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# **Evaluation of Canada's Participation in the Commission for Environmental Cooperation**

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**Acronyms Used in the Report**

ADM	Assistant Deputy Minister
AEB	Audit and Evaluation Branch
CBD	Convention on Biological Diversity
CEC	Commission for Environmental Cooperation
CIA-NAAEC	Canadian Intergovernmental Agreement Regarding the NAAEC
DFAIT	Foreign Affairs and International Trade Canada
DFO	Fisheries and Oceans Canada
EC	Environment Canada
ENGO	environmental non-governmental organization
FTE	full-time equivalent
GDP	gross domestic product
GSC	General Standing Committee
HC	Health Canada
IAB	International Affairs Branch
JPAC	Joint Public Advisory Committee
NAAEC	North American Agreement on Environmental Cooperation
NAC	National Advisory Committee
NAFTA	North American Free Trade Agreement
NAPECA	North American Partnership for Environmental Community Action
NRCan	Natural Resources Canada
OGD	other government department
PAA	Program Activity Architecture
SEM	Submission on Enforcement Matters
TBS	Treasury Board of Canada Secretariat
US	United States

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The Evaluation Project Team was led by Susan Wharton, under the direction of the Environment Canada Evaluation Director, William Blois, and included Michael Callahan, Lindsay Fitzpatrick, Robert Tkaczyk, Urszula Adamik and Ian Côté.

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## EXECUTIVE SUMMARY

This report presents the results of the evaluation of Canada's participation in the Commission for Environmental Cooperation (CEC), conducted by Environment Canada's (EC) Audit and Evaluation Branch between March and November 2012. Environment Canada's involvement in the CEC, on behalf of Canada, is intended to contribute directly to the Strategic Outcome "Threats to Canadians and their environment from pollution are minimized" and falls under sub-activity 3.2.2, International Climate Change and Clean Air Partnerships, in the Department's Program Activity Architecture.

The purpose of this evaluation was to assess the relevance and performance of Canada's participation in the CEC, addressing both Canada's assessed contribution to the CEC, as well as EC's activities in support of the CEC. The combined value of the assessed contribution and EC's internal resources dedicated to the CEC represents approximately \$3.5 million, or 0.4% of the Department's direct program spending.<sup>1</sup>

Methodologies used in this evaluation were a document review and 25 key informant interviews.

### Findings and Conclusions

Canada's participation in the CEC addresses an international obligation that stems from being a signatory to the North American Agreement on Environmental Cooperation (NAAEC), a side agreement to the North American Free Trade Agreement (NAFTA). The CEC addresses environmental issues and priorities of concern to Canada that require broader global participation and assists Canada in integrating its environment and economic/trade agendas. The CEC accomplishes this while enhancing the level of cooperation between, and strengthening relationships with, its NAFTA partners, which in turn brings additional benefits for discussions in other related fora. As the Canadian agency providing leadership to fulfill Canada's international obligation, EC's activities in support of Canada's participation in the CEC are consistent with federal roles and responsibilities. Additionally, EC's work is consistent with roles related to providing federal coordination, and to the preservation and enhancement of the quality of the national environment as outlined in the *Department of the Environment Act*.

During the past five years there has been a substantial effort on the part of the CEC, with EC as a valuable contributor, to improve the efficiency and effectiveness of the CEC and ensure value for Canada's US\$3 million investment through its annual assessed contribution. In particular, efforts to focus, streamline and measure progress on the cooperative work program; simplify and improve timelines for the process for submissions on enforcement matters; develop a communications strategy to improve public awareness and engagement; and clarify the terms of operation for the CEC's various working groups, are expected to yield improved results for the CEC. The next few years will be important for the CEC as progress on these initiatives continues and they begin to demonstrate results. During this time, it will be important to ensure that projects under the Operational Plan rigorously adhere to policy direction and selection criteria; that frequent and open communication occurs between the CEC bodies—in

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<sup>1</sup> Based on 2011–2012 Main Estimates.

particular between the GSC and the Secretariat; and that the Communications Strategy is put into action.

Within EC, the International Affairs Branch (IAB) team responsible for the CEC is highly regarded and has implemented internal processes that have resulted in Canadian officials having a clear understanding of both the CEC context and of their own responsibilities in contributing to the work of the CEC and ensuring that Canadian priorities are addressed. The efficiency and effectiveness of working groups are expected to continue to improve as the work program evolves and working group mandates are clarified. However, there is an identified and growing concern associated with ensuring the ongoing effective participation of Canadian experts in CEC meetings that take place outside of Canada. Such participation is necessary in order to leverage Canadian expertise and ensure continued contribution to trilateral decision making.

For the past several years, the CEC and EC have acknowledged the need for a clear performance measurement strategy. The CEC made progress in terms of establishing project-level indicators. The need to continue to improve these measures, and to develop and measure high-level indicators of success, is an identified priority for CEC and EC program management. At the domestic level, EC has identified an appropriate expected result related to addressing Canada's priorities and interests; however, more work is required to define how this result will be measured.

Appropriate progress has been made on the CEC's outcomes related to concepts identified in the NAAEC: meeting Party obligations, maintaining positive relations among the NAFTA partners regarding trade and the environment, ensuring compliance with environmental laws, promoting transparency and public participation, and increasing cooperation. With respect to environmental outcomes, there have been some notable achievements, and Canadian priorities are represented in an increasing percentage of CEC projects. Nonetheless, there is a widely held view that the CEC could be better leveraged to achieve its full potential. EC has made progress in the manner in which it consults with government officials to develop Canadian positions and to ensure that the activities of the CEC address Canadian priorities. However, low awareness and visibility among a broader base of government officials may mean that opportunities that could benefit from the CEC are not always being brought forward.

### **Recommendations and Management Response**

The following recommendations are directed to the Assistant Deputy Minister, International Affairs Branch (ADM IAB), as the senior departmental official responsible for the management of Canada's participation in the CEC:

**Recommendation 1: Establish a mechanism to improve awareness and better engage other federal government departments in the work of the CEC.** The evaluation findings suggest that enhanced awareness and engagement of other government departments (OGDs) could help to leverage the resources of the CEC so that its full potential is realized for the benefit of Canadians. Better engagement may enable OGDs (e.g., Foreign Affairs and International Trade Canada [DFAIT], Fisheries and Oceans Canada [DFO], Natural Resources Canada [NRCan], and Health Canada [HC]) to contribute more in identifying Canadian interests and priorities for discussion at the CEC, to collaborate more with the US and Mexico on environmental matters, and to

benefit more from the work of the CEC. It could also involve identifying opportunities to include the CEC in discussions at Canadian federal government fora.

**Recommendation 2: Refine the performance indicator in the terms and conditions for EC's assessed contribution to the CEC to more clearly define how the degree to which Canadian interests and priorities are addressed by the Commission will be measured.** The terms and conditions identify the following key result: "Canadian interests and priorities with respect to environmental concerns in North America, potential trade and environmental conflicts among the NAFTA partners, and the enforcement of domestic environmental laws in the three countries are addressed by the CEC." The associated performance indicator is the "percentage of Canadian positions which are incorporated by the Council and other constituent components of the CEC." In the course of conducting this evaluation, it became apparent that the indicator, as phrased, does not present a clear definition of how this would be put into action and calculated. It is therefore recommended that the IAB refine this indicator so that useful performance data on this key result can be regularly collected and reported.

**Recommendation 3: Explore ways to ensure the ongoing participation and attendance of Canadian federal government experts in the work of the CEC.** The evaluation identified that the work of the CEC is being affected by challenges impacting the ability of Canadian federal government experts to participate in CEC meetings held outside of Canada, particularly for departmental branches with working group members contributing to CEC projects under the Operational Plan. Given the trilateral nature of the CEC, decisions cannot be made without the effective participation of all three Parties. The Secretariat provides support to government participants from the other Parties; however, an interpretation of the Treasury Board Secretariat *Policy on Transfer Payments* has precluded Canadian government experts from accepting this support. Given the impact this is having on the work of the CEC, with meetings either not fully benefitting from the input of Canadian experts, or delays in decision making introduced when all three Parties are not in attendance, the ADM IAB should explore options to support regular and predictable attendance at these meetings.

### Management Response

The responsible Assistant Deputy Minister agrees with all three recommendations and has developed a management response that appropriately addresses each of the recommendations.

The full management response can be found in Section 6 of the report.

## 1.0 INTRODUCTION

This document presents the evaluation of Canada's participation in the Commission for Environmental Cooperation (CEC) conducted by Environment Canada's (EC) Audit and Evaluation Branch (AEB) in fiscal year 2012–2013.

The evaluation examines Canada's participation in the CEC and addresses Canada's assessed contribution<sup>2</sup> to the CEC, as well as EC's activities in support of the CEC. The evaluation focuses on Canada's involvement in the CEC, and is not intended to be an evaluation of the CEC in its entirety. However, as it is not possible to divorce the activities of Canada and EC from the work of the CEC to which it contributes, the broader CEC context is also examined as appropriate. To the extent possible, the report attempts to distinguish between findings that pertain to EC's participation and those that address the broader context of the CEC.

This evaluation report is organized as follows. Section 2 provides a background description of the CEC and of Canada's participation in the Commission—including the governance structure, key activities, and expected results. Section 3 presents the evaluation design including the purpose and scope of the evaluation, the evaluation issues and underlying questions addressed by the evaluation, the methodological approach, and associated challenges. Section 4 provides the findings of the evaluation. Section 5 presents the conclusions and Section 6 provides the recommendations and management response.

## 2.0 BACKGROUND

### 2.1 Overview

The CEC is an international/intergovernmental organization created by the governments of Canada, Mexico and the United States (US) under the North American Agreement on Environmental Cooperation (NAAEC), an international agreement that came into force on January 1, 1994. Canada is a signatory to the Agreement and is thus bound by its requirements, including the obligation to contribute an equal share to the annual budget of the CEC. The NAAEC complements the environmental provisions of the North American Free Trade Agreement (NAFTA). The CEC was established to address regional environmental concerns, help prevent potential trade and environmental conflicts, and promote the effective enforcement of environmental law.

The mission<sup>3</sup> of the CEC is

*to facilitate cooperation and public participation to foster conservation, protection and enhancement of the North American environment for the benefit of present and future generations, in the context of increasing economic, trade and social links among Canada, Mexico and the United States.*

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<sup>2</sup> As per the *Policy on Transfer Payments*, an assessed contribution is a transfer payment to fund Canada's share of the costs of operations of an international organization to which Canada is a member as a result of an Act of Parliament, a Cabinet decision, an order in council or an international treaty.

<sup>3</sup> CEC. June 17, 2005, *Looking to the future: Strategic Plan of the CEC 2005–2010*; and November 10, 2010, *Strategic Plan of the CEC 2010–2015*.

Through an assessed contribution, Environment Canada contributes US\$3 million annually, representing its one-third share of the total US\$9 million annual budget of the CEC. This funding is used to cover expenditures associated with the operations of the CEC, which are administered by the CEC Secretariat.

As the lead agency responsible for managing Canada's participation in the NAAEC and Canada's engagement with the CEC, EC invests additional program resources toward administering the assessed contribution and ensuring that Canada's interests and priorities are addressed. These resources primarily consist of the salary and expenses associated with International Affairs Branch (IAB) senior management and approximately five full-time staff from the Americas Directorate, IAB, but also include the salary and travel expenses of EC employees from other branches of the Department who participate in CEC working groups or contribute to CEC projects. These internal EC resources used for CEC-related activities are estimated at approximately \$500,000 for 2012–2013.<sup>4</sup> The combined value of the assessed contribution and EC's internal resources dedicated to the CEC represents approximately 0.4% of direct program spending for the Department.

## 2.2 Governance

In EC's Program Activity Architecture (PAA),<sup>5</sup> the CEC is intended to contribute directly to the strategic outcome "Threats to Canadians and their environment from pollution are minimized," under PAA sub-activity 3.2.2, "International Climate Change and Clean Air Partnerships." Within EC, the CEC is managed by the Americas Directorate, IAB, which draws on the resources and expertise of other areas of the Department—including the Enforcement Branch, the Environmental Stewardship Branch and the Science and Technology Branch—as appropriate.

### 2.2.1 Key CEC Bodies

The key institutions involved in the governance of the CEC are described below.

