

**Statement of the United States of America Explaining its Position and the Reasons for its
Vote Regarding Submission SEM-12-001 (*British Columbia (BC) Salmon Farms*)**

The Government of the United States of America wishes to explain its position and the reasons for its vote on the Commission for Environmental Cooperation (CEC) Secretariat's Notification that development of a factual record is warranted concerning SEM-12-001.

In its Response to SEM-12-001, the Government of Canada stated that the submission process should be terminated pursuant to Article 14.3(a) of the North American Agreement on Environmental Cooperation (NAAEC) because the matter raised in the submission was the subject of two pending proceedings: *Kwicksutaineuk/Ah-Kwa-Mish First Nation v British Columbia* and *Morton v Minister of Fisheries*. The United States is of the view that neither of these proceedings implicates subsection 36(3) of the Canadian federal *Fisheries Act*. The United States therefore believes that neither proceeding is on the same matter as the submission, and consequently that a factual record on the submission would not duplicate effort or interfere with either proceeding. In addition, neither of these proceedings is being "pursued by the Party" as stipulated in Article 45.3(a) of the NAAEC. Accordingly, the United States sees no basis upon which Article 14.3(a) of the NAAEC could be invoked in this instance to claim that the submissions process should halt with respect to SEM-12-001. Finally, because the Response does not address the substance of the submitters' assertions, the United States believes that questions are raised in the submission that have not been addressed by the Response and that could form the basis for a factual record.

The United States wishes to stress that its vote in support of the preparation of a factual record in this instance does not reflect a judgement on the part of the United States as to whether Canada is failing to effectively enforce its environmental law. The decision of the United States in this instance is based in part on a long-standing U.S. policy that favors the preparation of factual records by the CEC Secretariat as an important means of promoting public participation, transparency and openness on issues related to the enforcement of environmental law in the United States, Canada and Mexico. This long-standing U.S. policy is reflected in Executive Order 12915 of May 13, 1994, which requires the United States, to the greatest extent practicable, to vote in favor of a factual record being prepared whenever such preparation is recommended by the CEC Secretariat.