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## Country/Region Reports -- United States of America

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## X. COUNTRY/REGION REPORTS

### 1. United States of America

#### (1) North American Free Trade Agreement (NAFTA)

For the first time, the Commission for Environmental Cooperation (CEC) prepared a report in response to a complaint. The Southwest Center for Biological Diversity had alleged that the United States had failed to comply with the requirements of the National Environmental Policy Act because the US Army had not prepared an environmental impact statement on the effects of enlarging Fort Huachuca in southern Arizona. The petition stated that enlarging the base might drain the aquifer that flows into the San Pedro River and endanger the surrounding woodland area that is inhabited by many species of birds. The CEC report assessed how the San Pedro River area could best ensure sustainable water use.

A CEC report also concluded that the US releases more toxic pollutants into the atmosphere than either Canada or Mexico. The report, entitled *Taking Stock: North American Pollutant Releases and Transfers, 1994*, used detailed pollutant emission data provided by each of the countries in its findings. The report found that the US was responsible for 91.7 per cent of releases by underground injection, 90.3 per cent of on-site releases, and 88 per cent of total air emissions in North America in 1994. Texas and Tennessee were named as the most significant sources of pollutant releases and transfers, along with the province of Ontario, followed by Ohio, Louisiana, Illinois, Alabama, Pennsylvania, Michigan, and Mississippi. Over half of the releases and transfers in 1994 were made up of methanol, ammonia, hydrochloric acid, toluene, xylene, and sulfuric acid.

#### (2) United States/Mexico Border Issues

The first arbitration case arising from NAFTA was filed by Metalclad Corporation in January under the arbitration process set up in NAFTA Chapter 11. The California company charged that it was unable to open a hazardous waste confinement site in Guadalcázar, San Luis Potosí, because the local government improperly refused to grant a building permit. In October, Metalclad's allegations against the Mexican government for alleged damages to the company's investment were sent to the World Bank's International Center for Settlement of Investment Disputes. The Mexican government then had ninety days to respond. After further written testimony between the parties, a hearing and final determination will be made by the arbitration panel's judge.

In March, the Environmental Protection Enforcement Agency began an investigation of a black market in Mexico that was exporting chlorofluorocarbons (CFCs) to the United States. The investigation ensued due to charges made by Greenpeace International after illegal CFCs were documented in a 1996 study by Ozone Action, a non-governmental organization.

A waste water treatment facility opened in April in San Diego, California, to supplement an existing treatment facility in Tijuana, Mexico. This US \$109 million plant is designed to prevent excess sewage from flowing into the US through the Tijuana River Valley. The facility will be able to process up to twenty-five million gallons of sewage each day, and treated waste will be discharged via an ocean outfall that will open in the summer of 1998.

In May, Mexican and US environmental authorities met and finalized a joint emergency action plan for environmental accidents that occur along the border. The agreement will give emergency units from both countries the authorization from immigration and customs offices to easily cross the border in order to address incidents that require the resources of both countries.

On 18 June, the Border Environment Cooperation Commission (BECC) approved four new projects that will improve water and waste water systems along the US-Mexico border. A conventional gravity sewer collection system and sewer line hookups will be built in Alton, Texas, and will benefit small local communities that do not have electricity, water, and sewage treatment services. Another project will provide waste water treatment capacity and reclaimed water for reuse markets in the San Diego area. A small pilot plant will be built to treat sewage from Tijuana and will also be used to water a nearby park. The final project will be a pump station and a parallel conveyance system to carry excess sewage from Tijuana to the San Antonio de los Buenos Waste Water Treatment Plant. These ventures, estimated to cost US \$130 million, will be financed through loans from the North American Development Bank.

In September, Region VI of the Environmental Protection Agency and an El Paso company agreed to the first international supplemental environment project (SEP) in the nation. It was alleged that General Instrument Corporation of El Paso had used an illegal shipper to transport hazardous wastes from its *maquiladora* plant in Ciudad Juarez, Mexico, to the US. The SEP required the corporation to pay a fine of US \$11,900, to implement a US \$135,600 pollution prevention project at the Mexican plant to eliminate waste water generation, and to remove 200,000 pounds of waste from the environment.