The **CEC Council** is composed of the federal environment ministers of the three participating countries and is the governing body of the CEC. Its responsibilities include setting the CEC's overall direction and approving the CEC's biennial program and annual budget. Under the terms of the NAAEC, the Council is required to meet once per year. The Council generally formalizes its decisions through resolutions. The role of the chair of the Council alternates each year among the Parties. The role of chair was held by Canada's Minister of the Environment in 2008 and 2011. **Alternate representatives** are senior officials in the three environmental agencies who represent the Council members and have decision-making authority.<sup>6</sup> They meet throughout the year—either through conference calls or in person. Within Canada, EC has designated the Assistant Deputy Minister of the IAB for this role. Much of the day-to-day oversight is the responsibility of the **General Standing Committee (GSC)**, which is composed of representatives from each Party who typically report to their respective alternate representative. The GSC was established to ensure regular communication between the

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<sup>4</sup> Represents an estimation as EC's financial system has not historically tracked these expenses separately. Estimates do not include internal services or any related employee benefit program costs.

<sup>5</sup> The Program Activity Architecture portrays the Department's activities in a hierarchy showing how the lower-level elements (e.g., sub-activities) contribute to the Department's strategic outcomes.

<sup>6</sup> <http://www.cec.org/Page.asp?PageID=1226&SiteNodeID=221%20>



Secretariat and the Parties on all aspects of implementation of the NAAEC.<sup>7</sup> Within Canada, the GSC representative is the Manager, CEC, in the Americas Directorate, IAB.

The **CEC Secretariat**, based in Montreal, offers technical, administrative and operational support to the Council. Other responsibilities of the Secretariat include providing support to CEC committees and working groups, conducting activities related to submissions on enforcement matters (SEMs) from the public and preparing independent reports on environmental matters. The Secretariat is headed by an executive director appointed by the Council and employs a total of approximately 50 professional staff from Canada, Mexico and the United States.

The **Joint Public Advisory Committee (JPAC)** is composed of five appointed volunteer citizens from each of the three countries and plays a key role in ensuring active public participation in the CEC. It does so by providing fora for public dialogue among members of the public concerned with trade and environment issues in North America and communicating the results of such dialogue and any subsequent JPAC recommendations to the CEC Council. JPAC members meet throughout the year, typically in conjunction with other CEC meetings.

Key decisions regarding the implementation of the NAAEC and the work of the CEC are primarily made through trilateral, consensus-based negotiations between the three Parties to the Agreement (Canada, the US and Mexico). The CEC conducts much of its program work through various working groups, composed almost entirely of government officials from the three Parties.

## 2.2.2 Governance within Canada

EC is the lead federal department in dealings with the CEC and works closely with other federal government departments and the three signatory provincial governments (Alberta, Manitoba and Quebec) to establish Canadian positions on issues addressed at the CEC. The Canadian Intergovernmental Agreement Regarding the NAAEC (CIA-NAAEC) outlines the nature of these signatory provinces' participation. The signatory provincial governments enjoy the rights of the NAAEC and are also bound by its obligations in accordance with their respective jurisdictions.<sup>8</sup> The CIA-NAAEC establishes a governmental committee, composed of the environment ministers (or their designees) of the three signatory provincial governments and the federal Minister of the Environment, to develop and manage Canada's involvement in the NAAEC. In recent years the ministerial-level governmental committee has been inactive. Instead, for the purposes of shaping Canadian positions and approaches as well as providing input to CEC planning processes and projects, information sharing and consultation occurs among working-level officials from the four jurisdictions.

A federal Interdepartmental Director's Committee, chaired by the Director of Latin and South America in the Americas Directorate, IAB, was created in 2008 and meets regularly with other Canadian project leads within EC and other government departments.

<sup>7</sup> Council Resolution 95-01. <http://www.cec.org/Page.asp?PageID=122&ContentID=1185&SiteNodeID=280>

<sup>8</sup> The Canadian Intergovernmental Agreement Regarding the NAAEC, Article 2. [http://naaec.gc.ca/eng/implementation/cia\\_e.htm](http://naaec.gc.ca/eng/implementation/cia_e.htm)

## 2.3 Key Activities

### 2.3.1 CEC Context

Key features of the CEC include a trilateral cooperative work program, the preparation of independent Secretariat reports and a public submission process on enforcement matters. Public engagement and transparency are important underlying concepts to the CEC that are embedded in its operations. These features are described briefly below.

#### Trilateral Cooperative Work Program

The 2010–2015 Strategic Plan<sup>9</sup> of the CEC presents three priorities (with seven associated strategic objectives):

- Healthy Communities and Ecosystems
- Climate Change – Low-Carbon Economy
- Greening the Economy in North America

To advance these priorities, the three member countries implement a cooperative work program, outlined within a biennial operational plan. The Operational Plan consists of a set of joint projects undertaken by government experts in the three countries. These projects serve to bring together experts from Canada, the US and Mexico to share information and best practices (e.g., through training, workshops, conferences and reports) in order to enhance the effectiveness of North American efforts to address regional environmental issues and deliver on the organization's three priorities. Annex 1 contains a list of the projects from the 2011–2012 Operational Plan and their linkages with the three priorities and their associated strategic objectives.

In addition, in 2010, the CEC established a new grant program, the North American Partnership for Environmental Community Action (NAPECA) to support communities in their efforts to address environmental problems locally. The program was introduced with the rationale that greater success can be realized if a shared sense of responsibility and stewardship is developed at the community level.<sup>10</sup> This work is also intended to contribute to the three priorities outlined in the Strategic Plan.

#### CEC Independent Secretariat Reports

Article 13 of the NAAEC allows the Secretariat to prepare a report on any emerging environmental matter within the scope of the annual plan. Independent Secretariat reports conducted in the last five years include the following:

- Environmental Hazards of Transborder Lead Battery Recycling (in progress)
- Sustainable Freight Transportation – opportunities to improve the environmental performance of freight transportation in North America (2011)
- Green Building – environmentally conscious building design (2008)

Subject matter experts from the three Parties, other government or non-governmental organizations and individuals will often contribute to the preparation of these independent reports, which are then submitted to the Council. In most instances, the reports are made publicly available upon completion.

<sup>9</sup> CEC. November 10, 2010. *Strategic Plan of the CEC 2010–2015*. Note that the previous strategic plan of the CEC for 2005–2010 presented another set of strategic objectives for three different priorities: information for decision making, capacity building, and trade and the environment.

<sup>10</sup> North American Partnership for Environmental Community Action.  
<http://www.cec.org/Page.asp?PageID=751&SiteNodeID=1066>

### **Public Submission Process on Enforcement Matters**

Articles 14 and 15 of the NAAEC address provisions for a process for submissions on enforcement matters (SEM). The intent of the SEM process is to allow any non-governmental organization or person to make an assertion that a Party is failing to effectively enforce its environmental laws. The Secretariat reviews the submissions and determines whether or not to request a response from the named Party. The Secretariat may then determine, based on the information included in a Party response and other information, whether to recommend to Council that a factual record be prepared. Should Council decide that a factual record is warranted, it provides instructions to the Secretariat on preparing the record. Once the factual record is completed, the Council decides whether it should be made public. The purpose of a factual record is to provide an objective presentation of the facts laid out in the submission. The process is intended to facilitate public participation, support government transparency and promote the effective enforcement of environmental law in North America.<sup>11</sup>

### **Public Engagement and Transparency**

Public engagement and transparency are important underlying principles of CEC operations. The intent is to maximize public involvement to ensure open and effective dialogue and engagement from all sectors of the public. In support of this principle, the CEC regularly hosts meetings that allow public input on any matter within the scope of the NAAEC (such as the annual Regular Session of Council and JPAC regular sessions, for example). Additionally, the public is invited to comment on CEC research, reports and plans.

### **2.3.2 Canada's Participation in the CEC**

As Canada's lead for the CEC, EC's IAB team is actively engaged in monitoring, influencing and evaluating the work of the CEC, including the reliability of information and results data. EC is directly engaged on a daily basis in key areas of the CEC's work. This includes playing an active role in the development and implementation of the cooperative work program, the process for public submissions on enforcement matters and mechanisms for public engagement. EC's key activities are identified in the draft logic model in Annex 3.

As identified in the management response to a recommendation in the 2007 evaluation of Canada's participation in the CEC, the IAB developed a plan of engagement to optimize the effectiveness of Canada's participation in the CEC. This plan was approved by EC senior management in 2007 and contained the following four objectives:<sup>12</sup>

- articulate goals for EC's engagement with the CEC
- align CEC work to Canadian domestic priorities
- improve the CEC's administrative and management policies
- put in place accountability mechanisms for tracking progress

This plan of engagement and its subsequent updates further guide EC's activities.

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<sup>11</sup> CEC. 11 July 2012. Guidelines for SEM under Articles 14 and 15 of the NAAEC. p. 1.

<sup>12</sup> EC, IAB. December 6, 2007. Update on EC's Engagement with the CEC. Presentation to Strategic Integration Board. Internal document.

and

EC, IAB. February 25, 2009. Advancing on EC's Plan of Engagement with the CEC. Presentation to Executive Management Committee. p. 10. Internal document.

## 2.4 Program Logic Model/Expected Results

The CEC was created to facilitate the achievement of the NAAEC's objectives (see Annex 2, Article 1 Objectives). As a result, the NAAEC Article 1 Objectives were used as the basis for a draft logic model developed for this evaluation in order to assess the achievement of intended outcomes.<sup>13</sup> This approach was also taken in EC's previous CEC evaluation (April 2007).<sup>14</sup> The NAAEC objectives were further identified in the February 2007 Accountability, Risk and Audit Framework for the contribution agreement with the CEC as an appropriate criterion for evaluating the effectiveness of Canada's contribution.

For the purpose of this report, the assessment of performance will be presented according to findings under six themes addressed by the outcomes. The draft logic model and the linkages between the individual outcomes and the six themes can be found in Annex 3.

The evaluation outcomes assessed performance related to the following six themes:

- i. Meeting Canada's obligations under the NAAEC
- ii. Addressing environmental concerns in North America
- iii. Maintaining positive relations among the NAFTA partners regarding trade and the environment
- iv. Compliance with and improved enforcement of domestic environmental laws among the NAFTA partners
- v. Promotion of transparency and public participation
- vi. Increased cooperation on environmental protection among the NAFTA partners

## 3.0 EVALUATION DESIGN

### 3.1 Purpose and Scope

An evaluation of Canada's participation in the CEC was part of the Risk-based Audit and Evaluation Plan for 2011–2012, which was approved by the Departmental Evaluation Committee on March 31, 2011. The evaluation was identified in the terms and conditions for renewal of Canada's assessed contribution to the CEC.<sup>15</sup> Such an evaluation is necessary in order to meet the coverage requirements of the *Financial Administration Act* (for grants and contributions) and the Treasury Board of Canada Secretariat *Policy on Evaluation* (for direct program spending).

The study period for the evaluation is the five-year time frame from 2007–2008 to 2011-2012; however, relevant activity in 2012–2013 is also included as appropriate.

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<sup>13</sup> There are ten NAAEC objectives laid out in Article 1; many of these are multi-dimensional and include reference to elements that are common to more than one objective. As such, for the purpose of the evaluation, it was not practical to use these objectives verbatim. The logic model and outcomes were developed in consultation with IAB representatives serving on the Evaluation Committee for this evaluation.

<sup>14</sup> EC, AEB. 2007. Evaluation of Canada's Participation in the CEC.

<sup>15</sup> The terms and conditions for Canada's contribution to the CEC were renewed in March 2012 and are now indeterminate, in accordance with the revised *Policy on Transfer Payments*.

## 3.2 Evaluation Approach and Methodology

The methodological approach and level of effort for this evaluation were determined using a risk-based approach that considered the risk profile of the CEC as well as the availability of other recent assessments and evaluations of the CEC's performance:

- The work of the CEC was not identified as presenting a high level of risk because identified risks have a low to moderate likelihood of occurring; appropriate mitigation procedures are in place; and EC has a high level of management oversight in the work conducted through the assessed contribution, through involvement in the yearly definition of the CEC budget, through the review of audited financial statements, and through close monitoring of and influence on the work of the CEC.<sup>16</sup>
- This approach considered the ability to draw on information from previous assessments and evaluations, including a comprehensive evaluation of Canada's participation in the CEC completed by the AEB in April 2007 as well as an assessment of the CEC's performance against its 2005–2010 Strategic Plan completed by a private consultant on behalf of the CEC Secretariat in 2010.<sup>17</sup>

The methodological approach consisted of a review of existing documentation and data, as well as interviews with key informants.

### 3.2.1 Review of Documentation and Data

Key documents were gathered, recorded in an inventory and assessed in terms of their contribution to each of the evaluation questions. Documents included the following: Government of Canada publications, previous CEC assessments and evaluations, internal documents on CEC policies and procedures, applicable agreements (e.g., NAAEC, Contribution Agreement), internal EC and CEC strategic and operational planning documents, and performance and financial data. For each evaluation question, the evidence from each relevant document was summarized in a template and an integrated summary of the documentary evidence was prepared.

