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An Evolving Environment: Environmental
Information and Public Participation

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An Evolving Environment:

A discussion of the dispersal of environmental information and public participation

By Kami Francis-Nishima

Part I – Introduction

The environment and its natural resources play an essential role in securing a safe, healthy and productive life for our global community. As such, the ever increasing concern for the environment has prompted citizenry to demand -- and governments to grant -- opportunities to be involved in the decisions that will affect them. This concern has been at the forefront of the international community and proven to be a wedge issue allowing the public to open up government processes and make society more participatory and accountable.

Thus, while most environmental campaigns continue to emphasize traditional substantive concerns such as wildlife and hazardous waste, environmental organizations and agencies increasingly turn to the decision making processes that affect the environment. The result has been a paradigm shift in which the dispersal of environmental information, once considered a valuable private commodity and hoarded accordingly, has come to be seen as an integral part of an open, vibrant, and sustainable political and economic structure.¹

¹ Carl Bruch and Roman Czebiniak. Globalizing environmental Governance: Making the leap from regional initiatives on Transparency, participation and accountability in Environmental Matters

This paradigm shift represents the emerging international conscience that seeks to guarantee an individual's ability to access information, participation and justice -- thereby a voice in the decisions that may affect them.

Access to information -- usually defined broadly and with a presumption in favor of disclosure -- ensures that people can know the actual and threatened environmental impacts of particular actions, and respond appropriately.²

Access to participate in governmental decision-making processes allows the public to be involved in the development of projects and policies, as well as the implementation of environmental provisions. *Access to justice* guarantees that these procedural rights are not just paper pronouncements, but concrete requirements that people can enforce in courts and administrative bodies.³

The intent of this paper is not to provide a detailed analysis or history of public's access to information, participation and justice, but more so, provide an understanding of what the international tools are and how these tools contribute to addressing the public's environmental concern. With this said, the paper will address Canada's involvement in such international instruments and briefly how our nation has chosen to contribute, implement and progress -- or the contrary, how our nation has chosen not to.

² Carl Bruch and Meg Filbey, *Emerging Norms of Public Involvement*, from *The New Public*.

Part II - International Instruments that govern public access and participation

The public's access to information, participation and justice have evolved steadily over the last few decades and developed a cyclical learning relationship between the various international, regional and national efforts. Global declarations and conventions provide the authority to, and in some cases mandate regional and national efforts to implement the internationally recognized public access principles. In turn, the regional and national agreements provide experiential learning opportunities and best practices for future global instruments to adopt and demonstrate those provisions to avoid.⁴

This iterative and reciprocal process has enabled governments to learn from the successes and disappointments of various nations, regions and contexts; and from this apply the tested principles in their own countries.⁵

The following is a list of the discussed international instruments that have been a part of the public's evolving access to information, participation and justice.⁶ Canada's involvement is noted when a party to the instrument.

1948 Universal Declaration on Human Rights, proclaimed the generalized rights of access to information and justice. (Canada is a signatory to this declaration)

1966 International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly in New York on 16 December 1966.2 Article 19

³ Ibid

⁴ Ibid

⁵ Ibid

⁶ Unless otherwise noted the list of international instruments are sourced from Stephen Stec and Susan Casey-Lefkowitz, the The Aarhus Convention: An Implementation Guide at <http://www.unep.org/env/pp/implementation%20guide/english/part1.pdf>

deals with the “freedom to seek, receive and impart information”. (Canada is a signatory to this covenant)

1972 Stockholm Declaration on the Human Environment: principle 1 linked environmental matters to human rights and set out the fundamental right to “an environment of a quality that permits a life of dignity and well-being”.

1980 Salzburg Declaration on the Protection of the Right of Information and of Participation, adopted at the Second European Conference on the Environment and Human Rights at Salzburg (Austria) on 3 December 1980.³

1981 African Charter of Human and Peoples’ Rights, adopted at Algiers on 26 June 1981. An early reference to the right to a satisfactory environment favourable to human development.