On 30 September, the board of directors of the BECC approved a waste water treatment project for Ciudad Juarez, Mexico. The US \$30 million project will provide two treatment plants that will treat all of the waste water in the area through "advanced primary treatment," which is a clarifloculation

process that uses the chemical reagents of coagulant and flocculent followed by a disinfecting process in a chlorine-contact tank.

Mexico will soon implement the Register of Emissions and Transfer of Contaminants (RETC)—a comprehensive system for recording industrial releases into the air, water, and soil. As part of the CEC's release inventory, the RETC will provide general and company-specific records of 166 substances, including chlordane, cadmium, mercury, and lead. Partly funded by the US and Canada, the RETC will ensure industrial regulatory compliance and will help individual companies develop better prevention systems.

### (3) Atmosphere and Climate Change

On 6 October, at a conference to rally support for his position on climate change, the US president urged Americans to be more environmentally responsible. On 22 October, the president announced that his administration would commit the United States to reducing greenhouse gas emissions to 1990 levels between the years 2008 and 2012.

The president proposed US \$5 billion in tax and spending incentives to reach this goal, including tax credits for companies that invest in energy-saving technology. The presidential plan includes a package of tax cuts beginning with the fiscal 1999 budget. The administration has asked industries to produce plans for voluntary emissions reduction and has promised incentives to firms that act early, including credits towards eventual emissions reduction obligations. The president further proposed the creation of domestic and international emissions trading markets.

The US president's position was less aggressive in reducing global warming than environmentalists had expected. He defended his position by stressing the need to reduce global warming without causing serious economic side effects. The president also emphasized that the United States expects participation from developing nations in the fight to reduce global warming, as demanded by the Senate in a unanimous resolution.

The United States' position on reducing greenhouse gas emissions to 1990 levels between 2008 and 2012 and on the participation of developing countries met with a chilly reception in Kyoto. To stem the criticism, the US vice-president was sent to Kyoto, and, for the first time, the United States indicated a willingness to consider differentiation in emission reduction targets. The United States, however, was critical of the European Community's "bubble" concept for cutting emissions. After forty-eight hours of nearly continuous intense negotiations in the final days, an agreement was reached, postponing for a year the contested issue of developing countries' participation. The United States ultimately agreed to cut its emissions to 7 per cent below 1990 levels. The delegates also accepted a United States proposal to include six rather than three greenhouse gases. A major victory for the US

administration was the endorsement of market-based implementation mechanisms to reduce emissions, which was included in the Kyoto Protocol to the UN Framework Convention on Climate Change.

American industrial lobbyists and key Senate Republicans promised to campaign to prevent Senate ratification of the Kyoto Protocol. It appears that the protocol will not be submitted to the Senate for ratification until after the follow-up meetings in Bonn in June and in Buenos Aires in November. In his budget and State of the Union address, the president included his proposal for US \$5 billion in tax incentives and research funding to find new ways to curb emissions. The United States will sign the protocol after 15 March and begin a year-long campaign to promote it. It is unlikely the Kyoto Protocol will be submitted to the Senate until 1999, following mid-term congressional elections. The protocol is almost certain to be defeated if it is submitted earlier, and it will be difficult to obtain ratification by the Senate even in 1999 if no binding levels are imposed on developing countries in the Bonn and Buenos Aires conferences.

#### (4) Hazardous Waste

On 21 February, a Louisiana state court judge, dismissed without comment a lawsuit against Freeport-McMoran Copper and Gold Corporation for environmental degradation and civil rights abuses at the firm's mine in Irian Jaya, Indonesia. A federal court retained jurisdiction over the civil rights allegations of a related complaint in federal court.

#### (5) Trade and the Environment

On 19 August, a final rule was signed by the Environmental Protection Agency, allowing foreign oil refineries the option of requesting individualized fuel quality standards. The adoption of the final rule met a deadline negotiated with Venezuela and Brazil through the World Trade Organization in the settlement of their challenge to the 1994 fuel quality regulation.

Congress passed legislation on 12 November authorizing the United States to contribute US \$47.5 million to the Global Environment Facility during 1998. This amount was less than half of what the US president had requested.

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