

**GREAT LAKES WATER QUALITY AGREEMENT  
PROPOSED REVIEW PROCESS: 2004**

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## GREAT LAKES WATER QUALITY AGREEMENT PROPOSED REVIEW PROCESS: 2004

### Chapter 1: Introduction

#### **A. Article X**

Article X of the Canada-U.S. Great Lakes Water Quality Agreement (the 'Agreement' or 'GLWQA') requires the Governments of Canada and the United States to undertake a "comprehensive review of the operation and effectiveness of the Agreement" after the release of every third biennial report on Great Lakes water quality issued by the International Joint Commission (IJC). Specifically, Article X, paragraph 4 states:

"The Parties shall conduct a comprehensive review of the operation and effectiveness of this Agreement following every third biennial report of the Commission required under Article VII of this Agreement."<sup>1</sup>

The release of the Commission's 12<sup>th</sup> Biennial Report on September 13, 2004 officially triggered the obligation of the Parties (the Canadian and United States federal governments) to undertake the review of the Agreement.

#### **B. Context**

Since 1987, when the Agreement was amended by protocol, Governments have consulted twice on reviewing the agreement. These reviews have been limited in scope as the priority was seen by both Governments and stakeholders to be on implementation, rather than a full review of the Agreement. The most recent review took place in 1999 and consisted of a review of the Annexes by teams of government experts.<sup>2</sup> The review did not result in changes to the Agreement; however, many of the findings of the 1999 review remain valid today and will be considered during this review of the Agreement.

Unlike earlier reviews in 1992 and 1999, there has been widespread support within the Great Lakes community for a substantive review of the GLWQA. This consensus is best reflected in the Communiqué released by the IJC at the close of their September 2003 Biennial Meeting:

"...the International Joint Commission has heard a growing consensus from leaders and citizens in the Great Lakes Basin supporting a comprehensive review of the GLWQA with public consultation and input."<sup>3</sup>

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<sup>1</sup> Revised Great Lakes Water Quality of 1978 as amended by Protocol signed November 18, 1987.

<sup>2</sup> BEC Summary Record. BEC Meeting, July 21-22, 1999, Mississauga, Ontario.

<sup>3</sup> IJC News Release, Great Lakes Conference and Biennial Meeting, September 20, 2003.

Governments have recognized this growing consensus and have acknowledged the need to undertake a substantive review of the Agreement.

### **C. Binational Executive Committee (BEC): January 2004 Direction**

In anticipation of the IJC's 12<sup>th</sup> Biennial Report, a discussion paper on the review of the GLWQA was prepared by the BEC Secretariat and discussed at the BEC January 2004 meeting in Niagara Falls, Ontario. At that meeting the BEC membership, comprised of U.S. and Canadian federal, provincial, state, and tribal agencies working to implement the Agreement, endorsed a three stage approach to the Parties' review of the Agreement, namely:

- (a) Stage One: Design and Scope of the review process;
- (b) Stage Two: Review and Analysis, and
- (c) Stage Three: Implementation of actions by the Parties.

The BEC also directed its Secretariat to form an Agreement Review Scoping Committee (ARSC) and charged the ARSC with:

- (a) Recommending the scope of the review and the process for reviewing the GLWQA that is open, transparent and inclusive.
- (b) To prepare a report on a recommended approach to the review for consideration at the July 2004 BEC Meeting."<sup>4</sup>  
(See Appendix A: BEC January 2004 Charge).

### **D. ARSC: Designing the Review**

In March 2004 the BEC Secretariat formed the ARSC. Members on the ARSC were drawn from identified volunteers from the BEC membership and included representation from federal, state and provincial agencies as well as staff from the IJC. (See Appendix B: List of ARSC Members). The ARSC is co-chaired by Environment Canada-Ontario Region and the U.S. EPA Great Lakes National Program Office.

The ARSC met a number of times in developing an agreement review process (see Appendix C: List of Meetings). Initial discussions focused on defining the scope and objectives of the review and in assessing the obligations under Article X (4) for a "comprehensive review of the operation and effectiveness of the Agreement."

This document has been developed by the ARSC to describe the proposed review process. It was presented to BEC, and endorsed by BEC, at the July 13-14, 2004 meeting in Chicago, IL.