1981 Council of Europe Recommendation No. (81) 19 of the Committee of Ministers to member States on the access to information held by public authorities, adopted at Strasbourg (France) on 25 November 1981.

1982 World Charter for Nature, requires public disclosure of conservation information “in time to permit effective consultation and participation” as well as “the opportunity [for all persons] to participate, individually or with others, in the formulation of decisions of direct concern to their environment, and [to] have access to means of redress when their environment has suffered damage or degradation.”⁷ (Canada is a signatory to this charter)

1985 Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment.

1986 Council of Europe resolution No. 171 of the Standing Conference of local and regional authorities of Europe on regions, environment and participation, adopted at Strasbourg on 14 October 1986.

1987 Our Common Future: Report by the World Commission on Environment and Development (Brundtland Report) was a catalyst for the 1992 United Nations Conference on Environment and Development (UNCED) and its Rio Declaration.

1988 Additional Protocol to the American Convention on Human Rights, adopted in San Salvador on 17 November 1988, established the right to a healthy environment.

⁷ Carl Bruch. Regional Opportunities for Improving Environmental Governance Through Access to Information, Public Participation, and Access to Justice. 8th Session of the African Ministerial Conference on Environment (AMCEN) Abuja, Nigeria, 3-6 April 2000. This article was originally presented at the African Ministerial Conference on Environment on 3 April 2000.

1989 European Charter on Environment and Health, adopted at the First European Ministerial Conference on Environment and Health in Frankfurt (Germany), recognized public participation to be an important element in the context of environment and health issues.

1989 CSCE Environment Conference, Sofia. All countries present except Romania endorsed proposed conclusions and recommendations affirming the rights of individuals, groups and organizations concerned with environmental issues to express freely their views, to associate with others, to peacefully assemble, as well as to obtain, publish and distribute information on these issues, without legal and administrative impediments.

1990 General Assembly resolution 45/94 of 14 December 1990, recognized that individuals are entitled to live in an environment adequate for their health and well-being.

1990 draft charter on environmental rights and obligations of individuals, groups and organizations, adopted by a group of experts invited by the Netherlands Government at the Bergen Conference (Norway) on 11 May 1990 and the UN/ECE

Draft Charter of Environmental Rights and Obligations, adopted by the qualified intergovernmental meeting at Oslo on 31 October 1990. These early drafts had an influence on later instruments.

1990 Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment.

1991 UN/ECE Convention on Environmental Impact Assessment in a Transboundary Context, adopted at Espoo (Finland) on 25 February 1991. The Espoo Convention shows the link between public participation and environmental impact assessments. Its article 4, paragraph 2, is especially relevant for public participation. (Canada is a signatory to this convention)

1992 UN/ECE Convention on the Transboundary Effects of Industrial Accidents, adopted at Helsinki on 17 March 1992. Its article 9 deals with “information to, and participation of the public”.

1992 UN/ECE Convention on the Protection and Use of the Transboundary Watercourses and International Lakes, adopted at Helsinki on 17 March 1992, includes provisions on public information.

1992 Rio Declaration: its principle 10 laid the groundwork for all three pillars of the Aarhus Convention. (Canada is a signatory to this declaration)

1992 Convention on Biological Diversity, negotiated under the auspices of the United Nations Environment Programme. The three goals of the Convention are to promote the conservation of biodiversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising out of the utilization of genetic resources.⁸ (Canada is a signatory to this convention)

1993 Declaration of the Second Pan-European Conference “Environment for Europe”, adopted at Lucerne on 30 April 1993,⁶ declared public participation in environmental decision-making to be a priority in its further work.

1993 Council of Europe Lugano Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment: The Lugano Convention was the first international agreement seeking to create rules concerning access to allow enforcement proceedings before national courts.

1993 North American Free Trade Agreement (NAFTA), Side Agreement on Environmental Cooperation, established recommendatory bodies for access to information, public participation in decision-making and access to justice. (Canada is a signatory to this agreement)

1994 draft principles on human rights and the environment. Document of the Economic and Social Council of the United Nations published on 6 July 1994.

