a Factual Record was established. On request from the submitter, JPAC would provide party developments and other meaningful updates about the specified issue during the Council Session occurring 2 years following the original submission.

The JPAC public comment period formally closes on May 17, 2012. The deadline for the Task Force to perform any necessary revisions to the proposal is May 31, 2012; the revised proposal then will be submitted to the Council for final considerations and decisions. The final proposal will be presented at the July 2012 Council meeting.

Member Comments and Discussion

Mr. Wennberg inquired about the numbers and status of submissions. Ms. Adkins provided approximate numbers in response. Since SEM's inception, approximately 80 submissions have been received—about 10 were submitted against the United States and 35 against each of the other two parties. Approximately 70 percent of those submissions did not result in a Factual Record. Regarding the low number of U.S. submissions, Ms. Adkins noted that speculation points to the strong legal processes in the United States; the EPA gets sued frequently.

Regarding the proposed deadline targets, Mr. Wennberg asked whether the Task Force has investigated and addressed the underlying causes of those delays. Ms. Adkins first noted that the average period of time for the Council to make a Factual Record determination is more than a year. Two broad measures will enable the drastically shortened period of 60 days: (1) the use of a two-thirds vote rather than pushing for full consensus and (2) the adoption of a more streamlined decision process built on the consistency that results from modernization, clarification and improved transparency.

Mr. Timothy Bent (Bridgestone America), NAC member, remarked that prior to reading *Bringing the Facts to Light* he was largely unaware of the SEM process and its official guidelines. He asked whether Ms. Adkins could tell him more about the unofficial, behind-the-scenes component. Ms. Adkins is unable to address those activities from her perspective. Ms. DePass added that a core issue has been ambiguity in terms of the public and the actual, defined procedure (e.g., working days versus calendar days). The ambiguity will end on the level of the Council and the parties.

Mr. Houseal asked whether the NAC/GAC would be able to view the 80 submissions or a set of characterizations; that information would have been useful to receive prior to the meeting and for the creation of the advice letters. Ms. DePass assured him that this information is readily available and will be furnished to the Committees as quickly as possible. Mr. Bent postulated that careful review of past submissions could illuminate criteria that underlie both the formation of a Factual Record or rejection on a more granular level, which may save time for both submitters and reviewers. Ms. Adkins countered that many different reasons underlie submission rejection at various points in the process, and she confirmed that the Task Force is trying to elucidate qualifying criteria to bring more clarity and benefits to the concerned party during the pre submission period. In addition, the Task Force is exploring informal methods that allow submitters to increase the viability of their submissions.

Dr. Markell expressed concern that public perspective, which is affirmed by JPAC, is lacking, and the parties and Council are over-reaching, stepping outside of the purview of agreement. He indicated that the two most significant issues are process fairness and timely handling. The new proposal effectively endows the parties with more power and the Secretariat with less power. Rather than simplifying the SEM process, he believes that these proposed changes move the effort opposite to the preferred direction, and its implementation will reduce interest dramatically. He expressed an understanding of the political component the Task Force is up against, but he strongly urges the Task Force to re-evaluate its approach to the proposal before presenting it to the Administrator. Ms. Adkins responded that the Task Force did not intend to change the agreement, but rather, to clarify how the parties interpret the agreement presently and historically. Because of time constraints, she suggested that they (Ms. Adkins and interested NAC/GAC members) meet again to discuss the specifics of the proposal and make it as strong and purposeful as possible. Dr. Markell agreed to meet again, particularly to address eight problematic provisions. He directed her attention to the *Texas International Law Journal* article that he co-authored on this topic, "Evaluating Citizen Petition Procedures: Lessons from an Analysis of the NAFTA Environmental Commission" (<http://www.tilj.org/content/journal/47/num3/Knox-Markell505.pdf>), in which the concerns and corresponding potential solutions that would not change the agreement are explained clearly.

Dr. Pastor suggested that Dr. Markell, to aid participant understanding of the issue, specifically identify a point in the proposal that should be changed. Dr. Markell noted that the proposed changes affect the processing of citizen submissions by effectively allowing the parties to change the scope of the submission and the resulting Factual Record, which may reduce submission worth overall. Dr. Markell maintained that parties should not have control over Factual Records. Ms. Adkins assured him that, from the U.S. perspective, the Task Force proposal was not intended to shift power among the parties and Council. She has understood that the parties and Council have the authority to vote down a Factual Record; however, the executive order and the U.S. position have been the primary focus of task order questions. In the proposed changes, the Task Force aimed to modify the guidelines regarding the Factual Record and voting in a manner that is consistent with the legal terms of the agreement and promotes transparency.

Mr. Houseal mentioned that TEIA assesses trade and its environmental impact, and the SEM process tests the effectiveness of that assessment process. The lack of a trilateral set of rules on environmental impact effectively diminishes the need for and utility of the trilateral process.

Mr. Gutiérrez Lacayo noted that the proposed guidelines may contain more follow-up advice, but they do not ease the process for citizens. Furthermore, shorter deadlines and more synchronization with timing are needed across all of the parties to increase overall efficiency. Mexico is only allowed 2 weeks after receiving the document from the Council to make a decision. The 60-day deadline may seem harsh to other parties, but it is more fair to the citizens and the overall process. Ms. Adkins replied that the Task Force recognizes the translation issue and that additional resources are required; however, translation services should not delay the submission process. She believes that the Secretariat is contemplating an

increase in fund allocation for the submission process, and this could help address translation matters. The translation issue cannot be written into the guidelines, but it has been discussed.

As a closing remark, Ms. Adkins strongly encouraged a follow up to this meeting with a discussion to explain revisions further and ensure that the United States has a full understanding of these issues.

Public Comment Period

Mr. Wennberg asked whether any members of the public would like to make a comment or ask a question. No public comments were offered. He mentioned that another opportunity to provide comments would occur the following day.

CEC Operational Plan Status and Updates on Article 13, Trade and Environment Panel Report

Dolores Wesson, Director of Programs, CEC Secretariat

Evan Lloyd, Executive Director, CEC Secretariat

Ms. Dolores Wesson presented information on the 19 projects within the 2011–2012 Operational Plan (http://www.cec.org/Storage/136/16099_Operational_Plan_2011-2012-web-en.pdf) and on the panel of experts. She described the Council-approved changes to the planning and budget cycles for the Operational Plan, which will maintain a 2-year cycle in contrast to the 5-year cycle of the Strategic Plan. The document contains overall budget allocations and detailed breakdowns per year and per project. With regard to the process for project selection, the NAPECA process launched in June 2011; 500 preliminary applications were reviewed by August 2011; the selection committee (General Standing Committee [GSC], JPAC Chair and CEC Executive Director) conducted its final selection in December 2011; and 19 awards were distributed that totaled \$1.4 million.

Ten projects were approved under the Healthy Communities and Ecosystems objective: (1) “Improving Indoor Air Quality in Alaskan Native Communities” has exemplified capacity building by addressing air quality in 15 households and positively affecting the lives of 66 children. (2) “Capacity Building to Improve the Environmental Health of Vulnerable Communities in North America” has generated a framework document establishing stakeholder involvement and has implemented AirNow-International, which aims to determine the best way to create a national Air Quality Index in Mexico. (3) “North American Grasslands” has involved a variety of sectors from all three parties to develop a conservation partnership. (4) “Big Bend/Rio Grande Collaboration for Transboundary Landscape Conservation,” a strategy development plan, is pursuing a number of conservation goals, including specific eradication of species that are considered an environmental threat and is important at the level of President and Secretariat because of previous declaration. (5) “North American Invasive Species Network” stresses lessons learned and outreach. (6) “Conserve Marine Biodiversity” has developed outreach for communities at large, and a video to be shown in marine-protected areas will be launched on Oceans Day at the National Geographic Society in Washington, DC. (7) “Tracking Pollutant Releases and Transfers in North America (PRTR)” is a project important to JPAC built on public interests and has integrated data obtained through 2009; Jim Jones (Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention, EPA) will speak on the PRTR at an upcoming chemical forum in Texas. (8) “Risk Reduction Strategies to Reduce Exposure to Chemicals of Mutual Concern” seeks potential alternatives and management plans for dioxins and furans, brominated flame retardants and mercury. (9) “Environmental Monitoring and Assessment of Chemicals of Mutual Concern” is establishing six monitoring sites in Mexico, and the website, PRONAME, is complete. (10) “Enhancing Environmental Law Enforcement,” an expert-driven strategy, is developing a common understanding of intelligence with actions that include the seizing of illegal waste.