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<sup>4</sup> BEC Action Items. BEC Meeting, January 14 and 15, 2004, Niagara Falls, Ontario.

## **Chapter 2: Scope and Objectives of the Review**

Article II of the Great Lakes Water Quality Agreement states:

*“The purpose of the Great Lakes Water Quality Agreement is to restore and maintain the chemical, physical, and biological integrity of the waters of the Great Lakes Basin Ecosystem. In order to achieve this purpose, the Government of Canada and the Government of the United States of America agree to make a maximum effort to develop programs, practices and technology necessary for a better understanding of the Great Lakes Basin Ecosystem and to eliminate or reduce to the maximum extent practicable the discharge of pollutants into the Great lakes System.”*

In developing a recommended review process the ARSC focussed on the direction provided by Article X of the Agreement. Article X directs that the review be comprehensive and entail both a review of the operation and effectiveness of the Agreement. No further direction as to the scope or objectives of the review is provided in the GLWQA. The ARSC also had the benefit of input in the development of the review process from a variety of resources including the IJC and a report on the Great Lakes Water Quality Agreement 2004 Wingspread Conference.

### **A. Comprehensive**

Comprehensive is interpreted as meaning “complete, including all or nearly all elements, aspects, etc.” Applying this definition, the ARSC is of the opinion that a “comprehensive” review of the Agreement should examine all aspects of the Agreement, including articles, annexes and terms of reference (as amended or modified by the IJC). This would include a review of the role of the IJC, its institutional arrangements and the Great Lakes Regional Office, as defined under the Agreement. The review will also explore demonstrated linkages with other agreements and institutions in the Great Lakes to the extent that they may affect the operation and effectiveness of the GLWQA.

### **B. Operation and Effectiveness**

Operation is defined as “the action or process or method of working or operating.” Effectiveness is defined as “having a definite or desired effect.” Operation is therefore a measure of how something works, while effectiveness is a measure of goal achievement.

Applying these definitions, ARSC is of the opinion that in order to effectively address the requirement of Article X, a review of the Articles and Annexes of the Agreement is required both in terms of prescribed processes and activities (i.e.,

operations) and the achievement of prescribed goals or objectives (i.e., effectiveness).

### **C. Guiding Principles**

The Parties are implementing a review process which operates under the guiding principles of openness, transparency, and inclusiveness. The IJC has developed a number of other guiding principles that have been provided to ARSC for consideration (Appendix D).

## **Chapter 3: Review Questions**

### **A. Overview**

This chapter provides the overarching questions and an evaluation framework to assist in defining the scope of the review and the nature of the questions to be addressed by the reviewers<sup>5</sup>.

### **B. The Overarching Questions**

The ARSC identified several overarching questions for the Working Groups to use in conducting the review. The key overarching questions are:

- Does the Agreement achieve the desired effect of restoring and maintaining the chemical, physical, and biological integrity of the waters of the Great Lakes basin ecosystem?
- Is the Agreement sufficient to protect and restore the lakes, or does it fail to address critical issues? If so what are they?
- In which situation/cases does the Agreement successfully fulfil its current goals and where does it fall short? Are there common features that characterize successes or best practices, and are there areas needing improvement?
- What new approaches, if any, should be instituted to improve the operation and effectiveness of the Agreement?

### **C. Evaluation Framework**

The proposed evaluation framework will assist reviewers to systematically and comprehensively assess the “operation and effectiveness” of the Agreement in a rigorous and objective manner. The Working Groups will be asked to evaluate

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<sup>5</sup> Reviewers are the members of all working groups, committees, or advisory teams established pursuant to the agreement review process.

the Articles and Annexes in relation to each of five major avenues of enquiry contained in the evaluation framework:

- **Clarity:** An assessment of the clarity of the goals, objectives, programs and other measures set out in the Agreement and whether there exists a shared common understanding or acceptance of the meaning of the terms of the Agreement.
- **Relevancy:** An assessment of the continued relevance of terms found in the Agreement.
- **Achieving Results:** An assessment of the implementation and appropriateness of prescribed programs, policies and measures and demonstrated progress including the application of sound science.
- **Management Framework:** An assessment of institutional structures set out in the Agreement, cooperation and coordination and assessing potential duplication with other initiatives or instruments of a similar nature, and synergies and linkages with other initiatives.
- **Accountability:** Issues to be addressed include: the ease of access to, and quality of monitoring data for reporting purposes; the role of the IJC; and long-term commitment from the Great Lakes community.