### 3.2.2 Key Informant Interviews

Twenty-five key informant interviews were conducted in person or by telephone, to gather detailed information related to the evaluation questions and issues. A customized, semi-structured guide was developed for each major category of respondent. An introductory letter was emailed by the AEB to each interview candidate before interviews were scheduled, and a confirmation email with the appropriate interview guide attached was sent prior to the interview appointment. Interviews were recorded and notes were prepared during and following the completion of each interview. For each evaluation question, the interview findings were summarized in a template, identifying any relevant findings by respondent category. The number of interviews conducted for each respondent category is outlined in Table 1.

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<sup>16</sup> EC. 2007. Accountability, Risk and Audit Framework for Contribution Agreement with North American Commission for Environmental Cooperation. pp. 3, 11–17.

<sup>17</sup> Eastern Research Group, Inc. for the Secretariat of the CEC. March 2010. *Assessing the CEC's Results and Performance: Report on the Accomplishments of the CEC Under the 2005-2010 Strategic Plan*.

**Table 1: Interviews Completed by Category of Respondent**

EC program staff and senior management within the IAB	4
EC working group participants	4
Representatives of other involved federal government departments	2
Representatives of the three signatory provincial governments	3
CEC Secretariat staff	2
GSC representatives from the three Parties	3
Canadian JPAC members	3
Environmental non-governmental organizations (ENGOS) / public participants	4
<b>Total</b>	<b>25</b>

### 3.3 Challenges and Limitations

Challenges experienced in the design of the evaluation and in the data collection and analysis, as well as related limitations and strategies used to mitigate their impact, are outlined below.

The evaluation relied on qualitative evidence from interviews as one key piece of evidence. In order to mitigate any potential biases introduced by this line of evidence, efforts were taken to ensure that a wide range of stakeholders were consulted, with several individuals from each stakeholder group. Additionally, interviewees were asked to provide evidence or concrete examples to support the views they expressed, and interview findings were corroborated with reliable evidence from the documentation and data review where possible.

As the key decisions and program activities of the CEC are implemented in a trilateral, cooperative fashion, it is not appropriate to attribute certain observed CEC impacts to the specific efforts of Canada. On the other hand, other impacts, such as the manner in which Canadian stakeholder input to the CEC is managed, are clearly linked to the work of EC. Given this situation, efforts were made to ensure that analyses clearly and accurately attributed efforts and results to the proper organization. This was accomplished by clearly phrasing interview questions and by probing to understand the contribution of various parties, and by ensuring that the report findings clearly distinguish between the broader CEC context and that of Canada's participation.

## 4.0 FINDINGS

For each evaluation question, a rating is provided based on the AEB's judgment of the evaluation findings. The rating statements and their significance are outlined in Table 2. A summary of ratings for the evaluation issues and questions is presented in Annex 5.

**Table 2: Definitions of Standard Rating Statements**

Statement	Definition
<b>Appropriate progress – achieved</b>	The intended outcomes or goals have been or are being achieved
<b>Some progress – attention needed</b>	Considerable progress has been made to meet the intended outcomes or goals, but attention is still needed
<b>Little progress – priority for attention</b>	Little progress has been made to meet the intended outcomes or goals and attention is needed on a priority basis

## 4.1 Relevance

### 4.1.1 Continued Need for Canada's Participation in the CEC

Evaluation Issue: Relevance	Rating
1. Is there a continued need for Canada's participation in the CEC?	Appropriate progress – achieved

**There is a continued need for Canada's participation in the CEC as it represents an international obligation under the NAAEC, a side agreement to NAFTA. Participation in the CEC addresses environmental issues of concern to Canada that require broader global participation and assists Canada in integrating its environment and economic/trade agendas.**

As a signatory to the NAAEC, a side agreement to NAFTA,<sup>18</sup> Canada has an international obligation to participate in the CEC, including providing one third of the annual budget (US\$3 million) and fostering the protection and improvement of the environment in the territories of the three Parties.<sup>19</sup>

The CEC also helps the member countries integrate environmental and economic agendas. The North American environment is composed of a complex network of ecosystems from Canada, Mexico and the US. NAFTA is a key contributor to the growing economic integration of the three countries.<sup>20</sup> With economic integration and increased trade come environmental pressures, and these pressures are not confined within country-specific borders. As noted in the Preamble to the CIA-NAAEC, "cooperation for the conservation, protection and enhancement of the environment is an essential element for achieving sustainable development." The Preamble also points to "the importance of inter-jurisdictional cooperation."<sup>21</sup>

Canada's membership in the CEC also provides a unique venue for Canadian federal government experts to collaborate with colleagues from the US and Mexico, on a wide range of environmental and trade issues.<sup>22</sup>

Interviewees noted that there are no other organizations that duplicate the work of the CEC, with its North American regional focus on trade and the environment. However, other complementary organizations focusing on specific issues were identified, including: the Trilateral Committee for Wildlife and Ecosystem Conservation and Management and the North American Bird Conservation Initiative.<sup>23</sup>

<sup>18</sup> Agreement. [www.naaec.gc.ca/eng/agreement/agreement\\_e.htm](http://www.naaec.gc.ca/eng/agreement/agreement_e.htm)

<sup>19</sup> NAAEC: Part One: Objectives.

[www.cec.org/Page.asp?PageID=122&ContentID=2730&SiteNodeID=567&BL\\_ExpandID=154](http://www.cec.org/Page.asp?PageID=122&ContentID=2730&SiteNodeID=567&BL_ExpandID=154)

<sup>20</sup> Combined economic output between NAFTA members is equal to US\$17.0 trillion; trade among Canada, the United States and Mexico has more than tripled since NAFTA came into effect, reaching US\$949.1 billion in 2008. Canada's trade with NAFTA partners reached US\$570.8 billion in 2008. Source: <http://www.naftanow.org/facts/>

<sup>21</sup> CIA-NAAEC. [http://www.naaec.gc.ca/eng/implementation/cia\\_e.htm](http://www.naaec.gc.ca/eng/implementation/cia_e.htm)

<sup>22</sup> EC, March 31, 2012. Terms and Conditions for Canada's Assessed Contribution to the CEC.

<sup>23</sup> The North American Bird Conservation Initiative was initially founded by the CEC in 1999 as a project under the Operational Plan, but as of 2005 now exists as a forum independent from the CEC.

### 4.1.2 Alignment with Federal and Departmental Priorities

Evaluation Issue: Relevance	Rating
2. Is Canada's participation in the CEC aligned with federal government and departmental priorities?	Appropriate progress – achieved

**Canada's contribution to the CEC is aligned with federal and departmental government priorities, including supporting international engagement with key trading partners and protecting the health and environment of Canadians. Additionally, the work of the CEC addresses domestic environmental priorities such as climate change, chemicals management, biodiversity and enforcement.**

At the broadest level, the work with the CEC contributes to “protecting the health and environment of Canadians,” which was identified as a key government priority in the 2011 Budget. The CEC mission statement demonstrates further alignment with federal government priorities, as it refers to fostering “conservation, protection and enhancement of the North American environment for the benefit of present and future generations...”

The terms and conditions for the assessed contribution to the CEC note that participation in the CEC is consistent with the foreign policy priority for the government to deepen Canada's engagement in the Americas.<sup>24</sup> The terms and conditions further confirm the CEC's alignment with federal government priorities, noting that the cooperative activities between the three Parties are “focused on mutual environmental priorities.”<sup>25</sup> Examples of CEC activities that support domestic priorities include the following: building capacity to ensure the effective enforcement of environmental laws and strengthened border security in areas such as the illegal trade of vulnerable species and non-compliant products; phasing out certain toxic chemicals in line with Canada's approach to chemicals management; and developing tri-national air emissions inventories, allowing for the comparison and identification of common issues.

### 4.1.3 Consistency with Federal Roles and Responsibilities

Evaluation Issue: Relevance	Rating
3. Is Canada's contribution to the CEC consistent with federal and departmental roles and responsibilities?	Appropriate progress – achieved

**Environment Canada's activities in support of Canada's participation in the CEC are consistent with federal roles and responsibilities, as they involve providing national leadership to fulfill Canada's international obligations as a signatory to the NAAEC. They are also consistent with federal roles as identified under the *Department of the Environment Act*, and with respect to the management of international relations.**

Canada's annual contribution to the CEC serves to help Canada fulfill its obligations under the NAAEC and to enable the CEC to fulfill its operational plan and mandate.<sup>26</sup>

<sup>24</sup> EC. March 2012. Terms and Conditions for Canada's Assessed Contribution to the CEC. p. 2.

<sup>25</sup> EC. March 2012. Terms and Conditions for Canada's Assessed Contribution to the CEC. pp. 1-2.

<sup>26</sup> Contribution Agreement Between Her Majesty the Queen in Right of Canada represented by the Minister of the Environment...and the CEC. 2008-2009, 2009-2010, 2010-2011. p. 1.



The *Department of the Environment Act* states that the powers, duties and functions of the Minister of the Environment extend to and include matters relating to “the preservation and enhancement of the quality of the natural environment.” EC’s lead role with the CEC is also consistent with the coordination role identified under the *Department of the Environment Act*, namely “the coordination of the policies and programs of the Government of Canada respecting the preservation and enhancement of the quality of the natural environment.”<sup>27</sup>

**4.2 Performance – Economy and Efficiency**

In the past five years, several initiatives have been undertaken to improve the efficiency and effectiveness of the CEC. A chronological list of key initiatives and a brief description of each can be found in Annex 4. Many of the initiatives stem from the vision outlined in the Denver Statement, issued in June 2009 on the 15th anniversary of the NAAEC, where the Council committed to renew, revitalize and refocus the CEC. As a Party to the NAAEC (and hence the CEC), Canada, under EC’s leadership, played an important role in these efforts, both by influencing the direction taken and by contributing to the initiatives themselves.

**4.2.1 Design**

Evaluation Issue: Performance	Rating
4. Is the design of Canada’s involvement with the CEC appropriate for achieving its intended outcomes, and is it being delivered as intended?	Appropriate progress – achieved

**Canada’s Participation in the CEC**

**An analysis of EC’s activities in support of the CEC reveals that the activities undertaken by EC are appropriate and are important for furthering the work of the CEC.**

There is recognition among interviewees that while the CEC is an appropriate mechanism that helps Canada achieve its outcomes related to environmental concerns in North America, it represents just one of the tools—others include domestic work and engagement in other international fora—available to achieve these outcomes.

All EC’s activities in support of the CEC are clearly based on the NAAEC; they either address an obligation under the NAAEC or have a strong link to the achievement of the NAAEC Article 1 objectives. Moreover, there is an evident link between EC’s activities and the work identified in the two-year operational plans (which stem from the direction outlined in the five-year Strategic Plan).

<sup>27</sup> *Department of the Environment Act*. 1985. <http://laws-lois.justice.gc.ca/eng/acts/E-10/FullText.html>

**4.2.2 Governance<sup>28</sup>**

Evaluation Issue: Performance	Rating
5. To what extent is the governance structure supporting Canada’s contribution to the CEC clear, appropriate and efficient for achieving expected results?	Some progress – attention needed

**CEC Context**

**The structure and procedures of the key governing bodies are defined to a large degree by the NAAEC. With the participation of representatives from Canada and the other Parties, several recent initiatives have been undertaken to further improve the clarity of key CEC roles and to enhance efficiency. The need to ensure open communication between the GSC and the Secretariat for decisions impacting the Secretariat was identified.**

The structure and procedures of the key CEC bodies (Council, Secretariat, JPAC) are defined directly in the NAAEC.<sup>29</sup> Additional clarity is provided through Council resolutions (e.g., Council Resolution 95-01 which established the GSC)<sup>30</sup> or through other CEC documents (e.g., JPAC Rules of Procedure).<sup>31</sup> Interviewees reported that the responsibilities of CEC bodies were clearly understood and that these bodies appear to function efficiently, for the most part. However, interviewees also pointed out the inherent challenges that normally characterize the work of organizations operating within the context of a trilateral agreement with consensus-based decision making.

