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## Panel to Probe Mexican Lead Recycling Plant

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SAN DIEGO—In a move hailed by environmental activists, a special panel set up by the United States, Mexico and Canada said Wednesday that it will investigate alleged enforcement lapses at an abandoned lead recycling plant in Tijuana that has become a symbol of ecological neglect on the U.S.-Mexico border.

The North American Commission for Environmental Cooperation, established by a side agreement to the North American Free Trade Agreement to monitor the environmental toll of commerce, agreed to compile a report on whether Mexico failed to enforce its own laws by not forcing property owners to clean up the closed lead smelter.

Activists say that pollution from the piles of lead waste is carried by rain and may be poisoning a neighborhood of more than 1,000 families below.

The case, filed by groups in Tijuana and San Diego, is the commission's first that focuses on pollution at the U.S.-Mexico border and it has been closely watched by activists who complain that the panel is slow and lacks power. But environmentalists said the decision to investigate the plant, called Metales y Derivados, was a hopeful sign.

"It's a huge victory," said Cesar Luna, an attorney with San Diego's  
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Environmental Health Coalition, one of the two groups that filed a complaint in 1998. "It's the first time that Mexico, Canada and the United States have recognized that what we have at hand is a huge toxic problem."

But Luna acknowledged that cleanup may yet be far off.

The commission cannot force a country to enforce its laws or sanction those that fail to do so. The commission receives complaints from citizens and nongovernmental groups in any of the three countries and can conduct a review and then publicize its findings.

The commission has authorized such an investigation—known as a factual record—in only two of the 26 other cases submitted since

1995. Just one, involving potential damage to a reef and marine wildlife from construction of a pier on the island of Cozumel off Mexico's Caribbean coast, underwent full commission review and resulted in a public report. But the construction was largely complete before the panel could compile its report.

In the Tijuana case, the commission said it hoped "to understand Mexico's enforcement efforts to prevent an imminent risk to the environment and dangerous repercussions to public health, and to prevent and control soil contamination."

The smelter, which for 12 years recycled car batteries into lead ingots, is a crumbling shell surrounded by piles of lead-tainted

powder. It was left by owners after the Mexican government ordered it closed in 1994 because operators failed to properly dispose of hazardous waste.

Frustrated Mexican authorities have cited and issued an arrest warrant for owner Jose Kahn, who lives in San Diego. Kahn once pleaded guilty in Los Angeles to charges of illegally transporting hazardous material. He was fined \$50,000 and agreed to take steps to clean up the four-acre site.

Kahn, a Chilean who runs the San Diego parent company with his son, Reinaldo, could not be reached for comment. Reinaldo Kahn has said he and his father are seeking a bank loan to pay for a cleanup.

Mark Spalding, who took part in drafting the NAFTA environmental provisions, said commission scrutiny may embarrass Mexico into cleaning up the site.