In addition, questions were developed for each review element to elicit the information required to address the aspect or the issue being considered by the reviewers. The questions should be considered as examples of the type of questions that task groups will address in undertaking the review. The questions are not meant to be exhaustive or to restrict the reviewers input, but are intended to be a guide for reviewers.

The proposed evaluation framework, including review elements and questions, to assess the Agreement (Articles, Annexes and Terms of Reference) is set out in Table 1.

**TABLE 1: EVALUATION FRAMEWORK**

Review Element	Evaluation Questions <sup>6</sup>
<p><b>Clarity</b> →</p> <div style="border: 1px solid black; padding: 5px; margin-left: 20px;"> <p>Clear articulation of goals, objectives, programs and other measures; the existence of a shared understanding and acceptance of the meaning of the Agreement.</p> </div>	<ol style="list-style-type: none"> <li>1. <i>Does the Agreement contain defined, clear and adequately communicated goals, objectives, programs, provisions and other measures?</i> <ol style="list-style-type: none"> <li>(a) Is the text of the Agreement and the objectives, programs and other measures described therein clear?</li> <li>(b) Are program outcomes and/or environmental outcomes clearly identified?</li> <li>(c) Are there out of date, terms, concepts or references?</li> </ol> </li> </ol>

Review Element	Evaluation Questions
<p><b>Relevancy</b> →</p> <div style="border: 1px solid black; padding: 5px; margin-left: 20px;"> <p>The continued relevancy of the Agreement.</p> </div>	<ol style="list-style-type: none"> <li>2. <i>Is there a demonstrable need for the Agreement to achieve the stated goals/objectives?</i> <ol style="list-style-type: none"> <li>(a) Have the environmental conditions originally intended to be met by the Agreement changed, and if so, what are the implications of those changes?</li> <li>(b) Are the articles/annexes compatible with current domestic laws and policies of each country?</li> <li>(c) Does the article/annex drive actions? If not, can you identify reasons why?</li> <li>(d) Does the Agreement reflect current/appropriate environmental management tools (e.g. legislation, guidelines, best management practices)?</li> </ol> </li> </ol>

<sup>6</sup> Evaluation Criteria and Questions to be applied as appropriate.

Review Element	Evaluation Questions
<p><b>Achieving Results</b> </p> <div data-bbox="532 262 873 556" style="border: 1px solid black; padding: 5px;"><p>The implementation and appropriateness of prescribed programs, policies and measures and demonstrated progress; including the application of sound science.</p></div>	<ol style="list-style-type: none"><li data-bbox="906 262 1487 388">3. <i>Are the programs, measures and policies stated in the Agreement sufficient to achieve the goals/objectives in the Agreement?</i><ol style="list-style-type: none"><li data-bbox="933 430 1469 514">(a) Are the objectives, programs, policies and measures sufficient to achieve goals in the Article/Annex?</li><li data-bbox="933 525 1437 588">(b) Does the Agreement fail to address critical issues?</li></ol></li><li data-bbox="906 630 1487 1092">4. <i>Are the demonstrated results consistent with goals and objectives in the Agreement?</i><ol style="list-style-type: none"><li data-bbox="933 756 1487 850">(a) Were the programs, policies, measures that were initially required to be undertaken developed? If not, why?</li><li data-bbox="933 861 1469 924">(b) Are any parts of the Agreement in any way an obstacle to progress?</li><li data-bbox="933 934 1445 997">(c) Are there external impediments that prevent implementation?</li><li data-bbox="933 1008 1453 1029">(d) Are there other barriers to progress?</li><li data-bbox="933 1039 1372 1092">(e) To what extent can results be attributed to the Article/Annex?</li></ol></li><li data-bbox="906 1134 1487 1365">5. <i>Have the appropriate level of resources been dedicated to deliver the programs, measures, policies in the Agreement?</i><ol style="list-style-type: none"><li data-bbox="933 1270 1477 1354">(a) Is the allocation of resources considered sufficient to meet the goals and objectives of the Agreement?</li></ol></li><li data-bbox="906 1396 1487 1627">6. <i>Is the science in the Agreement still relevant? If not, why?</i><ol style="list-style-type: none"><li data-bbox="933 1501 1388 1564">(a) If so, how has the science been incorporated?</li><li data-bbox="933 1575 1477 1627">(b) Does the science adequately influence decision-making?</li></ol></li><li data-bbox="906 1669 1487 1900">7. <i>Does the Agreement incorporate science to address emerging issues?</i><ol style="list-style-type: none"><li data-bbox="933 1774 1437 1837">(a) Are there new issues and programs that need to be addressed?</li><li data-bbox="933 1848 1421 1900">(b) Can the Agreement accommodate emerging issues?</li></ol></li></ol>