Three projects were approved under the Climate Change—Low-Carbon Economy objective:

(1) “Improving Comparability of Emissions Data, Methodologies and Inventories in North America” is finalizing a report on emissions inventories in North America. (2) “Ecosystem Carbon Sources and

Storage” is producing final maps for land cover change from 2005 to 2010. (3) “North American Online, Interactive Informational Platform on Climate Change” is preparing a climate-change platform that will be accessible by all parties.

Three projects were approved under the Greening the Economy in North America objective:

(1) “Improving Conditions for Green Building Construction in North America” has created a Trilateral Task Force on green building construction and seeks to determine the opportunities and obstacles associated with the development of a green building market. (2) “Improving the Economic and Environmental Performance of the North American Automotive Industry Supply Chain” applies the U.S. Suppliers Partnership as a North American model. (3) “Sound Management of Electronic Wastes in North America” has completed its Phase II material flow peer review and is ready to assess small and medium size enterprises.

In addition, the “North American Environmental Atlas” contains new Google Earth layers and an improved map viewer will be complete in May 2012.

Ms. Wesson touched on the trade and environment issue in which the NAC/GAC had expressed high interest. The Council has appointed a Panel of Experts to review and recommend the renewal of CEC work regarding the assessment of environmental effects and NAFTA. Phase 1 of the report alluded to analyses on work that has been undertaken over 16 years and on public participation. Phase 2 of the report is under development. The general recommendation from the Panel of Experts is to broaden the scope and conduct a more in-depth analysis on Secretarial work.

Ms. Chapman invited Mr. Evan Lloyd to present findings from the spent lead-acid batteries (SLABs) Article 13 report. Mr. Lloyd thanked the group for accommodating him in the meeting schedule. He expressed his dismay that he could not attend the meeting in person. The SLABs report provides the Secretariat with an opportunity to examine the issues of major concern and make recommendations to the Council. The SLABs topic was selected from a long list of activities that spanned many years. More than 200 individuals from each of the three countries attended a workshop in 2007 that addressed e-waste and SLABs guidelines in conjunction with Articles 14 and 15 regarding abandoned lead, which represents a historic remediation effort by the EPA. The report includes a detailed explanation of the importance of SLABs as a function of a highly integrated economy. All three countries possess businesses that recycle spent batteries into lead or new batteries; however, a history of contamination and pollution is associated with improper lead disposal. Environmental authorities have taken action with increasing diligence, and industry has responded but not always willingly. This issue is of growing concern; the United States exports many spent batteries to Mexico where many are recycled at a substandard level, thus creating alarm regarding the local and environmental effects associated with lead contamination. JPAC conducted an evaluation and discovered ongoing issues related to the impact on vulnerable communities and asymmetric activity between the United States and Mexico. The report also describes the basic engagement approach for the research initiative, including data accumulation, various controls and data sources. Various facilities were visited, and fantastic cooperation ensued. The effort represents a tremendous collaboration to bring all of the facts to one place and examine the issue carefully. The preliminary findings should be ready for discussion by the July Council meeting, and the public stage of the review will be released later this summer.

Ms. Chapman asked how the recommendations are geared toward the United States in terms of the export of SLABs to Mexico. She clarified by asking whether (and how) Mexico will enforce recycling within the country and whether Mexico is inclined toward the U.S. export of batteries. Mr. Lloyd replied that the answer depends on the management practiced in each of these countries. Legal trade is important to North American industry. Debate exists within the U.S. industry regarding export to Mexico and the potential blocking of export at the borders. The United States engages in SLABs export on a global scale too; it has become a lucrative industry. Batteries are the most recycled product in the current economy and represent

a great environmental success story. No comparable regime exists in Mexico; however, a very robust market for spent batteries exists there. The recycling rate is uncertain because of the lack of regulation.

Member Comments and Discussion

Mr. Pastor asked Mr. Lloyd whether he could confirm that the growth of battery recycling and lead pollution in Mexico is partly a result of the lack in regulation. Mr. Lloyd confirmed this notion and said he is intrigued that the 17-year evaluation had not revealed any significant pollution issues. Historically, environmental factors are considered, but one to three other factors carry greater weight in production decisions. The biggest SLAB recycler in Mexico is a U.S. company that operates on a global scale and proudly operates at levels acceptable to U.S. standards. The organizer consciously decided to relocate to Mexico. This state-of-the-art facility, however, competes with the unregulated community and thus imports insufficient feedstock. Mr. Lloyd maintains the need to improve stewardship in Mexico by increasing transparency and so forth, but he is uncertain of the data findings and circumstances that will be encountered.

Dr. Markell asked Mr. Lloyd whether NAFTA and the World Trade Organization (WTO) were considered in the development of these recommendations, which may contrast with NAFTA guidelines regarding safe export of SLABs. Mr. Lloyd replied that NAFTA and the WTO were considered broadly. The three parties are bound already by environmental regulations. His charge was to examine possibilities that fall within the bounds of NAFTA rules and provisions on trade and bilateral agreements.

Ms. Trujillo asked whether traditional knowledge is being applied to build stronger networks for climate change. Mr. Lloyd responded that he has not considered that yet but hopes to incorporate community components that are not well cited (e.g., anecdotes and evidence with regard to proximity to schools and markets). Ms. Wesson mentioned that several CEC projects attempt to include Native perspectives. Ms. Trujillo said that she is interested specifically in how traditional ecological knowledge can inform important work with indigenous populations as it relates to climate change and sustainability. Because the indigenous people are the priority, the individuals developing these programs should incorporate traditional knowledge as it pertains to health and wellbeing.

Dr. Martinez asked to what extent within carbon sources storage is the social component included; these efforts bring the potential for long-term implications within these communities. Ms. Wesson replied that as those pilot projects proceed, NAC/GAC input becomes more valuable. Mexico is interested in larger application.

As a representative of the northern border, Mr. Wagner emphasized the issue of methamphetamine laboratories and would like the data to be shared with the Office of Pollution Prevention and Toxics.

With regard to the NAC/GAC meeting process, Dr. Markell remarked that a good deal of time is spent on presentations, which generate reactions from many different perspectives. He asked whether future meetings could include more time for that dialogue. Ms. Chapman said that the Chairs strive to bring the right information to the meeting and reserve enough time for discussion; they always are seeking ways to improve the meeting.

Ms. Wesson indicated that the project manager is listed at the bottom of each project description page in the Operational Plan Project Summaries booklet, which the participants received in their meeting materials. Ms. Chapman expressed her appreciation for the short, brief and accessible summaries.

Update on NAPECA Grants

Guadalajara Project (8-Minute Video Presentation)

Sylvia Correa, Senior Advisor for North American Affairs, OITA, EPA

Ms. Correa discussed NAPECA grants and showcased one project that had been initiated in a pediatric environmental health unit. As background, Ms. Correa noted that NAPECA does not operate from a contract perspective but rather strives to connect with and enable communities. To ensure its continuation, NAPECA was moved from a Secretariat program to a Council program.

The video highlights work from Operational Plan objective, *Protecting Children's Health and Conserving Water*, and conveys a powerful display of community outreach. The Dry Toilet Project was a pilot project in Lake Chapala and an effort to reach out to the community to conduct a trilateral activity that resulted in significant repair. Local stakeholders were involved in decision-making. Stakeholders included the CEC, University of Guadalajara, Harvard University, University Health Sciences Center, the Secretary of Public Education, and the Secretary of Environment. The project responded to the causal links drawn between environmental risks and illness in children, which often disturb operations, including the closing of schools. This proposal did not require water and generated little initial interest. The project drastically reduced water usage in bathrooms, however, which would increase water availability otherwise. A number of members from the community were interviewed in the video and expressed their strong satisfaction with the project and its results. The new system was odor-less, involved dirt (important to children), and was less complicated to clean. Water became more available for cleaning classrooms, vegetables, dishes and so forth. The system also generated fertilizer for use in the gardens.