Ensuring a clear understanding with respect to the role of the Secretariat within the CEC has been an area of focus since 2009. Key informants identified that previously there had been a perception among the public that the CEC Secretariat was a “fourth party,” or a “watchdog” of the signatory governments. As this was not the intent of the CEC, which was established by an intergovernmental agreement and clearly identifies a governing body representing the three Parties, efforts were made to clarify the Secretariat’s role. Findings from the interviews and from descriptions of the Secretariat’s role in recent CEC documentation indicate that this role is now clearly defined and understood, at least among those actively engaged with the CEC.<sup>32</sup> Key efforts undertaken to achieve this progress include the following:

- the Governance Proposal stemming from the Denver Council meeting, which now more clearly defines the roles for the Secretariat, consistent with the NAAEC<sup>33</sup>
- a mandate letter for the Secretariat Executive Director, first introduced in September 2009 at the beginning of the term for the Canadian Executive Director
- an indication from program management that they continue to reinforce this message, as appropriate

<sup>28</sup> Governance refers to how an organization makes and implements decisions, as defined in the 2010 Audit of the Treasury Board of Canada Secretariat Governance Framework, p. 3.

<sup>29</sup> NAAEC. Articles 9-11,16-18.

<sup>30</sup> Council Resolution 95-01. <http://www.cec.org/Page.asp?PageID=122&ContentID=1185&SiteNodeID=280>

<sup>31</sup> CEC. JPAC Rules of Procedure.

[http://www.cec.org/Page.asp?PageID=1366&ContentID=940&SiteNodeID=208&BL\\_ExpandID=154](http://www.cec.org/Page.asp?PageID=1366&ContentID=940&SiteNodeID=208&BL_ExpandID=154)

<sup>32</sup> CEC. Operational Plan of the CEC 2011–2012. p.11.

<sup>33</sup> CEC. 2010. Proposal to Examine the Governance of the CEC and the Implementation of the NAAEC.

- CEC publications (e.g., Strategic Plan 2010-2015, Operational Plan 2011-2012, draft revised Terms of Operation for Working Groups) that clearly communicate the roles of the various CEC bodies, including the role of the Secretariat

The General Standing Committee (GSC) was established to ensure regular communication between the Secretariat and the Parties on all aspects of implementation of the NAAEC. According to its terms, the GSC is required to communicate regularly with the Secretariat's Executive Director or a designated representative of the Secretariat, in person or via conference call, to ensure the regular exchange of information and views on key issues.<sup>34</sup> However, several interviewees identified the need for improved information sharing between the GSC and the Secretariat for decisions impacting the Secretariat in order to improve efficiency. This encompassed both the need for timely dissemination of decisions that require Secretariat action, as well as an improved understanding of the rationale behind decisions, which would increase the ability of decisions to support implementation. The perceived need for improved communications may be related to significant declines in the number of GSC meetings or conference calls in which the Secretariat has been invited to participate (over 20 in 2009 compared to only 4 in 2011).

The new Terms of Operation for Working Groups (nearing completion in fall 2012) are being introduced to bring consistency, set clear expectations and ensure linkages with the Strategic Plan for all CEC working groups, including those established by order of Council, and those established to deliver on the Operational Plan.<sup>35</sup> According to program management, additional work to simplify and consolidate the structure of working groups and ad hoc committees is planned, which will contribute to bringing greater focus to the work of the CEC.

### Canada's Participation in the CEC

**Governance mechanisms in support of Canada's participation in the CEC are functioning well. The roles of Canadian participants in the CEC are also clearly defined and understood, which further supports efficient delivery. The IAB has several communication mechanisms in place to inform and gather input from Canadian government officials. While these mechanisms have been effective in terms of gathering input from those involved in the work of the CEC, low awareness and visibility of the CEC among a broader base of government officials may mean that opportunities that could benefit from the CEC are not always brought forward.**

Prior to the disbanding of the boards and the introduction in 2012 of a new governance structure within EC,<sup>36</sup> the IAB's CEC program management team reported through the Strategic Integration Board, and then to the Executive Management Committee. Under the new governance model, strategic discussions (e.g., updates on EC's engagement strategy with the CEC), are now presented directly to the Executive Management Committee. Consistent with the intent of the new governance structure, program management viewed the current process as more efficient.

<sup>34</sup> Council Resolution 95-01. <http://www.cec.org/Page.asp?PageID=122&ContentID=1185&SiteNodeID=280>

<sup>35</sup> CEC. June 2012. Terms of Operation for Working Groups. Draft for Discussion.

<sup>36</sup> EC. 2012. EC's Governance Structure. pp. 9–13. Internal document.

In 2008, a new CEC program team was put in place within the IAB. The IAB team plays a leadership and coordinating role for CEC issues—a role that is clearly recognized and understood by interviewees. Interviewees representing officials outside of the EC program were complimentary of the quality of work and professionalism of the IAB team, noting that the team is responsive, holds regular meetings and makes efforts to ensure engagement. Key communication mechanisms among Canadian stakeholders include the following:

- the establishment of a director-level interdepartmental/intergovernmental committee, in August 2008, to support two-way communication between the IAB and Canadian project leads for projects under the Operational Plan, within EC as well as with other government departments
- bi-weekly conference calls with the provinces, at the working level
- the development of a “CEC 101” overview, which is presented by IAB program management to all new Canadian stakeholders to educate them on the CEC<sup>37</sup>
- regular informal communication

Additionally, program staff have recently been working with working group members from EC and other government departments to reinforce understanding of their roles. This includes efforts to ensure that working group decisions are consistent with the concepts outlined in the draft Terms of Operation (e.g., project-level activities are guided by the project selection criteria outlined in the Strategic Plan).

While the communication mechanisms identified above result in efficient delivery and a high level of understanding among those engaged in the work of the CEC, almost half of all interviewees felt that low awareness and visibility of the CEC among the broader base of EC and other government department employees limited the ability to leverage the CEC to identify additional opportunities to collaborate with US and Mexican counterparts. One idea put forward was that Canada's involvement in the CEC would benefit from being brought into the dialogue at other environmental fora within Canada, such as the Canadian Council of Ministers of the Environment. Consideration could then be given as to whether particular issues may benefit from being addressed by the CEC. Another interviewee noted that the CEC could be used as a starting point for discussing a broader base of environmental issues and for establishing a North American approach prior to engaging in other international fora. Senior management also indicated a desire to improve interdepartmental communication and engagement at the senior management (Assistant Deputy Minister) level.

All interviewees from participating provinces indicated that the nature and level of their involvement is very clear, that their involvement is clearly spelled out in the CIA-NAAEC, and that it is working very well. As noted, only three Canadian provinces, representing approximately 39% of Canada's gross domestic product (GDP),<sup>38</sup> are signatories to the NAAEC. Interviewees were of the view that the limited provincial participation has not detracted from the effectiveness of the CEC for Canada. While the NAAEC stipulates that Canadian provinces representing 55% of GDP must be signatories to the CIA-NAAEC in order to fully benefit from the NAAEC dispute mechanisms, these

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<sup>37</sup> EC, IAB. Version: September 2011. The North American Commission for Environmental Cooperation (CEC). Internal document.

<sup>38</sup> Statistics Canada. 2010 data. <http://www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/econ15-eng.htm>

mechanisms have not been used by any Parties to date, nor is there an expectation that they will be used in the near term.<sup>39,40</sup>

The role of Foreign Affairs and International Trade Canada (DFAIT) in support of Canada's participation in the CEC has devolved in recent years. Until 2010, responsibility for the CEC within Canada was shared by EC and DFAIT. With the disbanding of the environmental group in DFAIT, that department's contribution is now limited to legal input (as required for all international agreements) and to the participation of trade policy representatives in the Trade and the Environment working group. Interviewees noted that this relationship and level of cooperation is working well, and the simpler structure has resulted in clearer, more efficient decision making.

### 4.2.3 Delivery

Evaluation Issue: Performance	Rating
6. Are activities being undertaken in the most economical and efficient manner?	Appropriate progress – achieved

This section presents a brief analysis of the appropriateness and efficiency of processes related to the CEC's three key areas of work.

#### The Trilateral Cooperative Work Program

**Positive recent efforts, many stemming from the new policy direction outlined in the 2009 Denver Statement, have been made to focus the work program of the CEC in an effort to improve effectiveness. Continued commitment to this policy direction in the development and operations of the work program will be important in order to realize the full benefits of the program.**

The 2010–2015 Strategic Plan played an important role in furthering the new policy direction identified by the Parties in the Denver Statement, including streamlining the cooperative work program and identifying selection criteria against which all projects should be assessed in an effort to produce more focused and visible results.

Interviewees were supportive of the new direction, but several pointed out that it remains difficult to say no to certain proposed initiatives in an environment of cooperative decision making by consensus, even when the projects do not clearly meet the selection criteria. Interviewees further noted that efforts to reduce the number of projects and the number of associated tasks have met with some success, but also recognized that more needs to be done. For example, in some cases, the same sub-tasks are simply consolidated under an umbrella project without any true streamlining of the projects. Continuing in the policy direction of fewer projects with greater impact, Parties are proposing to work toward having three to four larger-impact projects for the 2013–2014 Operational Plan. Enforcement projects were identified as an example where efforts to streamline and focus projects has worked well, with sixteen initiatives reduced to four.

<sup>39</sup> NAAEC, Articles 23, 24, 41.

<sup>40</sup> As per NAAEC, Annex 41, item 4, these mechanisms could still be used if the issue pertained to a matter that would be under federal jurisdiction if it were to take place in Canada, but not for issues that would have been under provincial jurisdiction.

### CEC Independent Secretariat Reports

#### **The independent Secretariat reports are viewed to be valuable and of high quality.**

As the name indicates, the independent reports prepared by the Secretariat are selected and conducted with very little engagement on the part of EC or the Government of Canada. As such, only a very cursory review was conducted for the evaluation. The Secretariat identifies subjects it deems to be of value on any emerging topic, and independently manages the development of reports. EC's role is limited to the possible provision of subject matter expertise as may be sought by the Secretariat. Interviewees spoke highly of the quality of work of the reports, noting that the reports have addressed topics of importance.

### Public Submission Process on Enforcement Matters

#### **The submission on enforcement matters (SEM) modernization work was identified by several interviewees as an example of strong cooperation among the Parties that led to important improvements in the clarity and timeliness of the SEM process. EC's leadership in the development of the new guidelines was recognized.**

External stakeholders were highly supportive of the SEM process in terms of how it provides a forum for the public to identify concerns regarding lack of compliance with environmental laws among the Parties. Consistent with the results of a SEM submitter survey conducted by JPAC in 2011,<sup>41</sup> however, external stakeholders interviewed were critical of the implementation of the SEM process. Of particular concern were excessively long timelines for processing submissions and for Council to reach decisions regarding which submissions merit a factual record.

Interviewees also identified a need to address erroneous public expectations of the purpose and outcomes of the SEM process. Specifically, many interviewees noted that the SEM has been frequently misunderstood as a process that can be used to support a claim for damages (as opposed to a process for public participation, supporting government transparency, and enhancing understanding of environmental law and its effective enforcement in North America, as intended).<sup>42</sup>

In response to the strategic direction outlined in the Denver Statement and subsequently refined in the Governance Proposal, the Parties and Secretariat developed new guidelines for the SEM process, adopted at the 2012 Council session. The guidelines set out the roles and responsibilities of the Secretariat and the Parties, reduced process timelines from 5–7 years to 2.5–3.5 years, and simplified guidelines and made them more clear. Interviewees representing JPAC and the provinces commended EC on its contribution to the improved SEM processes.

In an effort to improve understanding of the SEM process, the new guidelines provide a simplified explanation of the process, described in a question-and-answer format.<sup>43</sup> Further, the newly finalized Communications Strategy identifies a need for additional

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<sup>41</sup> JPAC Questionnaire on Submitters' Experience with the Citizen Submission Process under NAAEC Articles 14 and 15. [http://www.cec.org/Page.asp?PageID=924&ContentID=25124&AA\\_SiteLanguageID=1](http://www.cec.org/Page.asp?PageID=924&ContentID=25124&AA_SiteLanguageID=1)

<sup>42</sup> SEM. [http://www.cec.org/Page.asp?PageID=1212&SiteNodeID=210&BL\\_ExpandID=156](http://www.cec.org/Page.asp?PageID=1212&SiteNodeID=210&BL_ExpandID=156)

<sup>43</sup> CEC. 11 July 2012. Guidelines for SEM under Articles 14 and 15 of the NAAEC.

communication tactics to ensure that the public is aware of the SEM process and has reasonable expectations as to its outcome.<sup>44</sup>

### **Analysis of Internal EC Resources Contributing to the CEC**

**EC's resources dedicated to the CEC are generally viewed as adequate and appropriate. However, Canadian government experts identified challenges with respect to participating in CEC meetings that take place outside of Canada.**

Resources within EC were generally viewed as appropriate within the current environment of fiscal restraint. In 2008, EC's CEC program team within the IAB was expanded from three to five full-time equivalents (FTEs), and the current level is viewed as adequate to meet Canada's commitments without being excessive. Likewise, while those involved in working groups identified that resources were tight, they have been adequate to meet their commitments. Interviewees also noted that the new direction to reduce and focus the number of projects in the Operational Plan is a positive step in support of an efficient use of resources.