Review Element	Evaluation Questions
<b>Management Framework</b> →	<p data-bbox="537 296 873 659">Appropriate institutional structures, cooperation and coordination, including potential duplication with other initiatives or instruments of a similar nature, and synergies and linkages with other initiatives.</p> <p data-bbox="906 296 1484 831">8. <i>Are management and coordination approaches identified in the Agreement?</i></p> <ul data-bbox="932 401 1484 831" style="list-style-type: none"><li>(a) Is management and coordination specified? If so, briefly outline.</li><li>(b) Are management and coordination approaches appropriate and sufficient to ensure achievement of the goals of the Agreement?</li><li>(c) Do management and coordination approaches facilitate priority setting to address issues of greatest importance?</li><li>(d) Are there demonstrated synergies and linkages with other initiatives (i.e. international programs, strategies or Agreements)?</li></ul>

Review Element	Evaluation Questions
<b>Accountability</b> →	<p data-bbox="537 1245 873 1665">Reporting and assessment. The ease of access to, and quality of data for monitoring and reporting purposes, role of the IJC and long-term sustainable buy in and commitment from the Great Lakes community.</p> <p data-bbox="906 1245 1484 1875">9. <i>Is there comprehensive monitoring and reporting?</i></p> <ul data-bbox="932 1350 1484 1581" style="list-style-type: none"><li>(a) Are there clear indicators to determine progress?</li><li>(b) Are there accountability, reporting, monitoring and evaluation provisions?</li><li>(c) Are they being met?</li><li>(d) If not why not?</li><li>(e) Is frequency of reporting sufficient?</li></ul> <p data-bbox="906 1644 1484 1875">10. <i>Is there a defined role for the IJC and are adequate tools provided to fulfil their role?</i></p> <ul data-bbox="932 1770 1484 1875" style="list-style-type: none"><li>(a) Is the role of the IJC clear and appropriate?</li><li>(b) Are the tools and information the IJC</li></ul>

Review Element	Evaluation Questions
	<p>needs to carry out its role and responsibilities identified and provided?</p> <p>11. <i>Does the Agreement enable an effective level of commitment?</i></p> <p>(a) Is the role of the public identified?</p> <p>(b) Does the Agreement identify appropriate mechanisms for public engagement?</p> <p>(c) Does the Agreement allow for ownership by others, including all levels of government, First Nations and Tribes, other organizations and stakeholders (industry, NGOs, communities, individuals)?</p> <p>(d) Does the Agreement drive action by communities and industry?</p>

#### **Chapter 4: Review Organizational Structure**

The review organizational structure presented below includes a number of components that will be developed and coordinated to enable the Parties to undertake the review of the Agreement.

##### ***A. Agreement Review Committee***

The Agreement Review Committee (ARC) will be established and responsible for leading and co-ordinating the review process. The ARC will be co-chaired by Environment Canada and the U.S. Environmental Protection Agency and consist of representatives of federal, provincial and state agencies.