1994 Convention to Combat Desertification, adopted a model that emphasized “the participation of populations and local communities” in developing and implementing national action programs, which provide a framework for identifying, combating, and mitigating the causes of desertification. (Canada is a signatory to this convention)

1995 Sofia Guidelines: The UN/ECE Guidelines on Access to Environmental Information and Public Participation in Environmental Decision-making were endorsed at the Third Ministerial Conference “Environment for Europe” at Sofia on 25 October 1995.

1996 IUCN Resolution No. CGR1.25-rev1 on public participation and right to know, adopted by the World Conservation Congress of IUCN at Montreal (Canada) on 23 October 1996.

⁸ provided by the [International Institute for Sustainable Development](http://www.iisd.ca/). <http://www.iisd.ca/>

In the Americas, Asia, East Africa, Europe and in the former Soviet Union, regional initiatives are fleshing out the basic principles and providing guidance to actions in operationalizing access to information, participation, and justice in environmental matters.⁹

Examples of such regional agreements that have advanced environmental governance in their member countries are¹⁰:

1998 UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, now known as the Aarhus Convention.¹¹

2000, Inter-American Strategy for the Promotion of Public Participation in Decisionmaking for Sustainable Development (ISP)¹², adopted by the Organization of American States (OAS).

2002 The Asia-Europe Meeting (ASEM) Draft Document Towards Good Practices for Public Involvement in Environmental Policies.¹³

1993 North American Agreement on Environmental Cooperation (NAAEC). (Canada, America and Mexico)¹⁴

1997 Charter of Civil Society for the Caribbean Community.

1998 Memorandum of Understanding (MOU) for Cooperation on Environmental

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¹⁰ For a comparison of provisions for each of the regional agreements see page 78 of Carl Brush's book entitled *The New Public*.

¹¹ UN/ECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, adopted at Aarhus, Denmark on June 25, 1998, entered into force Oct. 30, 2001, ECE/CEP/43 [hereinafter Aarhus Convention]. Under Article 19.3, any country that is a member of the United Nations can accede to the Convention.

¹² Bruch, Carl. Czebiniak, Roman. *Globalizing environmental Governance: Making the leap from regional initiatives on Transparency, participation and accountability in Environmental Matters.*

¹³ See What is ASEM?, at <http://asem2.fco.gov.uk/whatisasem/>; The ASEM Process, at <http://www.vyh.fi/eng/intcoop/regional/asian/asem/asia.htm>.

¹⁴ North American Agreement on Environmental Cooperation (NAAEC), Sept 8-14, 1993 (entered into force Jan. 1, 1994), U.S.-Can.-Mex., at art. 1(g), (h), reprinted at 32 I.L.M. 1480 [hereinafter NAAEC].

*Management in East Africa.*¹⁵

1999 Mediterranean Commission on Sustainable Development Recommendations and Proposals for Action on the Theme of Information, Public Awareness, Environmental Education and Participation.

Draft Revisions to the 1968 Convention on the Conservation of Nature and Natural Resources in Africa.

Part III - Review of the aspects and functioning of the most significant instruments.

Of the mentioned instruments there are those that are recognized more than others in ensuring a global framework for public access, participation and justice. Of those influential instruments, there are none more recognized than those derived in 1992 at the United Nations Conference on Environment and Development in Rio de Janeiro, Brazil. The conference is known as the largest meetings of world leaders in our history and is more commonly known as the “Earth Summit”.

The agreements that resulted from the historic Earth Summit laid the foundation for the development of subsequent international, regional and national agreements. The following is a more thorough review of the aspects and functioning of these most significant instruments and their impact on public access to environmental information, participation and justice.

¹⁵ Memorandum of Understanding between the Republic of Kenya and the United Republic of Tanzania and the Republic of Uganda for Cooperation on Environmental Management, done at Nairobi, Oct. 22, 1998 [hereinafter East African MOU].