While resources were viewed as adequate, interviewees did identify that working group participants from EC branches other than the IAB and from other government departments experienced challenges with respect to participating in CEC meetings that take place outside of Canada. For EC employees, it was particularly problematic for experts who may be involved in a relatively small piece of project work, or whose CEC project does not happen to be an identified priority within the Department.

The newly drafted Terms of Operation for CEC Working Groups state that "[t]he Secretariat shall provide support to group members and for the purposes of group meetings in accordance with the approved budget for such matters in the Operational Plan, the CEC Travel<sup>45</sup> and Meeting Policies and each Party's applicable transfer payment policies,"<sup>46</sup> while also noting that working groups are encouraged to conduct their meetings via tele/videoconference as much as possible and that no more than two face-to-face meetings will be supported annually.<sup>47</sup> Interpretation of the Treasury Board *Policy on Transfer Payments* is that Government of Canada employees cannot use CEC funding to attend CEC meetings, whereas US and Mexican government policy allows their experts to have their out-of-country travel paid for from the CEC budget.<sup>48</sup> Challenges associated with ensuring Canadian expert participation at CEC meetings are well recognized, including among the Secretariat and other Parties, and it was noted in interviews that if Canada is not able to attend a meeting, other Parties may choose not to attend either, as decisions need to be made trilaterally. In an attempt to maximize Canadian participation, efforts are made to hold as many meetings as possible at CEC Secretariat headquarters in Montréal, so that travel for Canadian representatives is minimized.

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<sup>44</sup> CEC. April 13 2012. 2010–2015 Communications Strategy. p.7.

<sup>45</sup> The CEC's Travel Policy outlines the guidelines and level of reimbursement for travel financed by the CEC and applies to governmental representatives, as well as CEC staff, JPAC members, consultants and invited attendees. CEC. July 2008. Travel Policy. p. 3.

<sup>46</sup> CEC. June 2012. Terms of Operation for Working Groups. Draft for Discussion. Section 31.

<sup>47</sup> CEC. June 2012. Terms of Operation for Working Groups. Draft for Discussion. Section 21.

<sup>48</sup> For the US, Secretariat funding can only be used to fund travel for meetings outside of the continental US.

The evaluation identified that EC resources in support of the CEC have not historically been tracked separately within the Department's financial tracking system. However, during the period of the evaluation, IAB program management instructed all EC employees involved in CEC work to code CEC expenses to an identified project code. Furthermore, changes have been put in place to code the salary expenditures of the IAB's CEC team to the identified project code so that a clearer tracking of EC's resources dedicated to the CEC will be available in the future.

### **Analysis of Resources to the Assessed Contribution**

**The level of funding for the assessed contribution appears appropriate to accomplish the activities outlined in the operational plans. Furthermore, a recent study revealed that the Secretariat's overhead costs are similar to or lower than those of comparable organizations, and efforts continue to ensure the efficiency and transparency of its operations.**

The level of funding to the CEC Secretariat has remained constant since 1995 when the CEC was first established. Interviewees noted that it is difficult to say whether US\$3 million (US\$9 million in total) is an appropriate level of funding for the Secretariat, as it depends on what the Secretariat expects to accomplish. For the most part, however, interviewees felt that the level of funding was appropriate to accomplish the activities outlined in the operational plans.

The CEC Secretariat has had a modest annual budget carry-over since it was first established in 1995. As of 2007, however, the surplus carry-over grew to approximately \$CAD3 million and has for the most part been maintained to the present. Audited financial statements show that historically there had been excesses of revenues<sup>49</sup> over expenditures, particularly when the US dollar was strong.<sup>50</sup> In the last two years of available data, however, the Secretariat has been very close to spending its full budget, and reported a slight deficit in 2010.

Based on direction provided in the Denver Statement and the Governance Proposal, recent efforts have been made to ensure the efficiency and transparency of the Secretariat's operating costs, focusing on areas for improved efficiency in overhead and salary costs, the hiring of consultants, and travel costs for Secretariat and JPAC staff. A 2011 study to benchmark and assess the overhead cost structure of the CEC Secretariat revealed that CEC Secretariat overhead costs are similar to or lower than those of three comparable organizations. For example, office rent and maintenance costs for the CEC (9% of overall budget) are within one percentage point of costs for the comparable organizations, while salary costs for the CEC (17%) were much lower than those of the other organizations, whose salary costs ranged from 22 to 51% of their total budgets.<sup>51</sup>

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<sup>49</sup> "Revenue" represents the funding from the Parties or any interest earned on previous years' surpluses. The CEC is a non-profit organization.

<sup>50</sup> Financial Statements of CEC, December 31, 2007, 2008, 2009, 2010.

<sup>51</sup> Samson Belair/Deloitte & Touche. 2011. *Overhead Cost Management Analysis & Benchmarking, Secretariat of the CEC.*



#### 4.2.4 Performance Measurement

Evaluation Issue: Performance	Rating
7. Are appropriate performance data being collected? If so, is this information being used to inform senior management / decision makers?	Some progress – attention needed

#### CEC Context

**There is a demonstrated acknowledgement within the CEC of the value and need for performance measurement. Although many of the foundations for performance measurement are in place, much of the focus has been directed at developing outcomes and indicators for individual projects, while higher-level performance measurement is still not clearly addressed.**

In February 2009, the CEC contracted a private consultant to assess how well its cooperative work program attained outcomes under the 2005–2010 Strategic Plan and to make recommendations for improving the CEC's measurement framework under the next Strategic Plan.<sup>52</sup> The consultant report included several recommendations on how the CEC could improve its performance measurement framework.<sup>53</sup> Most of the recommendations were directed at the project level, and while it appears that progress has been made on these recommendations, a framework that looks at higher-level results for the CEC is not yet in place.

The 2010–2015 Strategic Plan lays the foundations for a performance measurement plan, clearly identifying three priorities and the objectives that flow from these priorities. Furthermore, building on the recommendations from the consultant report, individual projects included in the Operational Plan 2011-2012 are linked to the objectives and priorities of the Strategic Plan. Individual projects also identify outcomes and indicators for measuring the achievement of those outcomes. Interviewees confirmed that individual projects identify performance indicators, but views were mixed as to the quality of available data. While some indicators were included, they may not have been tracked, and there were many incidents where only financial indicators and/or outputs were tracked and information on results or environmental impacts was limited.

Interviewees report that the need for a performance measurement framework that addresses the higher-level objectives of the CEC is well recognized and will be a focus in the upcoming planning period. This is consistent with the statement in the recently released Communications Strategy that “[t]he CEC also has an obligation to communicate the *bigger picture* – how and the extent to which the Commission is meeting the priorities, and environmental goals and objectives established by the CEC's Council and the North American Agreement on Environmental Cooperation...”<sup>54</sup>

#### Canada's Participation in the CEC

**A full picture of performance related to Canada's participation in the CEC requires both an assessment of the extent to which the CEC is meeting its overall**

<sup>52</sup> Eastern Research Group Inc. March 2010. *Assessing the CEC's Results and Performance*.

<sup>53</sup> Eastern Research Group Inc. for the Secretariat of the CEC. March 2010. *Recommendations for Improving the CEC's Performance Measurement Structure Under Its 2010-2015 Strategic Plan*.

<sup>54</sup> CEC. April 13 2012. 2010–2015 Communications Strategy. p. 3.

**objectives and an assessment of the degree to which the CEC addresses Canada’s specific interests and priorities. While the overall assessment will be most appropriately conducted at the trilateral level, further efforts are needed within EC to develop a feasible indicator for measuring the extent to which the CEC addresses Canada’s domestic interests and priorities.**

As indicated, a draft logic model was developed by the AEB and program management for the purpose of this evaluation (see Annex 3). While it was useful for the evaluation, developing and measuring indicators for all outcomes in the logic model on an ongoing basis would represent a significant effort on the part of program management and would be disproportionate to the benefits it would bring. Furthermore, ongoing measurement of similar outcomes to those identified in the logic model is better suited to an overall assessment of the CEC, which—as noted above—has been identified as a future area of focus.

In terms of identifying an appropriate level of performance measurement for EC, the recently revised Terms and Conditions for the Assessed Contribution identified the following expected result: “Canadian interests and priorities with respect to environmental concerns in North America, potential trade and environmental conflicts among the NAFTA partners, and the enforcement of domestic environmental laws in the three countries are addressed by the CEC.”<sup>55</sup> This expected result appropriately addresses key aspects of the CEC from a Canadian perspective; however, the evaluation found that it was unclear how the associated indicator, “percentage of Canadian negotiating positions which are incorporated by the Council and other constituent components of the CEC,” would be implemented. The indicator, as phrased, does not present a practical description of how it would be put into place for an organization that is based on cooperation, collaboration and consensus-based decision making.

### 4.3 Performance – Effectiveness

#### 4.3.1 Achievement of Outcomes

Evaluation Issue: Performance	Rating
8. To what extent have intended outcomes been achieved as a result of the program?	Appropriate progress – achieved

As noted, the direct, intermediate and final outcomes assessed in the evaluation have been categorized into six themes based on the key elements identified in the Article 1 NAAEC Objectives. The specific outcomes presented to interviewees, as well as the linkages between the outcomes and the themes, can be found in the logic model in Annex 3. The findings relevant to each theme are presented below.

<sup>55</sup> EC. March 2012. Terms and Conditions for Canada’s Assessed Contribution to the CEC. p. 3.

## i. Meeting Canada's obligations under the NAAEC

**A review of Canada's progress reports to the CEC for 2007, 2008 and 2009 reveal that, overall, EC is fulfilling each of its NAAEC obligations, as outlined in Part Two of the NAAEC.<sup>56</sup>**

The obligations of the Parties under the NAAEC are outlined in Part Two of the NAAEC. The NAAEC obligations fall under the headings listed below. A more complete summary of the specific obligations under each heading can be found in Annex 2.

- General commitments, e.g., commitments related to public availability of reports on the state of the environment, development of environmental emergency preparedness measures, promotion of education in environmental matters
- Levels of protection, e.g., ensuring that laws provide high levels of environmental protection
- Publication, e.g., ensuring that laws and regulations are published and made available
- Government enforcement action, e.g., effectively enforcing environmental laws and regulations
- Private access to remedies, e.g., investigating alleged violations of environmental laws and ensuring appropriate access to judicial proceedings
- Procedural guarantees, e.g., ensuring that administrative and judicial procedures are fair, open and equitable

## ii. Addressing environmental concerns in North America

### CEC Context

**Progress in addressing environmental concerns is generally viewed as moderate, although several positive achievements are noted and recent efforts to take a more focused approach in the Strategic Plan and Operational Plan should result in greater progress in this area in the future. Recognition was given to the high quality of scientific and benchmarking data provided by the CEC.**

A consultant report released in 2010 concluded that the CEC had successfully performed its initiatives as described in the 2005–2010 Strategic Plan, resulting in a number of key accomplishments.<sup>57</sup> Additionally, recent efforts made by the CEC to be more results-focused—including outlining clear priorities in the 2010–2015 Strategic Plan; identifying clear project selection guidelines; and developing an operational plan with fewer, but more focused projects—were seen as positive steps toward greater progress in this area in the future.

The majority of key informants felt that outcomes related to addressing environmental concerns were being achieved to a moderate extent, noting that more can always be done. Several positive achievements were identified both in the document review<sup>58</sup> and by interviewees. These are included below:

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<sup>56</sup> The last progress report available for review is for 2009; however, based on the nature of the obligations, these are issues that remain relatively consistent over time, so an analysis of 2010 and 2011 results would not be expected to reveal different findings.

<sup>57</sup> Eastern Research Group Inc. March 2010. Assessing the CEC's Results and Performance.

<sup>58</sup> EC, IAB. December 2011. EC's 2012 Plan of Engagement with the CEC. Internal document.

- an online platform on imports and exports of hazardous wastes and recyclable materials to facilitate the electronic exchange of information
- a regional strategy to reduce risks related to persistent and toxic substances such as dioxins, furans and hexachlorobenzene (chemical mapping)
- Taking Stock, an integrated North American Pollutant Release and Transfer registry, including the establishment of Mexico's program to promote data quality and completeness, and the establishment of sector-based initiatives and state-federal information exchanges
- *Scientific Guidelines for Designing Resilient Marine Protected Area Networks in a Changing Climate*, the first scientific guidelines worldwide to integrate climate change considerations in marine biodiversity conservation
- capacity building for monitoring compliance with the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES)
- The North American Bird Conservation Initiative, a continent-wide strategy to address declining bird populations
- recent work initiated to develop a black carbon inventory, to improve the comparability of emissions data across North America

Both the document review and comments from interviewees indicate that the CEC is well regarded in terms of the quality of scientific evidence and benchmarking data it produces. While the CEC has been responsible for producing a substantial base of information, several interviewees suggested that it does not necessarily take the next step to use these data to introduce measures that could have a direct positive environmental impact. One interviewee felt that greater progress in achieving environmental outcomes occurs at the bilateral level, but that even in these instances the contribution of the CEC is critical, as it lays the groundwork.