The ARC is charged with providing direction and guidance for the review process which is described below in greater detail. The ARC will report quarterly, and as needed, to the BEC and as a part of its responsibilities for the review it will perform the following functions:

- Commence the review process and provide guidance and direction to review groups including decision making rules;
- Establish Working Groups, or other ad-hoc groups as necessary to perform the review, as required;
- Identify issues and seek resolution from BEC on important issues arising during the review;
- Develop a public consultation strategy in accordance with Chapter 4 section D;
- Consult with Working Groups on outstanding and ongoing issues;

- Ensure the review process is proceeding effectively and meeting timelines and milestones;
- Reporting on progress to BEC or other appropriate entities; and
- Work with BEC to outline and obtain resources and expertise needed to support the review process.

ARC will also establish a consistent method of conducting and reporting on the results of the Agreement review process by the review Working Groups. Ultimately, ARC will synthesize the findings of those review groups and report the final findings to the co-chairs of the BEC.

### ***B. Review Working Groups***

In order to facilitate the review of the Agreement, a number of Working Groups will be established. These groups will be composed of experts to enable each group to address a specific task in a timely manner.

All review Working Groups established pursuant to the agreement review process shall be established in accordance with the following principles:

- All Working Groups would report to the Agreement Review Committee (ARC) and would be comprised of an equal number of Canadian and U.S. representatives.
- Each shall have a Canadian and United States co-chair.
- Realistic time lines and due dates will be developed for work products in consultation with the ARC, including defined work products and recording of group findings.
- Membership may include representatives of federal, state, provincial, or municipal agencies, Tribes, First Nations, NGOs, industry representatives, academics, and other members and organizations of the Great Lakes community.
- Working Group members will be identified by BEC in coordination with the ARC.

The ARSC has identified a number of Working Groups that will collectively conduct the review. The proposed groups are as follows:

***Article Review Working Groups:*** to review the Articles of the Agreement which were not formally reviewed in the 1999. The Articles describe the purpose and objectives of the Agreement. As such, the Working Group will consider if the Articles are still appropriate for the current state of binational management of the Great Lakes using the proposed evaluation framework.

***Annex Review Working Groups:*** established for individual Annexes or for Annexes that ARC determines should be grouped. For some Annexes, depending on its complexity, a large group may not be required.

***Special Issue Working Groups:*** to be established for any issues that are considered broad and may not be adequately addressed by the other Working Groups. These will be established after consultation with BEC co-chairs. This group may be established at the beginning of the process after ARC co-chairs identify and elevate issues to the BEC. A decision will be made on whether or not the issue will be analyzed by a specialized Working Group. In this case, the ARC could ask for a scholarly review.

***Working Group to Review the IJC Provisions:*** to review the assigned responsibilities and functions of the International Joint Commission as stated in the Agreement.

### **C: The Review and Evaluation Process**

Review groups will be asked to conduct the review by using the evaluation framework set out in Table A. The reviews will be written, and will follow a format to be developed and provided by the ARC.

Many of the recommendations and analysis stemming from the review conducted by the BEC in 1999 remain valid today. This was confirmed in more recent studies including, the BEC-IJC review on reporting under the GLWQA which noted that many of the reporting requirements contained in the Agreement were confusing and in many instances obsolete. Studies by the IJC's Science Advisory Board have raised questions about the current value of Annex 1. These studies, along with the BEC 1999 Review and BEC-IJC 2003 Reporting Review, should be used by the Working Groups established under this review. The assessment could also indicate if additional information needs to be gathered. For example, it might not be possible to determine the accuracy of phosphorus numbers in the agreement without convening a special group to review data, or make a determination.

Throughout this process, the ARC will monitor progress, as well as provide assistance and resolve issues, as needed. Specifically, the ARC co-chairs will elevate major issues needing resolution to the BEC co-chairs as needed to keep the process moving. The U.S. State Department (DOS) and Foreign Affairs Canada (FAC) will be kept informed and will provide assistance and guidance on issues arising, as needed.

When completed, Article and Annex leads will meet with the ARC to report their findings. The ARC will collect the findings into a unified evaluation/assessment document.

## D. Public Participation/Consultation

The ARC will develop a strategy for public participation for the Agreement review. The term “public” is defined inclusively and is meant to accommodate all persons, organizations or groups of people within or potentially affected by the Great Lakes Basin Ecosystem.

A key consideration in the review process is effective public involvement. To facilitate effective public participation, the Governments will propose to have expert public participation on Working Groups, hold public meetings within the Great Lakes Basin, and solicit public input through a web-based approach. The costs and benefits of the various opportunities for public involvement will be a consideration in terms of geographic coverage and frequency of events.

