

Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem



DRAFT FOR PUBLIC COMMENT

BETWEEN

HER MAJESTY THE QUEEN IN RIGHT OF CANADA (CANADA)

AND

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO (ONTARIO)

WHEREAS the Governor in Council, by Order in Council No. P.C. _____, dated the _____ day of _____, 200____ has authorized the Canada Minister(s) _____ to execute and deliver this Agreement on behalf of Her Majesty;

WHEREAS the Lieutenant Governor in Council, by Order in Council No. O.C. _____, dated the _____ day of _____, 200____ has authorized the Ontario Minister(s) _____ to execute and deliver this Agreement on behalf of ;

Definitions

- “Basin” means the five Great Lakes and the surrounding waters which drain into them, as well as the St. Lawrence River, to the border between Ontario and Quebec
- “ Ecosystem” means the air, land, water and biota (including humans) and their interactions
- “the Agreement” means the Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem
- “Annexes” means the Annexes developed pursuant to the Agreement
- “Duly authorized signatories” of the governments of Canada and Ontario means the Minister of the Environment for Canada and the Minister of the Environment for Ontario.
- “Party” means either the Government of Canada or the Government of Ontario

Preamble

Since 1971, the Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem or COA has guided Canada and Ontario in their work to improve the environmental quality of the Great Lakes. Along with the efforts of the Basin’s residents, COA has contributed to:

- reducing the amount of pollution that enters the Great Lakes;
- improving and protecting the habitat and homes of fish and wildlife;
- working toward the goal of water that is safe to swim in and to drink; and,
- fostering a sense of stewardship throughout the region for the Great Lakes Basin Ecosystem.

Natural Features of the Lakes

The Great Lakes are vast inland freshwater seas that play a vital role in the physical, social and economic life of North America. The five Great Lakes - Lake Superior, Lake Michigan, Lake Huron, Lake Erie and Lake Ontario -- form a chain of lakes that span more than 1,200 kilometres from west to east and together hold about 20 per cent of all the surface freshwater in the world.

The foundation of the Great Lakes Basin was laid three billion years ago during the Precambrian era. It was the glaciers, the last of which retreated 10,000 years ago, that created the lakes as they are today. The glaciers scoured out the valleys that became the Basins of the Great Lakes and the nearby escarpments, ridges and bluffs. Indeed, almost all the water in the Great Lakes Basin is a legacy of the glaciers. Less than one percent is renewed annually by precipitation and run-off. This means pollutants discharged into the system stay there and can become more concentrated over time.

But there is more to the Great Lakes Basin than the lakes. The lakes are part of a complex system of streams, rivers and smaller lakes, that drains large tracts of Ontario and eight American states. In all, the Great Lakes drainage Basin, on both sides of the border, measures some 766,000 square kilometres. In Canada, the Basin extends to just north of Lake Nipigon and south to the southern shore of Point Pelee in Lake Erie. The Basin reaches west just beyond Thunder Bay and east past Cornwall on the St. Lawrence River to the Ontario-Quebec border.

The Basin is large and contains a wide variety of vegetation and wildlife. In the north, the Boreal Forest covers much of the Basin with spruce, balsam fir and jack pines, which provide habitat for moose, beaver, deer, martens, weasels, porcupines, mink, wolves, bears, osprey and peregrine falcons. In the central and southern regions of the Basin, mixed forests of deciduous and coniferous trees including beech, sugar maple, red and white oak, as well as red and white pine, have given way to extensive urban and agricultural development.

Human dependence on the Lakes

At the beginning of the twenty-first century, more than 33 million people inhabited the Great Lakes Basin, including about a third of Canada's population. Eight of Canada's largest cities including Toronto, Hamilton, Oshawa and Windsor sit in the Basin. The Great Lakes and other lakes and rivers in the Basin provide drinking water to millions of Canadians and affect the health and well being of additional Canadians living downstream along the St. Lawrence River.

The Great Lakes are the source of water for shipping, power generation and industries. On both sides of the border, the Great Lakes Basin supports multibillion dollar manufacturing, service, tourism and outdoor recreation industries, as well as strong maritime transportation systems and diversified agricultural sectors.

The Great Lakes Basin is home to 45 % of Canada's industries. At the beginning of the twenty-first century, the Basin provided the foundation for trade between Canada and the United States, equaling 50% of Canada's annual trade with the United States.

In Ontario, roughly 75 % of the population lives and works in the Great Lakes Basin. Ontario accounts for more than 50% of Canada's manufacturing activity. In fact, Ontario's gross domestic product is about 40 % of the nation's total. Clearly, the Great Lakes Basin is vitally important to the integrity of Canada's economy. Challenges to the environmental quality of the Great Lakes Basin then, directly challenges the viability and vitality of this economic engine, which depends on a healthy Great Lakes Basin Ecosystem for its survival.

The growing population and continuous economic development during the twentieth century has brought change to the Great Lakes Basin, not all of which has been positive. By the middle of the twentieth century, the signs of an ecosystem under stress were clearly evident. Degradation of environmental quality can directly impair the viability and vitality of the region, since the economy and quality of life depend on a healthy Great Lakes Basin Ecosystem for its survival. In 1971 Canada and Ontario signed the first Canada-Ontario Agreement to show their commitment to stemming the tide of environmental degradation within the Great Lakes and to restoring the ecosystem's health. The Canada-Ontario

Agreement has been renewed four more times and revised to reflect the changing challenges within the Basin.