Work on climate change was identified as one of the few areas that may lead to collaboration for the future alignment of regulations. Currently these discussions are focused on improving comparability for the measurement of greenhouse gas emissions data.<sup>59</sup>

### Canada's Participation in the CEC

**Over the last five years, EC has made progress in the manner in which it consults with government officials to develop Canadian positions and ensure that the activities of the CEC address Canadian priorities. However, low awareness and visibility among a broader base of government officials may mean that opportunities that could benefit from the CEC are not always being brought forward.**

According to a presentation to EC senior management in December 2007, EC's IAB team had made efforts to influence improvements to the 2008 Operational Plan during trilateral negotiations, including aligning the Operational Plan to domestic priorities; supporting areas where the CEC can make a difference; and ensuring that cooperative work is results-oriented and relevant.<sup>60</sup> A presentation to EC senior management in February 2009 noted that "more than half" of the projects in the CEC's 2008 work

<sup>59</sup> CEC. November 2010. Strategic Plan of the CEC 2010–2015. p. 8.

<sup>60</sup> EC, IAB. December 6, 2007. Update on EC's Engagement with the CEC. p.10.

program related directly to Canadian national priorities.<sup>61</sup> An assessment conducted for this evaluation indicates that Canadian influence has increased over the past four years, as 84% of funding for projects in the 2011–2012 work plan relate to issues that are a priority for Canada.<sup>62</sup>

EC's efforts to consult widely with Canadian stakeholders and experts were noted by interviewees as a strength in ensuring that Canadian priorities are addressed. Furthermore, the inclusion of climate change as one of the three strategic priorities in the 2010–2015 Strategic Plan was identified as an example of how Canada's environmental priorities are addressed by the work of the CEC, since this was an issue of great importance to the Canadian delegation.

This evidence demonstrates a considerable improvement over the past five years, as the 2007 evaluation had found that there was no formal mechanism to develop Canadian positions at the CEC.<sup>63</sup> However, consistent with the 2007 evaluation findings, many respondents continue to speak of a sense of untapped potential of the CEC, related to a lack of awareness on the part of the public and major stakeholders (e.g., other government departments, environmental non-governmental organizations [ENGOS]).

### iii. Maintaining positive relations among the NAFTA partners regarding trade and the environment

#### CEC Context

**Interviewees reported that relations are generally very good among the Parties and that early concerns related to the “race to the bottom” have not materialized. There is very little direct focus on trade issues within the work of the CEC. Rather, trade is addressed through projects related to ensuring a level playing field (e.g., benchmarking, data tracking) or to sustainable development.**

When NAFTA was first introduced, concerns were raised about the creation of trade imbalances as a result of discrepancies in environmental regulations or policies among the NAFTA partners (creation of pollution havens or a “race to the bottom”). This evaluation confirms the findings of the 2007 evaluation and concludes that these concerns have been unfounded.<sup>64</sup> Moreover, as described further in theme vi below, relations among the Parties are very good.

Several respondents noted that trade has not been a particular focus of the work of the CEC. Rather, as evidenced by a review of the projects in the operational plans, the focus is more on environmental issues and the linkages between the economy and the environment, including the notion of sustainable development. The priority area within the CEC's 2010–2015 Strategic Plan with the greatest link to trade issues is “greening the economy in North America.” The CEC's Working Group on Trade and the Environment is responsible for identifying which projects to include in the Operational Plan under this priority.

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<sup>61</sup> EC, IAB. February 25, 2009. Advancing on EC's Plan of Engagement with the CEC. p.12.

<sup>62</sup> Assessment of 2011–2012 Operational Plan projects was conducted with IAB program management input.

<sup>63</sup> EC, AEB. April 2007. Evaluation of Canada's Participation in the CEC. p. 24.

<sup>64</sup> EC, AEB. April 2007. Evaluation of Canada's Participation in the CEC. p. 23.

#### iv. Compliance with and enforcement of domestic environmental laws among the NAFTA partners

**Interviewees noted the Parties' support for seeing environmental laws enforced and noted positive cooperation among the three countries on the Working Group on Enforcement. The SEM process is a useful vehicle for identifying priority areas of concern for enforcement, although several interviewees felt that its impact was limited by implementation issues, some of which have now been addressed by the SEM modernization process.**

Interviewees noted that the Working Group on Enforcement is functioning well and that its agenda includes strengthening cooperation on enforcement, as identified in the Enhancing Environmental Law Enforcement in North America project listed in the 2011–2012 Operational Plan. Interviewees involved in this project felt that cooperation results in a level of compliance and enforcement that is stronger both for the individual countries and for the region as a whole. Several respondents noted that capacity-building projects have contributed to Mexico making especially noteworthy gains in this area.

The SEM process was seen as a positive vehicle for identifying priority areas of concern by the public to ensure that enforcement is taking place as planned. However, several key informants identified concerns related to a perceived desire on the part of the Parties to use the Party response in the SEM process to ensure that they are presented in the most positive light. Additionally, as previously noted, complexity and timeliness issues have also had a negative impact on the degree to which the SEM process is used, although the SEM modernization process has addressed these issues.

As noted under theme ii above, on addressing environmental concerns in North America, two compliance/enforcement-related projects to which Canada has been an active contributor are listed among the notable achievements of the CEC. These were an online platform on imports and exports of hazardous wastes and recyclable materials to facilitate the electronic exchange of information,<sup>65</sup> and capacity building for monitoring compliance with the Convention on International Trade in Endangered Species of Wild Fauna and Flora.<sup>66</sup>

#### v. Promotion of transparency and public participation

##### CEC Context

**Transparency and public participation in the activities of the CEC are realized through several channels. Recent efforts to make use of technology and social media to enhance public engagement were viewed favourably by interviewees. Consistent with findings from the 2007 evaluation, however, public participation remains limited due to the low level of awareness of the CEC among the general public and potential stakeholders. After many years of discussion, a communications strategy was recently finalized to address long-standing concerns about public awareness and engagement.**

NAAEC Article 1 (h) states that one of the objectives of the NAAEC is to promote transparency and public participation in the *development of environmental laws*,

<sup>65</sup>Tracking hazardous waste across North American Borders goes electronic.

[http://www.cec.org/Page.asp?PageID=122&ContentID=25234&SiteNodeID=1183&BL\\_ExpandID=177](http://www.cec.org/Page.asp?PageID=122&ContentID=25234&SiteNodeID=1183&BL_ExpandID=177)

<sup>66</sup>Strengthening Wildlife Enforcement. <http://www.cec.org/Page.asp?PageID=1225&SiteNodeID=601>

*regulations and policies.* This concept is an underlying feature of the obligations of the NAAEC, as outlined in Articles 2-7 (see summary in Annex 2); however, it is not significantly addressed in the day-to-day work of the CEC as outlined in the operational plans. Many key informants reported that developing environmental laws, regulations and policies was not the role of the CEC, but that it should be regarded as the responsibility of the individual Parties, through their own national regulatory processes, e.g., the *Canada Gazette* process in Canada. Interviewees thus focused their comments relative to this outcome on the promotion of transparency and public participation *within the activities of the CEC*, including CEC mechanisms for supporting transparency and public engagement.

With respect to transparency and public participation in the work of the CEC, the following are key mechanisms employed by the Commission:

- the JPAC, including regular public meetings
- the CEC website<sup>67</sup>
- CEC annual reports – although there are significant delays in publishing these, with the last CEC annual report being published in 2006<sup>68</sup>
- seeking public input/comments on documents such as the Strategic Plan.

The JPAC was generally seen by interviewees as performing an effective role in encouraging greater transparency and public participation, including exploring different formats (e.g., social media). The JPAC commissioned an effectiveness review of its efforts. Several of the review's recommendations focused on improved access and integration between the JPAC and the other CEC bodies. It was also recommended that the CEC "[e]xpand public outreach and increase the effectiveness of JPAC's interactions with the public and its stakeholders by continuing to experiment with the webinar concept and by making better use of technology as an instrument for public discussion, consensus building and assessing public opinion."<sup>69</sup> This recommendation was acted upon at the 2012 Council session, where a town-hall format using social media for public consultation was positively received.

Although it was acknowledged that the public can access a substantial amount of information through the CEC website (including detailed project information and other planning information and reports), this will not happen if individuals and organizations are not first aware of the CEC. Interviewees acknowledge that even among the environmental community, there remains a low level of awareness of the CEC or NAAEC and its work, and that the participation that does exist tends to come from the same ENGOs and individuals (such as former CEC staff). Many respondents are concerned that this lack of public awareness is having a negative impact on public participation. As early as 2007, the CEC itself acknowledged the importance of effective communications for its success.<sup>70</sup> For several years, the Parties have been engaged with the Secretariat to develop a communications strategy to help address this problem. The Strategy was ultimately finalized in April 2012, and implementation is beginning.

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<sup>67</sup> Commission for Environmental Cooperation. <http://www.cec.org/>

<sup>68</sup> Canada has submitted its 2009 progress report (Party progress reports are a key component of the overall CEC Annual Report) to the CEC and is working on its 2010 and 2011 reports, with the aim of being up to date with its reporting by the end of 2012. The US and Mexico have submitted their annual progress reports to 2006 and 2007, respectively.

<sup>69</sup> JPAC, CEC. January 2010. JPAC Effectiveness Review Report.

<sup>70</sup> EC, AEB. April 2007. Evaluation of Canada's Participation in the CEC. p.15.

Interviewees acknowledged that the SEM process also makes a contribution in this area, as it provides the public with the opportunity to flag areas of concern. However, consistent with findings from the 2007 evaluation,<sup>71</sup> complexities in the SEM process and the fact that submissions have not been processed in a timely manner have limited its use as a tool for public engagement. The recently introduced SEM modernization guidelines aimed at reducing timelines and improving communication are viewed by interviewees as a positive step in support of this outcome.

### **Canada's Participation in the CEC**

**Within Canada, public input is viewed as being most efficiently managed through the JPAC's processes for public consultation, as opposed to establishing an additional national advisory committee.**

Although the NAAEC outlines that each Party has the option to convene a national advisory committee (NAC)—composed of members of its public, including representatives of non-governmental organizations and persons (Article 17)—to advise it on “the implementation and further elaboration of [the NAAEC],” Canada has not had a NAC since 2006 when the previous members' terms expired.<sup>72</sup> The NAC is intended to provide an additional, country-specific forum for public input to the Council, beyond that provided by the JPAC. It is the view of EC program management that ensuring active public participation is most efficiently provided through mechanisms for public consultation that are managed by the JPAC and outlined in the Public Consultation Guidelines.<sup>73</sup> No other interviewees identified any gaps associated with the current absence of a NAC in Canada.

As discussed within the broader context of the CEC, low levels of awareness among the public and potential stakeholders limit the degree to which the CEC is leveraged. Tactics stemming from the recently introduced Communications Strategy are intended to contribute toward addressing this issue in all three countries.

#### **vi. Increased cooperation on environmental protection among the NAFTA partners**

**Increased cooperation is viewed by many interviewees as one of the greatest strengths of the CEC, supporting the ability for the Parties to work together and coordinate activities for an improved North American environment.**

Consistent with findings from the 2007 evaluation, there was general consensus among interviewees on the benefits of enhanced North American environmental cooperation.<sup>74</sup> Interviewees also noted that the CEC provides an opportunity for officials at all levels to meet and get to know each other. It offers a venue for Ministers and senior-level officials to meet privately and semi-privately, and to build relationships and create opportunities for collaboration and sharing of best practices at the working level. Several projects were identified as positive examples of cooperation, including management of hazardous chemicals, e-waste, SEM modernization and training wildlife inspectors.

<sup>71</sup> EC, AEB. April 2007. Evaluation of Canada's Participation in the CEC. p. 23.

<sup>72</sup> The US is the only Party that currently has a NAC.

<sup>73</sup> CEC. no date. Public Consultation

Guidelines.[http://www.cec.org/Page.asp?PageID=1366&ContentID=933&SiteNodeID=536&BL\\_ExpandID=](http://www.cec.org/Page.asp?PageID=1366&ContentID=933&SiteNodeID=536&BL_ExpandID=)

<sup>74</sup> EC, AEB. April 2007. Evaluation of Canada's Participation in the CEC. p. 20.