Public participation and consultation should be an integral part of the comprehensive review process so that all public views can be considered. Informal consultations will occur, as needed, during the planning stages of the design of the review so that opportunities for public input can be clearly identified and appropriately scheduled in review activities.

ARSC has identified the following principles for public engagement:

- Consultation mechanisms used during the review must be flexible and promote inclusiveness in order to be responsive to the economic, social and cultural differences among and within Canada and the United States.
- Promote opportunities for the participation of the public in Canada and the United States, within the Great Lakes Basin.
- Informing the public of how and when their comments will be considered in the ongoing activities of the ARC.
- Provide the public with a means to interact constructively with ARC and the review Working Groups.
- That clear objectives for public participation be established in advance of meetings.
- Targeted calls for sector specific comments be undertaken, as needed (e.g. with NGOs, industry or other governmental departments).
- Records should be kept of public meetings and contain minutes of the meetings. The summary reports of meetings should include the recommendation(s) made, and should be circulated to participants using registration addresses or other means the ARC deems appropriate.
- All documents for public consultation should be made available simultaneously in English and French. These documents should be, to the extent possible, accessible electronically in both languages through the Internet, as well as in hard copy upon request to ARC.
- The public notice of any meetings should provide the information on how the public can participate, and on any restrictions that may apply.

- The IJC will have a role assigned to them by the Governments of Canada and the U.S. to solicit public input regarding the GLWQA that preserves the integrity and independence of the commission and respects the mandate and stature of the IJC.

While not exhaustive, this list will help make the process more robust and inclusive.

## **E. Resources**

It is presumed that involvement by federal, state, and provincial agency personnel will be supported by their agencies from existing resources (e.g., personnel and travel). Without additional funding, secretariat support to the Agreement Review Committee and public involvement activities may be constrained.

## **F. Timelines**

The review phase of the Agreement is expected to last 12 – 18 months. ARSC has identified the following major milestones: (dates are estimates which are subject to change):

1. Presentation of draft Agreement review process to BEC - July 2004.
2. ARSC approval of draft for Public Review (September 27, 2004).
3. Agency (EC and EPA) approvals for release of public review document (December 2004).
4. Public Review period (January 2005 – March 2005).
5. Solicitation of key stakeholders for review input (January 2005 to March 2005).
6. Incorporate public comments for ARSC to consider (March 2005 – May 2005).
7. Formal launch of Review Process (Spring 2005).

## **Chapter 5: Reporting to BEC**

At the end of the review period, the results of the Working Group reviews and any other analyses conducted, as well as a synthesis of public comments, will be compiled in an Agreement review report and provided to the Binational Executive Committee (BEC) for their consideration.

The BEC will make a formal recommendation to the Parties on what, if any, actions should occur as a result of the review.

The Governments of Canada and the United States will consider the findings and recommendations of the BEC and determine next steps (Stage Three).

## APPENDIX A: BEC CHARGE FOR REVIEW OF GLWQA

### Binational Executive Committee Meeting

January 14-15, 2004, Niagara Falls, Ontario

#### GLWQA REVIEW

1. BEC endorsed the three stage approach to the review of the Agreement.
  - (a) Stage One: Design and scope of review process
  - (b) Stage Two: Review and Analysis
  - (c) Stage Three: Implementation
2. A charge is given to the BEC Secretariat to form, by February 27, 2004, a working level Agreement Review Scoping Committee (the "Committee") that will be comprised of one senior manager each from the United States (Great Lakes National Program Office); Canada (Environment Canada-Ontario Region), and; volunteers from other Agencies having BEC membership. (Representatives from Pennsylvania, Health Canada and the Ontario Ministry of Environment have agreed to participate).
3. The BEC Secretariat advise BEC members of the formation of the Committee and invite BEC members to participation in the review.
4. The BEC Secretariat invite the IJC to participate on the review committee.
5. The Committee is charged with recommending the scope of the review and the process for reviewing the GLWQA that is open, transparent and inclusive. In so doing the Committee can establish ad-hoc or other working groups on a national or binational basis, as necessary (as an example, will be important to establish linkages with the Great Lakes Binational Toxic Strategy). In developing recommendations the Committee should take into consideration the importance of meaningful engagement of stakeholders.
6. The Committee will prepare a report on a recommended approach to the review for consideration at the July 2004 BEC Meeting. The delivery of the report to the July BEC meeting will drive the timing of Stage One.
7. Committee will ensure that BEC members have an opportunity to review and comment on the Draft Committee's Report.
8. The Committee will seek comments on their draft report from external organizations, such as Great Lakes United and the Council of Great Lakes Industries.