The Council likes to support several similar projects with the NAPECA grants. A new selection process will be initiated shortly after the Council session. Ms. Correa asked the Committees to serve as unofficial ambassadors for the CEC and inform the Council of projects in their communities that potentially may be applied to the next cycle.

Member Comments and Discussion

Dr. Pastor inquired about whether local governments and nonprofit organizations could have carried out this work. He also asked about the criteria used to select this project, given limiting funding and its specific benefits to building capacity in Mexico. Ms. Correa replied that there is no one ideal trilateral type of project. Dr. Pastor clarified that the implicit concern lies with the use of criteria to allocate from limited funds. He asked Ms. Correa to identify the principal mission of the CEC. Ms. Correa said that it was to ensure that NAAEC is upheld.

Ms. Chapman said that the discussion raised a valuable point regarding the NAC letter to the administrator advocating the reestablishment of funding for community projects. The larger question is whether overarching criteria are needed to decide on the projects. She sees the value of Dr. Pastor's point but also in elevating the profile of the CEC on a local level and not on a broad, trinational level, which is not established yet anyway.

Mr. Wagner asked how the CEC solicits projects to conduct versus projects to support. Ms. Correa said that it differs for the NAPECA grants and the Operational Plan projects. For the Operational Plan, decisions are based on the seven international priorities of the administrator. Mr. Wagner asked about the consideration of tribal projects, and Ms. Correa responded that, from the EPA perspective, tribal representatives were contacted from each region and asked whether they had any projects that potentially fulfill objectives for projects on community activity.

Ms. Wesson reiterated the NAPECA process she described above; the process plan was vetted with the Council and launched in June. Criteria were developed by the GSC, applied to the 500 applications, and culminated into 19 awards. The process for the Operational Plan is a different one altogether. Ms. Correa

indicated that they have not explained the process well enough and will work to clarify the processes and improve understanding.

Ms. Teri Goodman (City of Dubuque, City Hall), GAC member, asked whether in their advisory capability the Committees have the authority to comment on the budget, and she suggested that they reserve a session for budget discussions. Ms. Correa liked the suggestion and said that the advisory committee can advise on anything related to the Operational Plan. If the Committees find that the budget is not balanced appropriately, then they should provide comments, which will aid in the decision process. Mr. Wennberg added that the Committees have advised on the budget many times in the past, and the advice almost always is considered. Budget priorities reflect programmatic priorities.

JPAC Report-Out

Martín Gutiérrez Lacayo, Chair, JPAC

Mr. Gutiérrez Lacayo said he appreciated the high number of similar priorities the NAC/GAC and the CEC share with JPAC regarding issues and interests. He indicated an interest in creating a stronger link to work with the NAC/GAC in many areas. He indicated that Ms. Wesson would deliver the JPAC report on his behalf.

JPAC met in El Paso, Texas, in 2011 and discussed many topics. Early in the meeting, representatives from Canada talked about their experience with the SEM process, including its strengths and weaknesses. Later in the meeting, they discussed the issues of hazardous wastes and materials crossing the borders and impacting health. Experts addressed what has been done already, and they identified information gaps. As a result of the discussions, JPAC advised the Council. Feedback included citizen difficulty with the SEM process, which requires considerable effort to prepare the application. Basically, timeliness and accessibility need to be increased, as well as follow-up on Factual Records. JPAC commended the Council for Taking Stock online, which includes a database, mapping tools, recycled waste information and a tracking system (the result of CEC cooperative project). By the July Council session, the JPAC will draft a report of recommended actions to promote compliance on criteria to enhance environmental enforcement in North America.

JPAC met in Montreal, Quebec, Canada, in January 2012 and discussed the public sessions in Toronto, Ontario, Canada; New Orleans, Louisiana; and Mexico. The shared information offered proof of improved communications. The members discussed how to work together better and reach out to broader and younger stakeholders in North America. They were pleased to see JPAC feedback considered in new CEC documents.

The most recent JPAC meeting in April 2012 focused on the SEM Task Force and its recommendations on SEM guidelines. In response, JPAC launched a 30-day consultation on the proposed changes to SEM guidelines, which is underway currently.

The Toronto session included a public forum on the carbon economy, with expert presentations on current status and future outlooks. Half of the presentations pertained to the SEM guidelines. A working group has been formed and currently is gathering recommendations from the first part of the meeting. Regarding the upcoming Council session in New Orleans, the working group will draft a program within the next 4 weeks.

Member Comments and Discussion

Dr. Pastor remarked that the role JPAC plays is greatly appreciated by all the NAC/GAC members and anyone who cares about the environment in North America. He emphasized the need to marshal their collective forces to effect change. Dr. Pastor pointed out that the JPAC and the NAC/GAC agreed on three items from the agenda. He hopes that JPAC will accept the memorandum that the NAC/GAC

produces on the SEM guidelines and help move it forward. Dr. Pastor said that, in addition, SLABs represent an important model and opportunity to move toward greater regulation and accountability. He also mentioned the fundamental budget issue, which he believes is absurdly low and has remained unchanged during the past 8 years. He suggested that the NAC/GAC and the JPAC determine what the institution could look like on a \$15 million budget and not request the funds unless they can offer convincing evidence that it would have a major impact.

Mr. Gutiérrez Lacayo confirmed that JPAC is concerned about these matters as well. He expressed a need for JPAC to become known as a third environmental resource for North America. .

Mr. Houseal thanked Mr. Gutiérrez Lacayo for expressing JPAC interest. Mr. Houseal noted his awareness that NAFTA has meant a good deal to Mexico, but said that the CEC has become a governmental “orphan” in the trilateral context. He stated his strong opinion that the CEC should receive robust support from the private sector. Mr. Salud Carbajal (County of Santa Barbara), GAC member, concurred with Mr. Houseal but questioned whether it is the charge of the NAC/GAC. Mr. Carbajal further commented on the heavy bureaucracy associated with the overall structure, with which many members are largely unfamiliar. Ms. Ana Romano-Lizana (World Trade Center St. Louis), NAC member, added that when she first participated in a NAC/GAC meeting, she felt inadequate because of the many limitations. The key is learning to accept the areas that cannot be controlled, such as the budget or presidential decisions, but contributing knowledge where possible.

Mr. Kirk Cook (Washington State Department of Agriculture), GAC member, added his appreciation for the sincere willingness of JPAC to work with the NAC/GAC toward a more unified front. He believes that the discussions that took place that day foreshadow a series of progressive steps during the next several years.

Mr. Roger Vintze (California Department of Toxic Substances Control), GAC member, said that the role of social media was noted about three meetings prior. He stressed the importance of continued consideration of social media; demographics reveal younger populations are relying on text messaging. Social media can be used for good or for bad purposes, and the NAC/GAC must take control of communications sooner rather than later.

Mr. Mark Joyce (OFACMO) encouraged all participants to read through the CEC summary to learn about and understand its accomplishments and successes over the years on a limited annual budget of \$9 million.

Ms. Chapman reminded NAC/GAC members that they are obligated and expected to voice their frustrations, repeatedly, until change occurs.

Dr. Martinez asked when the trade and environment documents will be released to the public. Ms. Wesson explained that they must undergo the quality assurance process first. Mr. Wennberg said that the documents on the NAC/GAC website are not open to the public but will be soon.

Mr. Wennberg stated his opinion that planning a conference call as follow-up to the SEM discussion poses some challenge to meet the deadlines for the advice letters. He said that the best opportunity for that discussion would be during the breakout session the following day. Ms. Adkins volunteered to return the following morning to continue the discussion before the breakouts. Day 2 of the meeting would convene 30 minutes earlier to accommodate this change to the agenda.

Mr. Wennberg recessed the meeting for the day at 5:20 p.m.

FRIDAY, APRIL 27, 2012

BUSINESS MEETING

Committees Meet Jointly

Mr. Wennberg reviewed the agenda for the day. The Committees would meet jointly to discuss administrative items, and then they would continue the discussion on the SEM Task Force recommendations that was initiated on the previous day.