Earth Summit's Rio Declaration on Environment and Development

Over 178 nations made history at the Earth Summit by adopting the Rio declaration on Environment and Development, a set of principles to define the rights of people to development, and their responsibilities to safeguard the common environment.¹⁶

The Rio Declaration's emphasis on public access to information and participation embodied in Principle 10 encouraged other international agreements to protect the integrity of the global environmental and the developmental system.¹⁷

“Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.”¹⁸

The significance of Principle 10 is difficult to over emphasize as it provides a mandate to regional and international governance developments over the past decade. The international acceptances of the Rio Declaration and most importantly its Principle 10 have

¹⁶ Michael Keating. 1993. *Agenda for Change: A Plain Language Version of Agenda 21 and Other Rio Agreements*. Centre for Our Common Future, Geneva, Switzerland.

¹⁷ Carl B ruch and Meg Filby. Emerging Global Norms of Public Involvement. A chapter from book *The New Public*.

¹⁸ Rio Declaration on Environment and Developmnet, done at Rio de Janeiro, June 14, 1992, art. 10,

been the underpinnings for regional initiatives, international institutions and national laws. Moreover, the Rio Declaration, was the impetus for various international linkages between human rights and environmental rights, highlighting the central role of procedural rights to both.¹⁹

Earth Summit's Agenda 21

Agenda 21 is a comprehensive plan of action to be taken globally, nationally and locally by organizations of the United Nations system, governments, and major groups in every area in which humans impact on the environment.²⁰

The “Blueprint for Sustainable Development,” was adopted in 1992 to implement the principles in the Rio Declaration, and it has significantly shaped the activities of the United Nations Environment Program and other international organizations. Agenda 21 relied heavily on the role of civil society in developing, implementing, and enforcing environmental laws and policies. Access to information, public participation, and access to justice are keystones throughout Agenda 21.²¹

reprinted in 31 I.L.M. 874 (1992).

¹⁹ Carl Bruch and Meg Filby. Emerging Global Norms of Public Involvement. A chapter from book *The New Public*.

²⁰ Michael Keating. 1993. *Agenda for Change: A Plain Language Version of Agenda 21 and Other Rio Agreements*. Centre for Our Common Future, Geneva, Switzerland.
<http://iisd1.iisd.ca/rio+5/agenda/agenda21.htm>

²¹ Carl Bruch. Regional Opportunities for Improving Environmental Governance Through Access to Information, Public Participation, and Access to Justice. 8th Session of the African Ministerial Conference on Environment (AMCEN) Abuja, Nigeria, 3-6 April 2000. This article was originally presented at the African Ministerial Conference on Environment on 3 April 2000.

Earth Summit's Convention on Biological Diversity

The **1992 Convention on Biological Diversity** is the first global agreement on the conservation and sustainable use of biological diversity. The biodiversity treaty gained rapid and widespread acceptance²². Over 150 governments signed the document at the Rio conference, and since then more than 175 countries have ratified the agreement.²³

The Convention emphasized public participation in the “environmental impact assessment of proposed projects that are likely to have significant adverse effects on biological diversity” and “promoting the exchange of publicly available information”.

United Nations Convention to Combat Desertification

The **1994 Convention to Combat Desertification** adopted a model that emphasized “the participation of populations and local communities” in developing and implementing national action programs, which provide a framework for identifying, combating, and mitigating the causes of desertification.²⁴

The Convention requires the national action programs to “facilitate access by local populations to appropriate information and technology,” and “provide for effective

²² For further information see <http://iisd1.iisd.ca/rio+5/agenda/biodiversity.htm>

²³ Information was sourced from the International Institute for Sustainable Development website at <http://www.iisd.ca/linkages/biodiv/cbdintro.html>

²⁴ Carl Bruch. Regional Opportunities for Improving Environmental Governance Through Access to Information, Public Participation, and Access to Justice. 8th Session of the African Ministerial Conference on Environment (AMCEN) Abuja, Nigeria, 3-6 April 2000. This article was originally presented at the African Ministerial Conference on Environment on 3 April 2000.

participation at the local, national and regional levels of non-governmental organizations and local populations . . . in policy planning, decision-making, and implementation and review of national action programmes.”²⁵

Recognizing the need for a fresh approach, 179 governments have joined as of March 2002, the United Nations Convention to Combat Desertification.