## **APPENDIX B: ARSC MEMBERS**

### **CANADA**

- Michael Goffin, Environment Canada, Great Lakes Corporate Affairs
- Elizabeth Janz, Ontario Ministry of Environment, Integrated Planning Division
- John Lawrence, Environment Canada, National Water Research Institute
- David Henry, Environment Canada, Americas Branch
- Peter Fawcett, Department of Foreign Affairs, U.S. Transboundary Division

### **UNITED STATES**

- Vicki Thomas, Environmental Protection Agency, Great Lakes National Program Office
- Jan Miller, US Army Corp of Engineers
- Lori Boughton, Pennsylvania Department of Environmental Protection
- Dave Gravallese, Environmental Protection Agency, Office of General Counsel
- Mario DelVicario, Environmental Protection Agency, Region 2
- Nancy Nelson, Department of State, Office of Canadian Affairs

### **INTERNATIONAL JOINT COMMISSION**

- Dr. Gail Krantzberg, Great Lakes Regional Office
- Dr. Murray Clamen, Canadian Section
- Elizabeth Bourget, U.S. Section

### **ARSC Secretariat Members**

- Mark Elster, United States Environmental Protection Agency
- Jamie Schardt, United States Environmental Protection Agency
- Shawn Morton, Environment Canada
- Roy Angelow, Environment Canada
- Al Jamal, Environment Canada
- Gary Loftus, Environment Canada

**APPENDIX C: LIST OF MEETINGS**

- Initial ARSC Conference Call - March 25, 2004
- ARSC Conference Call - April 14, 2004
- ARSC Meeting in Washington, DC - April 22-23. 2004
- ARSC Conference Call - May 11, 2004
- ARSC Conference Call - May 21, 2004
- ARSC Conference Call - June 01, 2004
- ARSC Conference Call – August 24, 2004
- ARSC Conference Call – September 08, 2004
- ARSC Conference Call – September 27, 2004

## Appendix D: IJC Principles for the Review

July 8, 2004

The Honorable Colin Powell  
U.S. Secretary of State  
Washington, DC

The Honourable William Graham, P.C., M.P.  
Minister of Foreign Affairs  
Ottawa, Ontario

Dear Messrs Powell and Graham:

The International Joint Commission is pleased that the Parties are moving ahead to prepare for the comprehensive review of the Great Lakes Water Quality Agreement. Your review will be triggered by the Commission's 12<sup>th</sup> Biennial Report, now scheduled for distribution in mid-September. The Commission is also pleased that the Parties welcome the Commission's advice regarding this review.

For your consideration at this time we enclose some principles which we trust will be helpful in your review of the Agreement.

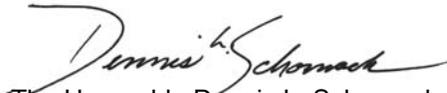
Consistent with the Commission's Declaration and Communiqué of September 2003, and considering the initial request from the two governments regarding our assistance with consultation, we are developing a consultation strategy designed to give the public ample opportunity to give us their input on the Review. We will convey that input to the Parties. We soon will forward this consultation strategy for your comment.

Where we believe we can assist you in conducting your comprehensive review, we will provide further counsel on the purpose, scope, and other aspects of the Agreement Articles and Annexes.

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The Commission appreciated the opportunity to provide suggestions to the Agreement Review Scoping Committee, constituted under the Binational Executive Committee, and looks forward to further consultation with governments as they undertake this important review.