Interviewees also identified that improved relationships among the Parties extend to other areas of cooperation outside the CEC. As an organization based on cooperation and consensus-based decision making, the CEC is a friendly forum for Ministers and officials at other levels of management involved in the CEC, allowing them to build relationships while discussing better protection of the environment. This can have a positive spin-off for other fora that may have a tendency to be more difficult and tense.

While the majority of interviewees were very positive about the level of achievement of this outcome, external stakeholders had mixed views, with a few external interviewees expressing frustration that more could be accomplished if the Parties truly operated in the spirit of cooperation.

#### 4.3.2 External Factors/Unintended Outcomes

**External factors identified primarily relate to the challenges associated with addressing issues trilaterally: differences in the status of alternative representatives and GSC members among the Parties and their related decision-making abilities and approval timelines, and changes in government administration of the Parties. No unintended outcomes were identified.**

The alternate representatives and GSC members for each Party are at different bureaucratic or political levels within their countries' systems: the alternate representative and GSC member are political appointees in Mexico, both are non-political in Canada, and in the US the alternate representative is a political appointee while the GSC member is not. These differences influence the nature of interactions between the Parties at the CEC and mean that Party representatives have different decision-making authorities. The amount of time required to obtain approvals also differs among the Parties—it is longer in Canada (as set out by a departmental service standard) than in the US and Mexico. Finally, the Parties may also have different and changing priorities that can be further modified if a new government is elected in one or more of the CEC countries.

## 5.0 CONCLUSIONS

Canada's participation in the CEC addresses an international obligation that stems from being a signatory to the NAAEC, a side agreement to NAFTA. The CEC addresses environmental issues and priorities of concern to Canada that require broader global participation and assists Canada in integrating its environment and economic/trade agendas. The CEC accomplishes this while enhancing the level of cooperation between—and strengthening relationships with—its NAFTA partners, which in turn brings additional benefits for discussions in other related fora. As the Canadian agency providing leadership to fulfill Canada's international obligation, EC's activities in support of Canada's participation in the CEC are consistent with federal roles and responsibilities. Additionally, EC's work is consistent with roles related to providing federal coordination and to the preservation and enhancement of the quality of the national environment as outlined in the *Department of the Environment Act*.

During the past five years there has been a substantial effort on the part of the CEC, with EC as a valuable contributor, to improve the efficiency and effectiveness of the CEC and ensure value for Canada's US\$3 million investment through its annual assessed contribution. In particular, efforts to focus, streamline and measure progress on the cooperative work program; simplify and improve timelines for the SEM process; develop

a communications strategy to improve public awareness and engagement; and clarify the terms of operation for the CEC's various working groups, are expected to yield improved results for the CEC. The next few years will be important for the CEC as progress on these initiatives continues and they begin to demonstrate results. During this time, it will be important to ensure that projects under the Operational Plan rigorously adhere to policy direction and selection criteria; that frequent and open communication occurs between the CEC bodies, in particular between the GSC and the Secretariat; and that the Communications Strategy is put into action.

Within EC, the IAB team responsible for the CEC is highly regarded and has implemented internal processes that have resulted in Canadian officials having a clear understanding of both the CEC context and of their own responsibilities in contributing to the work of the CEC and ensuring that Canadian priorities are addressed. While the efficiency and effectiveness of working groups are expected to continue to improve as the work program evolves and working group mandates are clarified, there is an identified and growing concern associated with ensuring the ongoing effective participation of Canadian experts in CEC meetings that take place outside of Canada. Such participation is necessary in order to leverage Canadian expertise and ensure continued contribution to trilateral decision making.

For the past several years, the CEC and EC have acknowledged the need for a clear performance measurement strategy. The CEC made progress in terms of establishing project-level indicators. The need to continue to improve these measures and to develop and measure high-level indicators of success is an identified priority for CEC and EC program management. At the domestic level, EC has identified an appropriate expected result related to addressing Canada's priorities and interests; however, more work is required to define how this result will be measured.

Appropriate progress has been made on the CEC's outcomes related to concepts identified in the NAAEC: meeting Party obligations, maintaining positive relations among the NAFTA partners regarding trade and the environment, ensuring compliance with environmental laws, promoting transparency and public participation, and increasing cooperation. With respect to environmental outcomes, there have been some notable achievements, and Canadian priorities are represented in an increasing percentage of CEC projects. Nonetheless, there is a widely held view that the CEC could be better leveraged to achieve its full potential. EC has made progress in the manner in which it consults with government officials to develop Canadian positions and to ensure that the activities of the CEC address Canadian priorities. However, low awareness and visibility among a broader base of government officials may mean that opportunities that could benefit from the CEC are not always being brought forward.

## 6.0 RECOMMENDATIONS AND MANAGEMENT RESPONSE

The following recommendations are directed to the Assistant Deputy Minister, International Affairs Branch, as the senior departmental official responsible for the management of Canada's participation in the CEC:

**Recommendation 1: Establish a mechanism to improve awareness and better engage other federal government departments in the work of the CEC.** The

evaluation findings suggest that enhanced awareness and engagement of other government departments (OGDs) could help to leverage the resources of the CEC so that its full potential is realized for the benefit of Canadians. Better engagement may enable OGDs (e.g., Foreign Affairs and International Trade Canada [DFAIT], Fisheries and Oceans Canada [DFO], Natural Resources Canada [NRCan], and Health Canada [HC]) to contribute more in identifying Canadian interests and priorities for discussion at the CEC, to collaborate more with the US and Mexico on environmental matters, and to benefit more from the work of the CEC. It could also involve identifying opportunities to include the CEC in discussions at Canadian federal government fora.

**Management Response to Recommendation 1**

The ADM of the International Affairs Branch agrees with the recommendation.

Management Action		
The Americas Directorate will establish a director-level interdepartmental network of relevant federal departments to bring their perspective into key CEC documents—such as the 2013–2014 Operational Plan, 2013–2014 NAPECA projects, and the 2015–2020 Strategic Plan—and seek opportunities to engage experts from other government departments, as appropriate in the cooperative work plan of the CEC. Through this engagement, Environment Canada will seek to build domestic and international awareness of the CEC. As appropriate, this director-level network may be supplemented by senior-level engagement.		
Timeline	Deliverable(s)	Responsible Party
<b>BEGIN:</b> December 2012	Establish director-level interdepartmental network including, but not limited to, Agriculture Canada, NRCan, Health, DFAIT, Canadian Food Inspection Agency, and Canada Border Services Agency	Director – Latin and South America
<b>ONGOING:</b> Quarterly	Convene quarterly meetings to promote the CEC across the federal family and seek input into the development of the next operational plan, strategic plan and NAPECA	
	Seek opportunities to lever ongoing trilateral work of OGDs, encourage them to participate in the CEC’s cooperative work program and provide a forum to monitor the implementation of projects listed in the Operational Plan	

**Recommendation 2: Refine the performance indicator in the terms and conditions for EC’s assessed contribution to the CEC to more clearly define how the degree to which Canadian interests and priorities are addressed by the Commission will be measured.** The terms and conditions identify the key result that “Canadian interests and priorities with respect to environmental concerns in North America, potential trade and environmental conflicts among the NAFTA partners, and the enforcement of domestic environmental laws in the three countries are addressed by the CEC.” The associated performance indicator is the “percentage of Canadian positions which are incorporated by the Council and other constituent components of the CEC.” In the

course of conducting this evaluation, it became apparent that the indicator, as phrased, does not present a clear definition of how this would be put into action and calculated. It is therefore recommended that the IAB refine this indicator so that useful performance data on this key result can be regularly collected and reported.

**Management Response to Recommendation 2**

The ADM of the International Affairs Branch **agrees** with the recommendation.

Management Action		
<p>The work of the CEC is guided by the Strategic Plan (5 years) and the Operational Plan (2 years). Decisions are made by consensus. Canada negotiates with the U.S. and Mexico to ensure that the CEC’s priorities align with those of the Government of Canada, and that Environment Canada’s international work program complements and reinforces our national agenda.</p> <p>Canada’s objective is to maximize cooperative activities that advance Canadian interests. To date, Canada has measured the value of our contribution through funding that, though not ideal, has provided us with a measure for our contribution. We will examine developing a more sophisticated measure, drawing upon work in this area by the Treasury Board of Canada Secretariat (TBS) and others. In the interim Canada will leverage the Department’s one-third (US\$3 million) annual contribution to the CEC’s budget. Canada will <i>measure the degree to which Canadian interests and priorities are addressed by the Commission</i> by determining the percentage of the Council-approved CEC Operational Plan budget that is allocated to projects that align with Canada’s national objectives.</p>		
Timeline	Deliverable(s)	Responsible Party
<p><b>ONGOING:</b> Starting in 2013</p>	<p>Upon approval of the 2013–2014 and 2015–2016 operational plans, the IAB will calculate the percentage of the budget allocated to projects under the Operation Plan that align with Canada’s national objectives.</p>	<p>Director General – Americas Division</p>

**Recommendation 3: Explore ways to ensure the ongoing participation and attendance of Canadian federal government experts in the work of the CEC.**

The evaluation identified that the work of the CEC is being affected by challenges impacting the ability of Canadian federal government experts to participate in CEC meetings held outside of Canada, particularly for departmental branches with working group members contributing to CEC projects under the Operational Plan. Given the trilateral nature of the CEC, decisions cannot be made without the effective participation of all three Parties. The Secretariat provides support to government participants from the other Parties; however, an interpretation of the TBS *Policy on Transfer Payments* has precluded Canadian government experts from accepting this support. Given the impact this is having on the work of the CEC, with meetings either not fully benefitting from the input of Canadian experts, or delays in decision making introduced when all three Parties are not in attendance, the ADM IAB should explore options to support regular and predictable attendance at these meetings.

**Management Response to Recommendation 3**

The ADM of the International Affairs Branch agrees with the recommendation.

<b>Management Action</b>		
<p>As noted in the management response to Recommendation 2, the International Affairs Branch will actively seek to align the CEC's agenda with Environment Canada's priorities to ensure complementarity in EC's domestic and international work programs. In so doing, it is expected that EC officials will be inclined to travel in support of CEC when it offers an opportunity to engage with their US and Mexican partners on issues of national significance. Consistent with the recent guidance from the Treasury Board of Canada Secretariat, international travel will be reduced and engagement will be supported through new technologies, such as videoconferencing.</p> <p>As noted in the evaluation, U.S. and Mexican working group members are able to access the \$9 million contribution provided by the three parties to travel on CEC business. To date, Canada has not had access to these funds, owing to an interpretation of the TBS <i>Policy on Transfer Payments</i>. The International Affairs Branch will follow up with EC Finance and with the Treasury Board of Canada Secretariat to confirm this interpretation of the <i>Policy on Transfer Payments</i> and to assess the feasibility of gaining equal Canadian access to these travel funds.</p>		
<b>Timeline</b>	<b>Deliverable(s)</b>	<b>Responsible Party</b>
Winter/Spring 2013	Explore interpretation of <i>Policy on Transfer Payments</i> with EC Finance and TBS with a view to allowing Canadian officials to equally and effectively participate in the implementation of the 2013–2014 Operational Plan (to be approved in June 2013)	Director – Latin America

## Annex 1: Operational Plan 2011–2012 Projects

Organized by Alignment with the  
2010–2015 Strategic Priorities and Objectives<sup>75</sup>

<b>HEALTHY COMMUNITIES AND ECOSYSTEMS</b>
<b>Improved environmental health of vulnerable communities in North America</b>
<ul style="list-style-type: none"> <li>Improving indoor air quality to reduce exposure to airborne contaminants, including fine particulates and chemical compounds in Alaskan Native populations and other indigenous communities in North America</li> <li>Capacity building to improve the environmental health of vulnerable communities in North America</li> </ul>
<b>Increased resilience of shared ecosystems at risk</b>
<ul style="list-style-type: none"> <li>North American Grasslands: Management initiatives and partnerships to enhance ecosystem and community resilience</li> <li>Big Bend-Rio Bravo Collaboration for Transboundary Landscape Conservation/North American Invasive Species Network</li> <li>Engaging communities to conserve marine biodiversity through the North American Marine Protected Areas Network</li> </ul>
<b>Pollutant Release and Transfer Registers (PRTR)</b>
<ul style="list-style-type: none"> <li>Tracking pollutant releases and transfers in North America (North American PRTR Project)</li> </ul>
<b>Enhanced regional approach to sound management of chemicals</b>
<ul style="list-style-type: none"> <li>Approaches for identifying and tracking chemicals in commerce in North America</li> <li>Risk reduction strategies to reduce the exposure to chemicals of mutual concern</li> <li>Environmental monitoring and assessment of chemicals of mutual concern</li> </ul>
<b>Strengthening regional environmental and wildlife law enforcement</b>
<ul style="list-style-type: none"> <li>Enhancing environmental law enforcement in North America</li> </ul>
<b>CLIMATE CHANGE – LOW-CARBON ECONOMY</b>
<b>Improved comparability of emissions data, methodologies and inventories among the three North American partners</b>
<ul style="list-style-type: none"> <li>Improving comparability of emissions data, methodologies and inventories in North America</li> </ul>
<b>Strengthened engagement of experts and information sharing</b>
<ul style="list-style-type: none"> <li>Ecosystem carbon sources and storage: Information to quantify and manage greenhouse gas emissions reductions</li> <li>North American on-line, interactive informational platform on climate change</li> </ul>
<b>GREENING THE ECONOMY IN NORTH AMERICA</b>
<b>Improved private-sector environmental performance in North America</b>
<ul style="list-style-type: none"> <li>Improving conditions for green building construction in North America</li> <li>Improving the economic and environmental performance of the North American automotive industry supply chain</li> <li>Sound management of electronic wastes in North America</li> </ul>

<sup>75</sup> CEC. Operational Plan of the CEC 2011–2012, p. 7.