Significant Regional Agreements

Since the Rio Declaration, various regional conventions addressing specific environmental issues have incorporated public involvement norms and mechanisms.

The regional initiatives are significant both for their substantive provisions promoting public participation and for the process by which they were developed, which saw civil society involved in the conceptualization and negotiation of these international agreements.

While none of these regional initiatives specifically mention the term “environmental governance,” they all seek to advance environmental governance processes by creating or modifying laws and institutions to improve public access to decision making processes that can affect the environment, public health, and economic development.²⁶

²⁵ For further details see <http://www.unccd.int/convention/text/preface.php>

²⁶ Carl Bruch and Roman Czebiniak. Globalizing environmental Governance: Making the leap from regional initiatives on Transparency, participation and accountability in Environmental Matters.

The Aarhus Convention

The **1998 United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters** (commonly known as the “**Aarhus Convention**”) is an elaboration of Principle 10 of the Rio Declaration and provides a clear example of how governments and civil society can jointly develop regional norms for environmental governance.

The Aarhus Convention was signed in Aarhus, Denmark in 1998 by 39 countries in Europe and Central Asia, as well as the European Community, and it entered into force October 30, 2001.²⁷ The Convention grants the public rights and imposes on Parties and public authorities obligations regarding access to information and public participation. It backs up these rights with access-to-justice provisions that go some way towards putting teeth into the Convention.²⁸

The procedures required under the Aarhus Convention move far beyond mere principles or goals to declare legal rights of individuals and specify definite and detailed legal obligations of the states that are parties to the Convention. The Convention is a new kind of environmental agreement. In fact, the preamble immediately links environmental protection to human rights norms and raises environmental rights to the level of other

²⁷ For more information on the history of the Aarhus Convention, see the UNECE web <http://www.unece.org/env> <http://www.u>

²⁸ Information was sourced from the United Nations Economic Commission for Europe website at <http://www.unece.org/env/pp/>

human rights. Generally, the Aarhus Convention recommends member countries to:

“guarantee the rights of access to information, public participation in decision-making and access to justice in environmental matters in order to contribute to the protection of the right of every person of “present and future generations” to live in an environment adequate to his or her health and well-being.²⁹”

The provisions of the Aarhus Convention goes to the heart of the relationship between people and governments and is not only an environmental agreement, it is a Convention about government accountability, transparency and responsiveness. The Convention emphasizes the three related “pillars” of environmental governance: access to information, public participation in decision-making, and access to administrative and judicial redress. In these three areas, the convention provides minimum standards for the members to adopt in their domestic legislation.³⁰

Inter-American Strategy for the Promotion of Public Participation in Decision-Making for Sustainable Development (ISP)

The **Inter-American Strategy for the Promotion of Public Participation in Decision-Making for Sustainable Development** (or “ISP”) is an independent regional initiative of the Organization of American States (OAS) to promote environmental governance. While

²⁹ See Aarhus Convention at <http://www.unece.org/env/pp/documents/cep43e.pdf>

³⁰ Sourced from the UNECE web <http://www.unece.org/env> <http://www.unece.org/env>

the Aarhus Convention is a binding treaty with concrete obligations, the ISP is deemed a “Strategy.”³¹

The ISP is founded on the commitments made by OAS members to Principle 10 of the 1992 Rio Declaration and Agenda 21. The ISP consists of two documents: a short, general Policy Framework and detailed Recommendations for Action.

The Policy Framework establishes the basic elements that the nations are encouraged to implement. It contains the principles, objectives, and policy recommendations of the ISP.