Mr. Wennberg indicated that the minutes from the October 2011 meeting could be found in the meeting materials and that they had been sent via email to the members prior to the meeting. He asked for any comments, questions or corrections to the minutes. Two members pointed out two minor errors in participant names. Mr. Wennberg sought and gained official approval of the minutes with the noted corrections.

The current chairs will not attend the next NAC/GAC meeting, which takes place on October 25–26, 2012. Mr. Wennberg asked Mr. Carrillo to provide an overview of the meeting. Two agenda items were planned, including the briefing requested by members. Typically, the Operational Plan is presented during the fall meeting as well. The outgoing Chairs will work with the new Chairs—who officially will begin their tenure on August 2, 2012—to develop the agenda further. As discussed in Austin, Texas, this meeting will take place in Washington, DC. He was pleased to note that most members have expressed an interest to continue with their respective Committees.

Mr. Wennberg asked whether anyone had potential agenda items to share with the Chairs and organizers. He noted that a disadvantage associated with meeting in Washington, DC, is the lessened opportunity to learn about circumstances in the field in other parts of the country. Mr. Houseal agreed and said that he thought the meeting in Austin was useful in that regard. Mr. Wennberg added that a major advantage to meeting in Washington, DC, is that it provides ready access to many useful groups and individuals.

Mr. Houseal inquired about the possibility of inviting members of the Canadian and Mexican embassies to provide briefings on how their governments interact with the CEC. Ms. Jones-Jackson replied that the question is broader than the NAC/GAC. Mr. Wennberg noted that they could encourage JPAC to bring its Mexican and Canadian counterparts. He understood that JPAC representatives from both parties were interested in attending. Ms. Romano-Lizana remarked that this is an election year for Mexico, which typically is a busy one for government officials, especially closer to election day.

Mr. Carbajal offered to host a NAC/GAC meeting in Santa Barbara, California, and said that use of county facilities could defer cost of meeting; the EPA would have to cover participant travel fees only, which may be the same or less expense as meeting in Washington, DC. Mr. Wennberg expressed appreciation for the generous offer.

Ms. Goodman asked whether an agenda item should be created to discuss the conference call follow-up to the SEM Task Force recommendations. Mr. Wennberg suggested that they revisit this idea after the ensuing continuation of the SEM discussion.

Mr. Wennberg indicated that there would be more opportunities to suggest agenda items. He encouraged all Committee members to contact the new Chairs to share their priorities regarding the October 2012 meeting agenda.

Mr. Carrillo stated that Mexico was slated to chair the Council the following year, replacing the EPA (current chair). Future terms are 3 years in length instead of 2 years.

CONTINUATION—Update on SEM Trilateral Review Committee

Jocelyn Adkins, OITA, EPA

Mr. Joyce thanked Ms. Adkins for returning to continue the SEM Task Force discussion by addressing the language in the proposal and other important aspects. He encouraged the Committee members to provide detailed and direct suggestions on the guidelines and reminded them that Ms. Adkins plays a three-dimensional role with the SEM Task Force; she does not control the frequently changing actors representing sovereign nations nor their agendas.

Mr. Wennberg recapped the major points from the previous day's discussion on the SEM process, highlighting the article authored by Dr. Markell, which not all members had seen prior to the meeting. Mr. Wennberg asked to structure the continued SEM Task Force discussion with Dr. Markell outlining how the Task Force recommendations veered from the desired path, citing three examples of improper language usage, and listing any missed opportunities that were not proposed. Following Dr. Markell's comments, Ms. Adkins would provide her reactions and response.

As an opening statement, Ms. Adkins said that she had vetted the discussion from the previous day with her EPA colleagues and reconfirmed that the Task Force did not intend to expand or limit Council or Party powers. The modifications should not limit the utility of the SEM process in any way. Ms. Adkins indicated that the advice received will be given serious consideration by the U.S. government.

Dr. Markell noted that the public perceives the proposed guidelines as a submission process that is less useful, less practical, endows the parties with more power, and diminishes Secretariat authority. One practical issue is the provided timeframe, which, in combination with increased language translation responsibilities, poses a major challenge to timely action; Secretariat deadlines need to be achievable. Also important, the guidelines need to receive as much public support as possible. He suggested that the Task Force propose guidelines that, at minimum, do no harm but preferably do not create actions that enhance Party power, decrease Secretariat power, nor diminish the value of the process.

Dr. Markell posed several general guidelines that should be applied to the SEM process. He learned during his participation in the Canadian SEM process that citizen disaffection occurred because the citizens believed the parties and Council were overstepping their bounds and thus precluding the ability of citizens to make fair propositions. It is imperative that the risk for losing public credibility is lowered; governments need to be responsive to public concern and clearly address submitter concerns. Another major public concern is timing, which JPAC affirmed the previous day. Dr. Markell suggested that the Task Force aim to improve guidelines in the areas of timing, credibility and transparency. The focus needs to fall on the citizens—the people who will use this process. The guidelines should clarify the specific steps that citizens need to take to create a submission.

Dr. Markell listed several specific concerns. The most problematic, based on his initial reading, were from Memorandums 2, 3, 4, 5, 7, 9, 10, 11, 12, 14, 15, 16, and 18. Memorandum 10.4, for example, states that the Council can change the scope of Factual Records. Dr. Markell highlighted this as a long-standing issue. For one particular nongovernmental organization's submission, the Factual Record generated nothing powerful and no directions toward changed actions (from the U.S. perspective). The Council had changed the scope of the issue, which is interpreted as expanded power.

Mr. Wennberg summarized that the wording in Memorandum 10.4 recognizes and thereby codifies Council authority regarding the Factual Record. Dr. Markell claimed, as an advocate, that it is a general objection of the American public.

Ms. Adkins introduced Mr. David Gravalles (International Environmental Law Practice Group, OGC, EPA), whom she consults with regularly on SEM issues. Ms. Adkins addressed the notion that some revisions proposed by the Task Force were paramount to NAAEC itself. All proposals, however, were

vetted fully by the U.S. Department of State and other relevant agencies. In addition, some critical information is included in the guidelines that does not fall under NAAEC. For example, the number of days following Mexican submissions differed relative to U.S. and Canadian submissions. These discrepancies were examined thoroughly.

Ms. Adkins informed the group that the scope of the Factual Record always had been that the Council has legal authority to instruct the Secretariat to prepare a Factual Record that varies from the original submission. Because of this issue's reoccurrence, the Task Force decided to clarify this Council authority in the proposal. Mr. Wennberg asked whether the Council's right to exercise that authority falls within policy. Ms. Adkins said the Task Force cannot presuppose future Factual Records. In several cases, it had taken many years for decisions to be made about Factual Records because of the Secretariat's responsibility to manage disagreements and justifications. The general policy is not to narrow the scope. Mr. Wennberg asked whether the Task Force had reviewed the underlying policies to evaluate whether the practice should or should not continue. Ms. Adkins said that members had discussed whether narrowing the scope was appropriate and reached the decision not to attempt to memorialize the policy.

Mr. Carbajal expressed his understanding of the Task Force's intent but said that he supports Dr. Markell's comments and assertions. Ms. Goodman stated her appreciation for the hard work accomplished by the Task Force. She asserted that the issues discussed were sufficiently serious to warrant follow-up discussions. Mr. Wennberg responded that the breakout session would be the ideal time to discuss those matters; the charge question is directed at the SEM process.

Dr. Markell commented on Memorandums 9.4 and 9.7, which basically refer to an Article 45 provision that allows a submission to be dismissed if a Party is not failing to "effectively enforce its environmental law." This theme emerges a number of times in the document and has generated significant unrest. It is perceived as the parties taking charge of the process. Mr. Houseal added that typically a judge is very deferential to the country policy, which is troubling. Mr. Wennberg added that it does not appear to differ much from the current procedure, in which the parties can limit the Secretariat's discretion.

Ms. Adkins responded that the Secretariat's current role is akin to a judge. Under the proposed guidelines, however, the parties are responsible for providing the Secretariat with sufficient information to determine the value of a Factual Record on the path toward creating a law. The intention was to place a greater burden on the individual parties, but she could understand if that was not clear from the wording used. Mr. Wennberg suggested a revision on the specific language.