## Annex 2: Excerpts from the NAAEC

### Article 1. Objectives

- a) Foster the protection and improvement of the environment in the territories of the Parties for the well-being of present and future generations.
- b) Promote sustainable development based on cooperation and mutually supportive environmental and economic policies.
- c) Increase cooperation between the Parties to better conserve, protect and enhance the environment, including wild flora and fauna.
- d) Support the environmental goals and objectives of NAFTA.
- e) Avoid creating trade distortions or new trade barriers.
- f) Strengthen cooperation on the development and improvement of environmental laws, regulations, procedures, policies and practices.
- g) Enhance compliance with, and enforcement of, environmental laws and regulations.
- h) Promote transparency and public participation in the development of environmental laws, regulations and policies.
- i) Promote economically efficient and effective environmental measures.
- j) Promote pollution prevention policies and practices.

### Articles 2–7. Obligations (summarized)

#### Article 2: General Commitments

1(a) Prepare, and make publicly available, reports on the state of the environment, (b) develop and review environmental emergency preparedness measures, (c) promote education in environmental matters, (d) further scientific research and technology development, (e) assess environmental impacts and promote use of economic instruments for the efficient achievement of environmental goals. 2. Consider implementing NAAEC recommendations in law. 3. Consider prohibiting the export of banned pesticides or toxic substances to the other Parties.

#### Article 3: Levels of Protection

Ensure that laws provide high levels of environmental protection and strive to continue to improve them.

#### Article 4: Publication

Ensure that laws, regulations, etc. respecting NAAEC matters are published and made available.

#### Article 5: Government Enforcement Action

1. Effectively enforce environmental laws and regulations. 2. Ensure that enforcement proceedings are available under law to sanction or remedy violations of laws and regulations.

#### Article 6: Private Access to Remedies

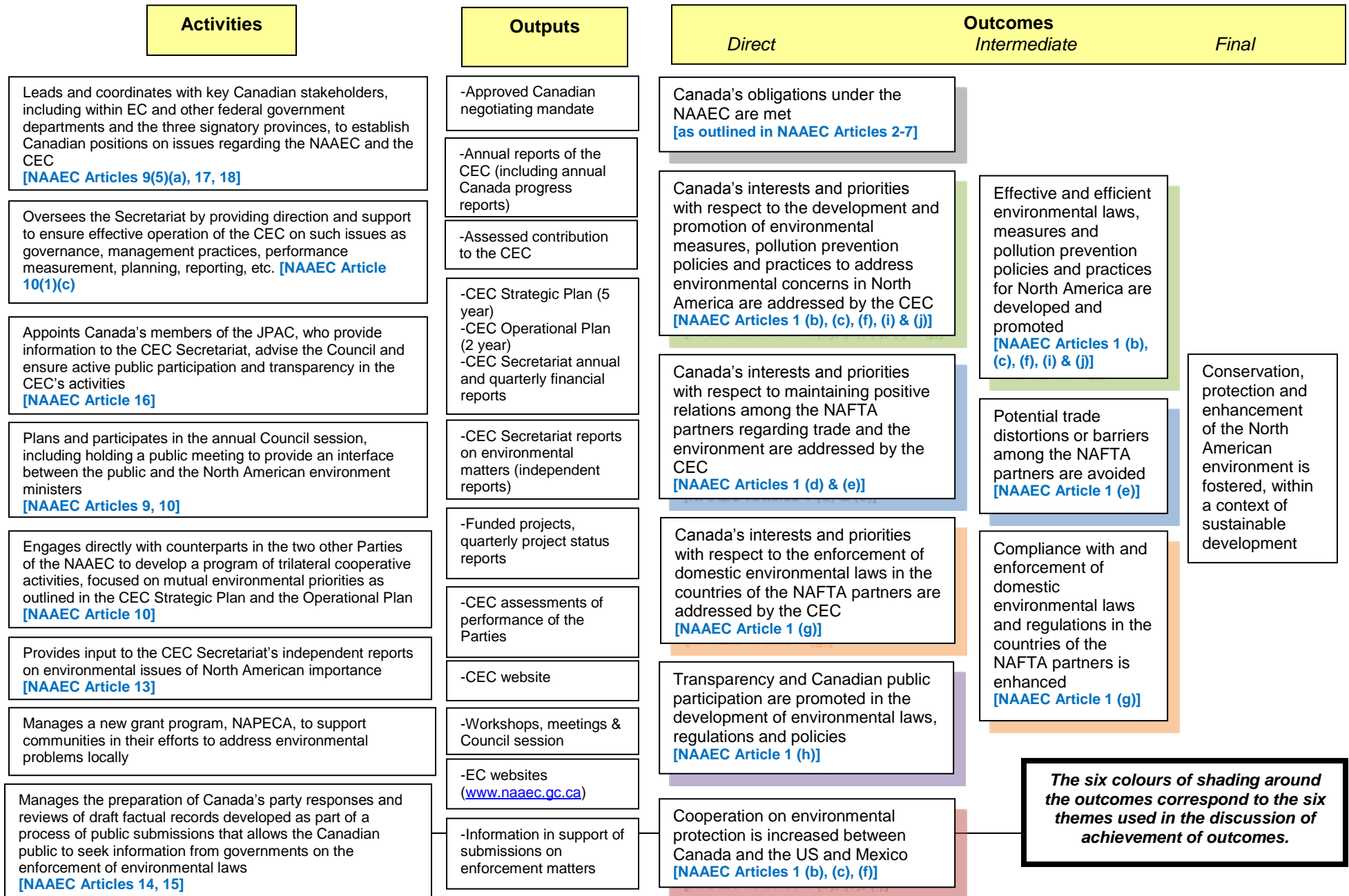
Investigate alleged violations of environmental laws and regulations, ensure appropriate access to judicial proceedings, and ensure appropriate access to remedies for violations.

#### Article 7: Procedural Guarantees

Ensure that administrative and judicial procedures are fair, open and equitable.

### Annex 3: Draft Logic Model Used for Evaluation

Developed to support the evaluation of Canada's participation in the CEC, 2012 – not approved for other purposes



**The six colours of shading around the outcomes correspond to the six themes used in the discussion of achievement of outcomes.**



## Annex 4: Key CEC Initiatives Supporting Improved Efficiency and Effectiveness

The following is a summary of key initiatives aimed at improving efficiency and effectiveness undertaken during the study period.

Date	Initiative
2008	<b>CEC project selection criteria approved.</b> Council approves project selection criteria to provide focus to CEC work plan. These criteria are used to guide the selection of projects beginning with the 2009 Operational Plan.
February 2009	<b>Assessment of outcome achievement and plans to improve performance measurement.</b> CEC hires a contractor to assess how well its cooperative work program attained its outcomes under its 2005-2010 Strategic Plan and to make recommendations for improving the CEC's measurement framework under its 2010–2015 Strategic Plan.
June 2009 (15th anniversary of the NAAEC)	<b>Denver Statement outlining new policy direction.</b> The Parties make a commitment to renew, revitalize and refocus the CEC. <ul style="list-style-type: none"> <li>• Request for proposal to examine the governance of the CEC to enhance accountability, improve transparency of the Secretariat's activities, ensure alignment with Council priorities and set clear performance goals</li> <li>• New policy direction, focused on three environmental priorities: i) healthy communities and ecosystems; ii) climate change – low carbon economy; iii) greening the economy in North America</li> <li>• Agreement on operational changes including streamlining the annual cooperative work program, modernizing the public submission process, reprioritizing and increasing the transparency of expenditures, providing clear direction to future executive directors at the start of their terms, and strengthening the supportive functions of the Secretariat</li> </ul>
September 2009	<b>First mandate letter issued to Secretariat Executive Director.</b> Canadian Executive Director of the Secretariat is hired and the first mandate letter is provided (Executive Director position is a three-year term, rotating among the three Parties).
March 2010	<b>Publication of the Report on the Accomplishments of the CEC Under the 2005–2010 Strategic Plan.</b>

May 2010	<p><b>Governance proposal finalized.</b> Responding to direction from the Denver Statement, the GSC prepares a governance proposal with emphasis on examining and adjusting the structure and functional model of the Secretariat, in order to deliver on priorities agreed to by Council. Key concepts identified included the following:</p> <ul style="list-style-type: none"> <li>• the need for a new structural model for the Secretariat representing a move away from staff managing projects towards a staff equipped to “support and facilitate the work of the Parties”<sup>76</sup></li> <li>• streamlining the cooperative work program, including incorporating project selection criteria into the Strategic Plan, focusing on fewer and inter-related projects with more significant results, changing the work program and budget planning cycle from annual to biennial, and implementing a performance measurement framework</li> <li>• a recommendation to Council to reinstate the community grant program</li> <li>• the need for a review of the SEM process to make it more efficient and timely, after which an outreach campaign should be launched to improve the public’s understanding of the purpose of the SEM process</li> <li>• reprioritizing and increasing the transparency of expenditures by the Secretariat, including addressing the accrued surplus, the implementation of policies related to Secretariat and JPAC travel and hospitality expenses, and budget forecasting and reporting</li> <li>• clear direction to future executive directors at the start of term, highlighting areas that require special attention during their mandate</li> </ul>
July 2010	<p><b>2010–2015 Strategic Plan finalized.</b> The Strategic Plan lays out the new policy direction set by Council to ensure that the CEC is focused on a select few trilateral environmental priorities of North America and endorses the changes outlined in the Governance Proposal.</p>
2011	<p><b>NAPECA grants program launched.</b> Community grant program reinstated under the new name NAPECA (previous grant program had been terminated in 2003 as a result of budget constraints)</p>
April 2012	<p><b>2010–2015 Communications Strategy finalized.</b> Primary goal of the strategy is to raise awareness of the Council’s priorities that underlay the CEC’s 2010–2015 Strategic Plan and the evidence of progress in support of those priorities. It also identifies general approaches to communicating other aspects of the CEC’s work such as the SEM process and Secretariat independent reports.</p>
July 2012	<p><b>SEM modernization guidelines approved by Council.</b> New guidelines are introduced, intended to clarify and simplify the SEM process, and reduce timelines from approximately 5–7 years to 2.5 years.</p>
July 2012	<p><b>Council direction to continue to focus and streamline the work of the CEC.</b> Council provides direction for the selection of 3–4 larger-impact projects for the 2013–2014 Operational Plan.</p>
September 2012	<p><b>Draft working groups’ terms of operation “close to final.”</b> Review of working groups’ structure and terms of operation to clarify roles and responsibilities and provide greater consistency across the various working groups.</p>

<sup>76</sup> CEC. Proposal to Examine the Governance of the CEC and the Implementation of the NAAEC. p. 3.

## Annex 5: Summary of Findings<sup>77</sup>

Evaluation Question (EQ)	Appropriate progress – achieved	Some progress – attention needed	Little progress – priority for attention
<b>Relevance</b>			
EQ1 – Continued Need	√		
EQ2 – Alignment with Priorities	√		
EQ3 – Consistency with Roles and Responsibilities	√		
<b>Performance</b>			
EQ4 – Design			
EQ5 – Governance		√	
EQ6 – Delivery	√		
EQ7 – Performance Measurement		√	
EQ8 – Achievement of Outcomes	√		

<sup>77</sup> The ratings and their significance are outlined in Table 2 on page 8.