Yours sincerely,



The Honorable Dennis L. Schornack  
Chair  
U.S. Section



The Rt. Hon. Herb Gray, P.C., C.C., Q.C.  
Chair  
Canadian Section

c.c: Mr. John Mills, Co-chair, Canadian Section, Binational Executive Committee  
Mr. Mike Goffin, Environment Canada  
Mr. Thomas Skinner, Co-chair, U.S. Section, Binational Executive Committee  
Ms Vicki Thomas, U.S. Environmental Protection Agency

Enclosure:  
As stated

## **International Joint Commission Principles for the Review of the Great Lakes Water Quality Agreement**

The Parties are responsible for the overall review of the Great Lakes Water Quality Agreement. In the process of conducting the review, the International Joint Commission recommends that the Parties adhere to the following principles.

It is recognized that “the Parties shall conduct a **comprehensive** review of the **operation and effectiveness** of the Agreement” (Article X.4). Consequently, for discussion purposes, the principles were organized around “operation and effectiveness” and “comprehensive”.

### **Operation and Effectiveness**

The process of conducting the review should be:

- **Open and Transparent**

To the extent practicable, deliberations related to the review should be open and part of the public record.

- **Inclusive**

Solicit a full range of views and perspective throughout the Basin through a variety of means (meetings, workshops, websites, etc.). Engage a wide spectrum of groups and individuals, including those who are not normally part of Agreement activities and discussions. Is the Agreement meeting the needs of the people of the Great Lakes basin?

- **Ensure that the Review is Timely**

Capitalize on the opportunity of wide-spread community support for a review, the renewal of the Great Lakes Program in Canada and the proposals for a Restoration Program in the U.S. Timely onset of the review is as important as a reasonable time frame for completing the review. It should be sufficiently long to obtain necessary information and viewpoints, but sufficiently short to minimize “burnout.” A time period of 18-months is suggested.

- **All Aspects of the Review Must be Binational**

Workgroups or teams should normally have an equal number of members from both countries. Consultations should allow equal opportunities for the citizens of both countries to voice their opinions.

- **Impartial**

The review should be impartial and avoid conflict of interest. Recognizing that all players in the Basin have a vested interest in maintaining certain roles and responsibilities, care should be taken to avoid having organizations alone review their own work.

## **Comprehensive**

The process of reviewing the Agreement comprehensively will address, by necessity, substantive issues within the Agreement. Principles for guiding a comprehensive review should:

- **Consider the Purpose of the Agreement First**

In order for the review process to be most efficient, the purpose of the Agreement should be confirmed before taking a more in-depth look at the articles and annexes of the Agreement.

- **Use Science and Science-Policy Linkages as the Basis for the Review**

The review should be guided by the scientific evidence regarding what action is needed to restore and maintain the chemical, physical and biological integrity of the waters of the Great Lakes Basin Ecosystem. In line with the Commission's Guiding Principles, the concept of sustainable development, the ecosystem approach, virtual elimination and zero discharge of persistent toxic substances should be affirmed. Moreover, while the importance of a sound scientific basis for conclusions and recommendations should be emphasized, it may sometimes be necessary to adopt a precautionary approach and to act even in the absence of a scientific consensus where prudence is essential to protect the public welfare.

- **Be Forward-Looking**

Consider the relevance of existing articles and annexes, as well as any new issues for possible additions that are aligned with the Agreement purpose. The goals, objectives, and endpoints in the Agreement should serve as drivers for action.

- **Consider Governance**

Consider governance roles, responsibilities, and relationships for those implementing the Agreement, including the Parties' interactions with First Nations, Tribes, States, Provinces, municipal and regional governments, and non-governmental organizations, in order to maximize a sense of ownership throughout the Great Lakes community. Consider the roles and effectiveness of organizations created under, or implementing, the Agreement (e.g., the IJC together with its Great Lakes Regional Office, the Water Quality Board, the Science Advisory Board, and the Binational Executive Committee.) Clarify, as necessary, how the Agreement relates to other basin organizations, such as the Commission on Economic Cooperation (CEC), Great Lakes Fishery Commission (GLFC), Great Lakes Commission (GLC), and Council of Great Lakes Governors (CGLG).

- **Consider Accountability**

Each element in the Agreement being reviewed should consider how accountability to the public can be enhanced for Agreement implementation by the Parties, states and provinces, as well as by cooperating stakeholders in the Great Lakes basin.