Dr. Pastor questioned whether 2 weeks spent addressing Dr. Markell's comments would be worthwhile. If yes, he believes that they should develop a small committee. Alternatively, they could provide two comments to the administrator: "In our role as advisors to the EPA administrator, we believe the SEM guidelines are not helpful to process as originally intended and require fundamental restructuring." Subsequently, they would form a specific subcommittee to draft a specific statement for the revised guidelines.

Mr. Wennberg agreed that constructive suggestions would be most useful. Because most participants had neither seen the article nor reviewed illustrative examples on how the language accomplished or failed to achieve the objectives, they were not positioned very well to advise on the matter at that time.

Mr. Houseal mentioned a few process-based recommendations. If time is an issue for a conference call, perhaps the best strategy would be for NAC/GAC members to read Dr. Markell's article and send their recommendations to the NAC/GAC Chairs via email. He thought that they should tell the EPA that they are not criticizing it but carry a greater issue with Mexico and Canada. He understands how the public can become cynical of the process and determine that it is of no use. He stated that a submission total of only 80 throughout a nearly 20-year period is indicative of dysfunction.

Regarding Dr. Markell's article, Ms. Adkins read it several times and understands his concerns. She pointed out that the Task Force incorporated many of the recommendations identified in the article. For example, the Task Force responded to the recommendation that the government responses should be timely and public by emphasizing deadlines. A number of other recommendations from the article were incorporated into the Task Force proposal as well.

Ms. Chapman proposed May 17, 2012, as a deadline for comments on the SEM guidelines. Ms. Adkins said that the Task Force is open to making any revisions considered necessary. She asked that the comments be as specific as possible. Mr. Wennberg concurred and stated that highly specific comments would be most constructive. He also noted that the subcommittee would need to meet within several working days to produce a working draft for review by both Committees. Dr. Pastor raised his concern again on the value of the revisions if the process is full already. Mr. Wennberg motioned for the concern to be discussed during the breakouts.

Dr. Markell noted his appreciation to the Task Force for considering the recommendations. Ms. Adkins said that the Task Force will consider the written advice very carefully. She said the more specific the advice, the more likely it will meet approval during discussions with Mexico and Canada.

Mr. Wennberg reminded the Committees to consider during their breakout sessions who will participate in the subcommittee working group to generate recommendations that are more specific.

Ms. Adkins volunteered her availability for discussion throughout the day and week. Mr. Joyce offered to assist with facilitating conference calls.

Committees Meet in Separate Sessions

GAC Session

Mr. Cook broached one of the issues posed by Dr. Pastor during the morning session: if the SEM process is unsatisfactory to the committee and if the Committees' advice does not change the process to meet Committee satisfaction effectively, then the Committees should consider recommending termination of the SEM process. The SEM-allocated resources would be rechanneled into other programs that have demonstrated success, such as the grant process and the Operational Plan. Mr. Wennberg agreed on the importance of whether the SEM process should continue if it is beyond repair. He proceeded to read the charge question (see Appendix C) aloud, which asks the Committee to provide written advice on the SEM Task Force proposal. Although the SEM process is dysfunctional, Mr. Carbajal remarked that it is the only program enabling the public to voice its grievances. He believes that the Committees should exercise care not to undermine the intent of the Task Force and the public's trust in the submission process. Mr. Carbajal said that he was in favor of repairing and developing the process.

Ms. Goodman reinforced her earlier comments that the Committees need to act accordingly to move this process forward; a conference call with Ms. Adkins may be necessary to clarify the proposal on a more granular level. Mr. Wennberg replied that the broad direction at that point, for the purpose of drafting the advice letter, was to determine whether SEM is worth fixing, and if yes, in which direction it should be moved. Ms. Goodman said that the four broad goals identified by the Task Force are laudable, but the Task Force needs to address the unintended perceptions that it generated as well as the potential consequences that would result from implementation of the proposal.

Mr. Vintze also supported this effort, saying the public looks to the government to address its perceived wrongs. He cited several instances of poor language choice, for example, the use of "should" instead of "shall." From a legal perspective, the use of more definitive terms is generally preferred, and the government appears more accountable. By establishing an official record, the SEM process represents an

early tool on the path to redress. Mr. Vintze is, however, dissatisfied with the proposed timelines and long response period.

Mr. Cook noted that, with its limited use and results, the SEM process is not serving its practical intent; the present opportunity to make changes is timely and needed. He expressed concern that Ms. Adkins appeared to be defending the proposal's intent and not indicating Task Force willingness to make the changes suggested by the Committees. Mr. Cook recommended that the Committee draw a hard line in the advice letter by stating that if the Committee changes will not be implemented, then the SEM process should be terminated. A greater push is warranted—the letter has been insufficient up until the present. Mr. Carbajal concurred. Moving forward with the dysfunctional version and its unintended consequences gives the public false hope. The SEM process needs to represent an honest vehicle for transparently moving information onto the record and holding governments accountable by mere information. Ms. Goodman said that she is not in favor of terminating the program as it sometimes makes a positive impact.

Mr. Wennberg conceded that the SEM process has enormous room for improvement but noted that it does not fail invariably. The timeline is always awful; however, previous petitions have gone through, and governments have responded. In other words, the process worked. Petitioners have credited the process as a vehicle that finally brought resolution. Because it has not always failed, and because this exists nowhere else in a North American context, he stated that it is worth trying to save. The GAC should push as hard as necessary to achieve the reforms and Task Force goals. Mr. Wennberg stressed the need to provide constructive reform advice in the letter; however, he agreed with Mr. Cook—if the parties are unwilling or unable to adopt the Committee's suggested key reforms and outcomes to increase the integrity of SEM and make it less misleading, then the program should be terminated. Ms. Goodman suggested that the GAC define the outcomes in the letter before the Task Force meets again.

Mr. Wennberg noted that the Task Force comprises representatives from all three parties, and Task Force recommendations likely reflect its expectations and understanding of the realm of the possible. Dr. Markell had indicated that incompatibility or conflicts of interest contribute to the dysfunction of SEM. Mr. Wennberg stressed that if the Committee is concerned and wishes to recommend a different approach, then that is what the GAC should do. The NAC/GAC advises one member of the Council but represents the public and its various constituents. Referring to Memorandums 9.4 and 9.7, the general principle under consideration is the degree that the Council steers the SEM process. Evidence of manipulation has emerged in the process, which impacts public confidence. The proposed recommendations miss the point, which is not surprising considering their source (the parties).

Mr. Carbajal stated that the biggest issue with the proposal is the potential modification of the original submission without involving the submitter. It is more acceptable to disagree with the submission by a two-thirds vote and effectively halt progress to a Factual Record than to establish a Factual Record that strays from what was submitted. Mr. Cook agreed on the gravity of the issue and said that it undermines the entire process. The Factual Record must rely solely on the issue in the original submittal. Mr. Wennberg added that the Secretariat should be required to explain not only the Factual Records that were established but also those that were voted down.

Mr. Wennberg mentioned that, initially, he was disappointed that SEM lacks “judiciary teeth,” but he has come to realize the value of this process over time. Ms. Goodman added that it provides a stepping stone for other organizations to come forward. Mr. Cook commented that the Factual Record could be used in a judiciary process, which he believes may underlie fears of and potential meddling by the parties.

Based on a brief scan of the specific recommendations for improving the process provided in Dr. Markell's article, Mr. Wennberg concluded that the Task Force attempted to address the issues. He believes that the Council response should be timely and public. Also, submitters should have the right to

view the government responses and revise their submissions. He suggested that the GAC withhold specific judgments until the SEM proposal subcommittee has conducted a thorough review.

Mr. Wennberg asked who would like to participate on the SEM proposal subcommittee. Ms. Goodman and Mr. Cook were suggested from the GAC, and Mr. Vintze volunteered. Dr. Markell was suggested to lead the subcommittee. Mr. Wennberg expressed agreement but said that because Dr. Markell is as an advocate, the ultimate responsibility likely will lie with the Committee chairs. Also, the Federal Advisory Committee Act requires that recommendations are adopted via an inclusive public process. Thus, an announcement must be published in the *Federal Register* with 15 days advanced notice. During the 2-week window, the subcommittee should produce recommendations regarding the revisions to the SEM process. The official conference call likely would last no more than 1 hour, but a quorum (50% + 1) is required to make the written recommendations official. The subcommittee letter, not the regular advice letter, will contain the detailed revisions and clarifications to the SEM process as a set of joint recommendations.