Generally, the ISP recommends member countries to³²:

- (1) improve communication mechanisms to share information;
- (2) establish legal and regulatory frameworks to ensure public access to information, decision making, and justice;
- (3) promote institutional structures, policies, and procedures for expanding public participation;
- (4) advance education and training programs;
- (5) dedicate funding for public participation in decision making; and
- (6) promote consultation.

³¹ Carl Bruch. Regional Opportunities for Improving Environmental Governance Through Access to Information, Public Participation, and Access to Justice. 8th Session of the African Ministerial Conference on Environment (AMCEN) Abuja, Nigeria, 3-6 April 2000. This article was originally presented at the African Ministerial Conference on Environment on 3 April 2000.

³² Carl Bruch and Roman Czebiniak. Globalizing environmental Governance: Making the leap from regional initiatives on Transparency, participation and accountability in Environmental Matters.

In contrast, the Recommendations for Action -- not signed by the parties – provides many different, specific actions that the nations can adopt.

North American Agreement on Environmental Cooperation (NAAEC)

The North American Agreement on Environmental Cooperation (NAAEC) was negotiated between Canada, the United States and Mexico as a parallel side-agreement to the North American Free Trade Agreement (NAFTA). The primary stimulus for this environmental agreement was the widespread concern that NAFTA would result in a lowering of environmental standards.³³ The Agreement, especially in the United States, provided some assurances that environmental concerns would be heard and addressed.

The vision of the NAAEC is three countries working together to protect a shared environment and links the goal of enhanced levels of environmental protection with the trade objectives of NAFTA. The NAAEC emphasizes the role of public participation in environmental governance.

While recognizing the authority and responsibility of each country to manage resources within its own jurisdiction, it acknowledges differences in circumstances and capabilities and consequently the benefits of a cooperative framework.

³³ For more information on NAFTA and the NAAEC see http://www.naaec.gc.ca/eng/agreement/agreement_e.htm

Generally, the NAAEC obligates the three member countries to³⁴:

- (1) prepare periodic reports on the state of the environment,
- (2) develop emergency preparedness measures,
- (3) promote education,
- (4) further scientific research and technology development,
- (5) assess environmental impacts, and
- (6) promote the use of economic instruments.

Members have committed to publicly releasing environmental non-compliance information, ensuring that interested persons may petition the competent authorities to investigate alleged violations of environmental legislation. Also, citizens and organizations can file complaints alleging that a Member State is not enforcing its environmental laws. The complaint can result in an investigation which can develop a record that is made publicly available.³⁵

Part IV - Review of Canada's domestic policies with respect to its international commitments.

In its signing of international and regional agreements Canada has proven itself to be a responsible nation with obviously good intentions. Unfortunately good intentions and a

³⁴ Sourced from Article 2 of NAAEC

³⁵ ³⁵ Carl Bruch. Regional Opportunities for Improving Environmental Governance Through Access to Information, Public Participation, and Access to Justice. 8th Session of the African Ministerial Conference on Environment (AMCEN) Abuja, Nigeria, 3-6 April 2000. This article was originally presented at the African Ministerial Conference on Environment on 3 April 2000.

quick start does not always translate to an easy implementation of new international principles.

To exemplify Canada's progress of signed to agreements are the following two examples. The following are not meant to be a comprehensive picture of Canada's implementation of international and regional agreements, but more so, a demonstration of the complexity and high resource needs for success.

The development and implementation of Canada's Biodiversity Strategy

In 1992 Canada demonstrated its leadership by being the first industrialized country to sign and ratify the Biodiversity Convention and soon after began its strategizing for national implementation. The strategy was drafted by a Federal-Provincial-Territorial Working Group, in consultation with a Biodiversity Advisory Group made up of representatives of industry, the scientific community, conservation groups, academia and indigenous organizations.³⁶

The result of this consultation and effort culminated in 1995 with the completion of the Canadian Biodiversity Strategy. Its main elements include a biodiversity vision, five goals and a series of mechanisms to help implementation.