Mr. Wennberg asked whether the GAC letter should contain any comments with regard to the breakfast meeting. Ms. Goodman suggested that the letter request a follow-up on Ms. Gail Small's (GAC) request during the October 2012 meeting for a Strategic Plan specific to tribal affairs within OITA.

Mr. Wennberg said that he would follow up with Ms. Jones-Jackson to obtain more information. If no action has commenced, the issue will be noted in the letter.

Mr. Wennberg concluded the session.

NAC Session

Ms. Chapman initiated the session by reiterating her view on the importance of transparency in the project selection processes for SEM and NAPECA. She asked members about potential recommendations other than those related to SEM for inclusion in the advice letter.

Dr. Pastor stated that the SLAB (Article 13) issue presents a unique opportunity for the three countries to design an approach that improves regulatory capacity. In his memorandum to the NAC, Dr. Markell listed ideas that the EPA can propose to improve regulatory capacity in Mexico and Canada. Mr. Bent agreed and noted the appalling lack of SLAB nonexport in industry. Dr. Markell added that the CEC should continue its efforts to integrate the SLAB issue, which is a good use of CEC resources. Ms. Chapman asked for input on how to incorporate SLAB guidance in the letter. Dr. Pastor suggested the following: "We (NAC) support the SLAB investigation and the heavy consideration it receives from the three parties. We encourage the EPA Administrator to join her counterparts in the development of a program to increase monitoring and reporting capacity and improve standards overall."

Recalling recent NAC/GAC advice for the CEC to incorporate more pilot projects (i.e., NAPECA), Mr. Houseal expressed concern that pilot projects do not use CEC resources to the fullest advantage. He was underwhelmed by the project presented the previous day and said that it represented inefficient use of scarce resources, noting that a number of nongovernmental organizations are uniquely positioned to carry out this type of work. Mr. Houseal noted that funds committed to NAPECA grants cannot be used to address the SLAB issue or toward the CEC's unparalleled and unique mapping and monitoring capabilities. The NAC should voice these sentiments during the upcoming Operational Plan session during the October 2012 NAC/GAC meeting. Dr. Martinez added that transparency should be considered on all levels, including the panel of experts appointed to provide advice on the Operational Plan.

Dr. Markell remarked on the list of projects from the Operational Plan that Ms. Wesson had presented the previous day. Of the CEC's total project budget (\$1.4 million for 2 years), the use of \$300,000 to help 15 or 16 households is questionable. Ms. Chapman noted that previous letters have inquired about the mechanisms underlying project selection. Dr. Markell believes that the next letter should repeat this

inquiry. Ms. Chapman confirmed that repetition of previously stated issues is appropriate and expected. Dr. Martinez cautioned against flagging a specific grant again because the problem is much broader than that, and NAC/GAC members have issues with different projects for different reasons. Ms. Chapman said that she is less inclined to list specific projects because of the potential for triggering a defensive response. Dr. Martinez believes that the wording in the advice letter should reflect a generalized problem that cites examples if necessary. Mr. Barry Featherman (Global Center for Development and Democracy), GAC member, suggested that the letter use footnotes to reference past examples. Dr. Pastor added that the generic issue is that the selected grants are not unique to the CEC. In addition, Ms. Chapman pointed out that projects under the previous CEC program (NAAEC) were selected to align with CEC priorities and interests.

Dr. Pastor stated a grievance regarding the EPA Administrator's absence from the meetings of NAC/GAC committees, which advise the Administrator directly, during his 2 years with the NAC. The current NAC/GAC convened in the EPA offices, but again, the Administrator was unavailable. He learned recently of the Administrator's active participation in the advisory sessions for the U.S. Trade Representative (USTR) and other advisory committees that do not advise the Administrator specifically. He believes that this pattern of attendance demonstrates a low priority for the NAC/GAC. Dr. Michael Dorsey (Dartmouth College), NAC member, agreed that the consecutive absence of the Administrator at Committee meetings is becoming an issue that should receive additional emphasis. He recommended that the letter include specific details on the number of times that she attended other advisory meetings and missed NAC/GAC sessions. Ms. Chapman also expressed her concern that the Office of Trade appears to wield more influence over her offices than the NAC/GAC and that the CEC is not elevated to the appropriate level. Dr. Martinez emphasized the need to frame the grievance carefully in the advice letter to heed both political context and the Administrator's inundation with congressional inquiry. Finally, Mr. Houseal said that if the EPA Administrator cannot be present at the October 2012 meeting, perhaps her counterparts from Mexico and Canada could attend and begin answering some of the Committee's questions.

Regarding the SEM process and Task Force guidelines, Ms. Chapman proposed that the NAC comment on the general points and the workgroup review and comment on the specific details. The members agreed with her proposition. Mr. Featherman remarked that Dr. Markell's article crystallized the SEM process itself and objections regarding the current state of the process. The U.S. implementation of "sunshine" laws has increased the degree of transparency effectively, and this concept could and should extend into the general CEC context.

Mr. Bent believes that the SEM guidelines appear as a road map for the government rather than for citizen users trying to access the process. The statement of intent should clarify why the document exists. Mr. Houseal agreed with Mr. Bent's comments and inquired about the specific items that require fixing, which, according to the SEM report, are language modernization, increased transparency and improved timing. The overarching goal of fixing the process, however, needs to enhance the experience for citizens. Ms. Chapman added that the NAC should be as specific as possible with modification requests for Ms. Adkins to share with the other parties. Ms. Romero-Lizana, NAC member, urged the use of the simplest language possible, which will enable easier implementation of the guideline documents.

Mr. Houseal voiced his concern that the committees are overly harsh on the EPA; the major feat is to gain agreement from Canada and Mexico. Ms. Chapman added that the guidelines are required to clear USTR and the U.S. Department of State. Mr. Carrillo offered additional clarification on the SEM process; sunshine (or awareness) is the best "disinfectant" in the area of human rights. The SEM process is similar in that it cannot effect actual change, but it can create awareness.

Noting Mr. Gutiérrez Lacayo's significant interest in the SEM process, Mr. Houseal asked whether the NAC could share the next advice letter with JPAC. He believes that JPAC's interest stems primarily from the absence of a SEM-like process in the other two parties. Ms. Chapman said that the letter is posted on the website for public view.

Dr. Markell said he scheduled a tentative conference call with Ms. Adkins for May 3, 2012, at 1:00 p.m. EDT to discuss specific guidelines and unidentified issues. He asked about any restrictions for discussion between individual NAC members and EPA staff. Dr. Pastor suggested that the NAC endorse Dr. Markell to speak on behalf of the NAC regarding the SEM guidelines. All members agreed; however, Dr. Markell indicated that all members should review his recommendations before conferring absolute agreement with him.

Ms. Chapman indicated that she would like to attend the conference call. Dr. Martinez asked whether the call was open to all members, and this was confirmed to be the case. Ms. Jones-Jackson offered to set up the conference call through her office.

Mr. Bent was surprised to learn that SLAB is only the first potential opportunity for the CEC to support an issue that was illuminated by the SEM process. Dr. Pastor said that the Committee proactively should suggest that the CEC take advantage of this opportunity to improve the capacity of CEC projects. In addition, he believes that the CEC should give more consideration to TEIA, which requires government decision-makers to consider project status before deciding whether or not to authorize the project; a more developed project requires decision-makers to explore alternatives and ensure that a project would not cause environmental harm and that transparency is maintained.

Dr. Pastor noted that on the previous day, NAC/GAC Committees were told that Canada resisted discussing TEIA when it was raised. When Dr. Pastor asked Mr. Gravallesse about this matter during the morning break, however, Mr. Gravallesse replied that the issue was raised with Canada 5 years previously. Dr. Pastor commented that Canada resisted many trilateral initiatives 5 years ago but at present is very cooperative; hence, the issue should be broached again. Ms. Chapman asked whether Dr. Pastor believed that the United States did not follow up with Canada. Dr. Pastor said that he merely was repeating what he was told, and he would like to understand when the issue was raised. Ms. Jones-Jackson said that some discussions during recent Canadian interactions occurred during a closed meeting, of which neither she nor her staff were invited to attend. She broached the possibility that Mr. Gravallesse was not privy to all of the information that resulted from those meetings.

With regard to the issue of bilateral versus trilateral cooperation, Dr. Pastor said that to the extent two countries can reach an understanding, often the third country wishes to join. If the United States and Mexico believe that TEIA is worthwhile, then Canada may become more interested and less resistant to these discussions. Adding to Dr. Pastor's comments, Mr. Houseal said that the SLAB issue illustrates a perfect use for a TEIA.

Mr. Dorsey asked about viewing the notes and comments from any of these documents and/or processes that are required to be vetted by USTR, which potentially has administrative authority, or others. Ms. Chapman wondered about the likelihood of obtaining this type of information. Mr. Dorsey noted that if the NAC requests it and is denied, that is indicative of something in and of itself. Ms. Chapman thinks that these types of meetings are not public, and she does not know about the policies for sharing minutes.

Mr. Houseal said the U.S. Department of state pays virtually no attention to the SEM process because it does not affect trade issues, environmental issues or bilateral relationships. SEM accomplishes nothing other than bringing attention to an issue, which still is at risk of being rejected by a two-thirds vote. He believes that the U.S. Department of State does not want the SEM process to impede on relationships with the other countries. Ms. Chapman agreed but restated the NAC's responsibility to citizens to develop SEM into a meaningful process.

Mr. Houseal asked Ms. Chapman to impart words of wisdom or lessons learned related to her tenure as NAC Chair. Ms. Chapman replied that as Chair and not a member, she facilitates others' views and tries not to impose her own views too much. She expressed her concern at the gradual loss of autonomy in the Secretariat and the increased authority by the parties, and she wants to know why this is happening and learn how the Secretariat could operate most effectively. Lastly, she thanked all of the NAC members for

their important, even if challenging, contributions, and she hopes that they will continue to make their strong points to the new Chairs.

Ms. Chapman concluded the session.

Committees Reconvene in Plenary Session

Report-Outs from the NAC/GAC Chairs

Mr. Wagner raised his concern about hydraulic fracturing and would like it to be incorporated into a future agenda. It potentially can affect ground water aquifers at international boundaries. He relayed negative interactions with industry in this regard, which said that it would go above his head to the Council. He contended that this issue will keep growing as other energy sources are sought. Mr. Wagner believes that they should view it from the industry perspective. Mr. Houseal responded that it is a trilateral issue and should be elevated to the level of JPAC. Ms. Chapman agreed as well and offered her involvement on these matters; she can identify subject matter experts who know a good deal about the entire scope of impact.

Mr. Wagner also requested the inclusion of several science issues. For example, farm land has increased on both sides of the border. Farmers who choose to poison prairie dogs affect life on both sides. Movement up the food chain leads to toxic impacts in larger wildlife, such as eagles and raptors.

Ms. Chapman listed the following major NAC discussion points:

- ✧ The SEM guidelines subcommittee needs clarification. Members set up a conference call with Ms. Adkins on May 3, 2012, at 1:00 p.m. EDT.
- ✧ The NAC would like to see SEM guideline improvements in the areas of transparency and timeliness. Discussions with Ms. Adkins and Committee members will form the basis of improving the language.
- ✧ The NAC expressed concern that it has not met as a committee with EPA Administer Lisa Jackson, who has attended several trade meetings and not NAC/GAC meetings. With the understanding that she chairs some meetings as well, the Committee members want to meet with her personally given that they advise her directly.
- ✧ The NAC will repeat the point that greater transparency is needed for the selection of projects under the Operational Plan.
- ✧ The NAC would like NAPECA and Operational Plan projects to reflect the trilateral nature of the CEC. For example, SLABs represent a great opportunity for engagement among the parties.
- ✧ They would like Mexican and Canadian representatives to attend a NAC/GAC meeting and provide insight on how the CEC is relevant to their respective parties.

Mr. Wennberg listed the following major GAC discussion points:

- ✧ The GAC members spoke at length on the notion of whether SEM is “worth fixing.” They noted that, notwithstanding issues and frustration, SEM has generated successes. Because it can work, all agreed that a serious reform effort is worthwhile.
- ✧ The GAC decided that a key recommendation would be if the Council is not willing to adjust the guidelines and their role in a few key areas, then the GAC recommends a termination of the program.

- ✧ The members reviewed the recommendations outlined in Dr. Markell's article and the Task Force proposal and found the intent to be largely consistent; the GAC fully supports the goals of the Task Force.
- ✧ The GAC agreed that a subcommittee working group should evaluate the Task Force proposal point by point. On an overarching level, however, the GAC recommended that the Council's ability to modify the Factual Records needs to be removed; a two-thirds vote should determine whether the submission is accepted or rejected and returned to the submitter with an explanation and the opportunity to restate.
- ✧ They agreed that OITA needs to address the Strategic Plan specific to tribal affairs, an action item from previous letters, directly.
- ✧ Mr. Cook, Ms. Goodman and Mr. Vintze volunteered to serve on and/or contribute to the SEM proposal subcommittee.

As a point of departure, Ms. Chapman suggested that future NAC/GAC meeting agendas reflect the actual time the meeting will conclude; it always ends earlier than what is noted. Mr. Wennberg, however, said that concluding the meeting earlier than noted on the agenda helps to manage expectations.

Mr. Joyce asked for a firm deadline regarding the comments on the Task Force proposal. Ms. Adkins responded that the Task Force needs to submit the Proposal to the Council by May 29, 2012. He reminded the Committees that advice letters for official use require a public forum to approve the letter, and the public forum needs to be posted in the *Federal Register* 15 days in advance of the public meeting. Ms. Chapman said that the phone call was scheduled for May 3, 2012. She suggested that they schedule a brief teleconference to achieve a quorum for the May 16, 2012, conference call. To fulfill the quorum, Ms. Chapman indicated that seven NAC members are required to be on the call simultaneously to submit approval; if seven are not present to offer approval, then officially the NAC does not approve. Members agreed to determine the best time a sufficient number of them could participate in the conference call.

Mr. Joyce and Ms. Jones-Jackson thanked Mr. Wennberg and Ms. Chapman again for their excellent service as Chairs. Mr. Wennberg expressed his confidence that the Committees will continue to provide excellent advice. Ms. Chapman noted her appreciation for the different member backgrounds and the overall democratic process of the advisory groups.

Public Comment Period

Mr. Wennberg asked whether any members of the public would like to make a comment or ask a question. No public comments were offered.

Ms. Chapman adjourned the meeting at 1:07 p.m.

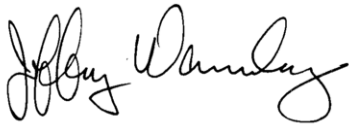
Action Items

- ✧ NAC/GAC members will review Dr. Markell's article.
- ✧ Mr. Wagner will work with Ms. Chapman to incorporate hydraulic fracturing on a future NAC/GAC meeting agenda.
- ✧ A NAC/GAC subcommittee led by Dr. Markell will meet with Ms. Adkins on a conference call on May 3, 2012.

- ✧ Mr. Joyce will post the subcommittee public forum in the *Federal Register*.
- ✧ NAC members will coordinate to provide quorum approval on the subcommittee's recommendations, potentially during a conference call on May 16, 2012.

✧ **SUMMARY CERTIFICATION**

I, Jeffrey Wennberg, Chair of the Governmental Advisory Committee, and I, Karen Chapman, Chair of the National Advisory Committee, certify that the meeting minutes for the dates of April 26–27, 2012, are hereby detailed, contain a record of the persons present, and give an accurate description of matters discussed and conclusions reached and copies of all reports received, issued, or approved by the advisory committees. My signature date complies with the 90-day due date after each meeting required by GSA Final Rule.