³⁶ Sourced

The Strategy's five goals are³⁷:

- (1) conserve biodiversity and use biological resources in a sustainable manner;
- (2) improve our understanding of ecosystems and increase our resource management capability;
- (3) promote an understanding of the need to conserve biodiversity and use biological resources in a sustainable manner;
- (4) maintain or develop incentives and legislation that support the conservation of biodiversity and the sustainable use of biological resources; and
- (5) work with other countries to conserve biodiversity, use biological resources in a sustainable manner and share equitably the benefits that arise from the utilization of genetic resources.

A 1998 report on the status of compliance with the Convention (Commissioner of the Environment and Sustainable Development 1998) points out that although the Canadian Biodiversity Strategy was a good first step, its implementation has been slow and there are knowledge, capacity and resource gaps that need to be addressed to meet national commitments. Some of the key recommendations include: develop biodiversity targets, identify the activities necessary to meet those targets, assign responsibilities for activities, clarify timelines and provide a budget for these activities and the monitoring of biodiversity indicators.³⁸

³⁷ Goals are from the Canadian Biodiversity Strategy found at http://www.cbin.ec.gc.ca/Document/CBs_e.pdf

³⁸ see Environment Canada website at <http://www.cbin.ec.gc.ca/>

Canada's Implementation of the NAAEC

At the time of signing the NAAEC, Canada (Federal Government) agreed to be bound only for matters within the federal jurisdiction in Canada. Participation by the provinces is crucial in carrying out the NAAEC since most environmental legislation falls under provincial jurisdiction.³⁹

The Canadian Intergovernmental Agreement (CIA) was negotiated with the provinces and territories to create a mechanism that would provide for their participation. This agreement came into force in August 1995 when Alberta became the first province to sign on. Québec and Manitoba followed in December 1996 and January 1997 respectively.⁴⁰

Through the CIA, signatory provinces will have a direct voice in Canada's participation in the NAAEC and will be able to initiate discussions and consultations concerning enforcement practices in Mexico or the United States.⁴¹

The NAAEC stipulates that until Canadian provinces representing 55% of GDP become signatories to the CIA, Canada cannot fully benefit from the dispute resolution or arbitral panel process. Further, Canada may only make a request under the dispute resolution and arbitral panel mechanisms provided 55% of the sector which is the subject of dispute is represented by provinces which are included as signatories to the CIA.⁴²

The lack of signatories has stunted the good intentions of the CIA.

³⁹ The Canadian Intergovernmental Agreement (CIA) Regarding the North American Agreement on Environmental Cooperation (NAAEC) http://www.naaec.gc.ca/eng/implementation/cia_e.htm

⁴⁰ The Canadian Intergovernmental Agreement (CIA) Regarding the North American Agreement on Environmental Cooperation (NAAEC) http://www.naaec.gc.ca/eng/implementation/cia_e.htm

⁴¹ The Canadian Intergovernmental Agreement (CIA) Regarding the North American Agreement on Environmental Cooperation (NAAEC) http://www.naaec.gc.ca/eng/implementation/cia_e.htm

⁴² The Canadian Intergovernmental Agreement (CIA) Regarding the North American Agreement on Environmental Cooperation (NAAEC) http://www.naaec.gc.ca/eng/implementation/cia_e.htm

Part V – Conclusion

Ensuring the promotion and protection of a sustainable environment requires all components of society to work together. This process demands the patience and diligence of the public, non-governmental organizations, private sector organizations and government.

In the end allowing the public to have access to information and express their views regarding the environmental conditions in their communities will not only improve the public support of environmental initiatives but increase the credibility, effectiveness and accountability of the government decision making processes.

Canada has made great commitments to the international, regional, and national community and to the extent and timeliness they honor these commitments awaits to be seen. The public's environmental concerns remain but recognized are the great strides that have occurred to address such concerns and the evolution of the public's access to information, participation and justice.

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Secretariat of the UN Convention to Combat Desertification.

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Canadian Biodiversity Strategy