Jeffrey N. Wennberg
Chair, GAC

July 27, 2012

Date



Karen M. Chapman
Chair, NAC

July 27, 2012

Date

Appendix A: Meeting Participants

NAC Members

Karen M. Chapman, Chair
Great Lakes Regional Director
Environmental Defense

Timothy A. Bent
Director
Environmental Affairs
Bridgestone America

Michael K. Dorsey, Ph.D.
Assistant Professor
Environmental Studies Program
Dartmouth College

Barry Featherman, Esq.
Executive Director
Global Center for Development and
Democracy

Brian Houseal
Executive Director
Adirondack Council

David L. Markell, J.D.
Steven M. Goldstein Professor
College of Law
Florida State University

Cecilia R. Martinez, Ph.D.
Associate Research Professor
Center for Energy and Environmental Policy
University of Delaware

Robert A. Pastor, Ph.D.
Director
Center for North American Studies
Professor of International Relations
School of International Service
American University

Ana Romero-Lizana
Director
International Business Development
World Trade Center St. Louis

GAC Members

Jeffrey N. Wennberg, Chair
Board Member
Development Review Board
City of Rutland, Vermont

Salud Carbajal
First District Supervisor
County of Santa Barbara

Kirk V. Cook
Supervisor
Washington State Department of Agriculture

Teri H. Goodman
Assistant City Manager
City of Dubuque, City Hall

Octaviana V. Trujillo, Ph.D.
Tribal Council Member
Pascua Yaqui Tribe

Roger Vintze
Manager
California Department of Toxic
Substances Control

Gerald Wagner
Director
Environmental Program
Blackfeet Nation

Designated Federal Officer

Oscar Carrillo
Office of Federal Advisory Committee
Management and Outreach
U.S. Environmental Protection Agency

EPA Participants

Jocelyn Adkins
Attorney-Advisor
International Environmental Law Practice Group
Office of General Counsel
U.S. Environmental Protection Agency

Joann Chase

American Indian Environmental Office
Office of International and Tribal Affairs
U.S. Environmental Protection Agency

Gilbert Castellanos

Office of International Environmental Policy
U.S. Environmental Protection Agency

Sylvia Correa

Senior Advisor for North American Affairs
Office of International and Tribal Affairs
U.S. Environmental Protection Agency

Michelle DePass

Assistant Administrator
Office of International and Tribal Affairs
U.S. Environmental Protection Agency

Ann-Marie Gantner

Office of Federal Advisory Committee
Management and Outreach
U.S. Environmental Protection Agency

David Gravalles

Assistant General Council
International Environmental Law Practice Group
Office of General Counsel
U.S. Environmental Protection Agency

David Guest

Communications and Partnership Program
American Indian Environmental Office
Office of International and Tribal Affairs
U.S. Environmental Protection Agency

Patrick Huber

Office of International and Tribal Affairs
U.S. Environmental Protection Agency

Cynthia Jones-Jackson

Acting Director
Office of Federal Advisory Committee
Management and Outreach
U.S. Environmental Protection Agency

Mark Joyce

Office of Federal Advisory Committee
Management and Outreach
U.S. Environmental Protection Agency

Stephanie McCoy

Office of Federal Advisory Committee
Management and Outreach
U.S. Environmental Protection Agency

James McCleary

Office of Federal Advisory Committee
Management and Outreach
U.S. Environmental Protection Agency

Jane Nishida

Office of Regional and Bilateral Affairs
Office of International and Tribal Affairs
U.S. Environmental Protection Agency

Beatriz Oliveira

Office of Emergency Management
Office of Solid Waste and Emergency Response
U.S. Environmental Protection Agency

Richard (Rick) Pacardi

Office of Solid Waste and Emergency Response
U.S. Environmental Protection Agency

Other**Martín Gutiérrez Lacayo**

Joint Public Advisory Committee Chair

Evan Lloyd (via telephone)

Executive Director
Commission on Environmental Cooperation
Secretariat

Ethan Taylor

International Policy Analyst
Office of International Affairs
U.S. Department of the Interior

Dolores Wesson

Director of Programs
Commission on Environmental Cooperation
Secretariat

Contractor Staff**Audrey R. Glynn, Ph.D.**

The Scientific Consulting Group, Inc.

Appendix B: Meeting Agenda



Official Meeting of the National and Governmental Advisory Committees to the U.S. Representative to the Commission for Environmental Cooperation

April 26–27, 2012
EPA EAST BUILDING
1202 CONSTITUTION AVE. NW
Washington, DC 20460
Tel: 202-564-2294 fax: 202-564-8129

AGENDA

FINAL

~EPA Conference Room 1117A~

Thursday, April 26, 2012

- | | |
|----------|---|
| 9:00 am | Registration |
| 9:30 am | Call to Order and Introductions
Oscar Carrillo, Designated Federal Officer, EPA |
| 9:35 am | Welcome and Overview of Agenda
Karen Chapman, Chair of the National Advisory Committee (NAC)
Jeff Wennberg, Chair of the Governmental Advisory Committee (GAC) |
| 9:45 am | Opening Remarks
Cynthia Jones-Jackson, Director, Office of Federal Advisory Committee Management and Outreach (OFACMO), EPA |
| 10:00 am | Update on U.S. Priorities and Guidance (<i>Council Session, Transboundary Environmental Impacts Assessment [TEIA], Tribal Matters, Communication Strategy</i>)
Michelle DePass, Assistant Administrator, Office of International and Tribal Affairs (OITA), EPA |
| 10:30 am | Question and Answer Period |
| 11:00 am | BREAK |
| 11:15 am | Update on Submissions on Environmental Matters (SEM) Trilateral Review Committee
Jocelyn Adkins, OGC, EPA |
| 11:45 am | Question and Answer Period |

Thursday, April 26, 2012 Continued...

12:00 pm	Public Comment Period
12:30 pm	LUNCH
1:30 pm	Commission for Environmental Cooperation (CEC) Operational Plan Status Updates on Article 13, Trade and Environment Panel Report Dolores Wesson, Director of Programs, CEC Secretariat
2:00 pm	Question and Answer Period
2:30 pm	Update on North American Partnership for Environmental Community Action (NAPECA) Grants Guadalajara Project (8-Minute Video Presentation) Sylvia Correa, Senior Advisor for North American Affairs, OITA, EPA
3:00 pm	Question and Answer Period
3:30 pm	BREAK
3:45 pm	Joint Public Advisory Committee (JPAC) Report-Out Martín Gutiérrez Lacayo, Chair, JPAC
4:00 pm	Question and Answer Period
4:15 pm	Summary and Next Steps Discussion NAC/GAC Chairs
5:00 pm	ADJOURN

Friday April 27, 2012

BUSINESS MEETING

- 8:30 am **Registration**
- 9:00 am **Call to Order**
Oscar Carrillo, Designated Federal Officer, EPA
- 9:05 am **Plenary: Joint Committee Meeting**
Karen Chapman, Chair of NAC
Jeff Wennberg, Chair of GAC
- Approval and signing of October 2011 meeting minutes
 - Discussion of October 2012 meeting in Washington, DC, and Council Session
- 9:30 pm Public Comment Period
- 9:45 pm **Committees Meet Separately**
GAC stays in "1117A" Conference Room
NAC meets in "1117B" Conference Room
- 12:30 pm **LUNCH**
- 1:30 pm **Committees Reconvene in Plenary Session**
Report-outs from NAC/GAC Chairs
- 2:00 pm **ADJOURN**

Appendix C: Charge Question for April 2012 NAC/GAC Meeting

CHARGE QUESTION NAC/GAC MEETING ~ April 26-27, 2011 WASHINGTON, DC 3/27/12

Dear NAC & GAC Members,

During the 2011 annual CEC Council Session in Montreal the Ministers announced a comprehensive set of initiatives designed to conserve, protect and enhance the North American environment through the CEC via its cooperative work plan.

Three innovative initiatives led by the United States included the development of: (1) a CEC Communication Strategy, (2) NAPECA grants and, (3) the trilateral SEM Review Process.

The EPA Administrator would like advice from the NAC and GAC on the following topic:

SEM Trilateral Review Taskforce

- 1) Last year the Council created the trilateral SEM Review Taskforce. SEM Taskforce efforts are intended to culminate at the July 2012 Council Session, with the Council adoption of revised SEM guidelines and any other definitive action deemed appropriate to address SEM issues of concern.
 - a) In furtherance of this effort, please provide advice on the SEM taskforce written proposals provided to the NAC and GAC (*note that a compilation document of SEM Taskforce proposals is expected to be provided to the NAC and GAC by the end of March or early April*).