Shared management of the Lakes

Significant progress has been made through these agreements and with the cooperation of the area's citizens, including the governments of the United States and the eight Great Lakes States, toward restoring the health of the Basin's ecosystem. Discharges of harmful pollutants to the Great Lakes are down and the quality of the water has improved. One result is that species, which were dying, are now returning. There are now small but growing and healthy populations of osprey, bald eagle, peregrine falcon and lake trout in the Great Lakes Basin today. Their return is a tangible indicator of an ecosystem that is improving.

However, the job of restoring, protecting and conserving environmental quality within the Great Lakes Basin is not yet done. Meeting present and future challenges and sustaining the improvements made to date will require the continued efforts of all citizens and stakeholders. For this reason, Canada and Ontario have entered into a renewed Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem.

Canada and Ontario know they share an interest as well as a responsibility for managing the Great Lakes Basin Ecosystem. To turn the vision of the agreement into a reality and restore the Great Lakes Basin Ecosystem, however, will require the cooperation of the Basin's residents, First Nations, industries, businesses and non-government organizations, as well as all levels of government. The Agreement provides a means to engage the considerable skills, energy and resources of all peoples and organizations with an interest in the Great Lakes Basin, and to enable them to work together on the shared vision for the ecosystem. By describing a clear vision and goals, and affirming the commitment of the federal and provincial governments to act, this Agreement and its Annexes will give momentum to wider efforts and will facilitate collective action.

Vision

The COA 2001 Agreement is guided by the vision of a healthy, prosperous and sustainable Great Lakes Basin Ecosystem for present and future generations.

The Purpose of the Agreement

The Agreement builds on the long-standing commitment of Canada and Ontario to restore, protect and conserve the Great Lakes Basin Ecosystem.

Through this Agreement, Canada and Ontario commit to continue to work in a cooperative, coordinated and integrated fashion, with each other and with others in the Basin, to achieve the vision of a "Healthy, Prosperous and Sustainable Great Lakes Basin Ecosystem".

To make the vision a reality, the Agreement establishes principles which will guide the actions of Canada and Ontario. It describes the development of the Annexes, allows for new Annexes to respond to existing or emerging issues and sets in place administrative arrangements for the effective and efficient management of the Agreement and its Annexes.

Through this Agreement, Canada and Ontario establish:

- Common priorities, goals, and objectives for the enhancement and preservation of the Great Lakes Basin Ecosystem;
- Management strategies required to achieve these goals and objectives;

- The roles and responsibilities of each level of government in relation to these strategies; and,
- A commitment to report regularly and publicly on the state of the Great Lakes Basin Ecosystem as it relates to actions taken pursuant to this Agreement.

By defining a vision for the Great Lakes Basin, specific goals and objectives, and the commitment to action of Canada and Ontario, the Agreement and Annexes developed pursuant to it will give momentum to wider efforts and will facilitate collaborative arrangements and collective action among all peoples and organizations with an interest in the Great Lakes Basin.

Implementation of this Agreement will contribute to meeting Canada's obligations under the Canada-U.S. Great Lakes Water Quality Agreement.

The Principles of the Agreement

The following principles will direct and guide the actions of Canada and Ontario under the Agreement.

Accountability- to remain accountable to the citizens of Ontario, the parties must establish clear commitments in relation to agreed upon goals and objectives for this Agreement and regularly report on progress in relation to the achievement of those commitments.

Adaptive Management- openness, continuous learning, innovation, and improvement ensures effective and efficient management of the Agreement.

Conservation- energy, water and resources should be conserved to sustain the physical, chemical and biological integrity of the Great Lakes Basin Ecosystem.

Ecosystem Approach- the interdependence of land, air, water and living organisms, including people, and the need to make decisions that will maximize the benefits to the entire ecosystem of the Great Lakes Basin.

Free exchange of information- data will be collected once, closest to the source, in the most efficient manner possible and will be shared.

Pollution Reduction- control at the source is a fundamental step in restoring the health of the ecosystem of the Great Lakes Basin and that work will continue towards the virtual elimination of persistent toxic substances and reductions in other contaminants .

Precautionary Principle- where there are threats of serious or irreversible environmental damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

Prevention- anticipate and prevent approach yields maximum environmental benefits and is economically cost effective.

Public and Stakeholder Participation- ensure that the decision making process incorporates consideration of public and stakeholder opinions and advice, and provide the public and stakeholders with meaningful opportunities to consult, to advise and to participate directly in activities that support the Agreement.

Rehabilitation- where environmental quality has been degraded by human activity, restoration will be part of the solution.

Science-Based Great Lakes Management- best available science, research and knowledge shall provide advice in setting management priorities, policies and programs.

Sustainability- social, economic and environmental demands are all considered, to balance the needs of the present without compromising the ability of future generations to meet their own needs.

Annexes to the Agreement

Canada and Ontario will develop and implement Annexes pursuant to the Agreement. The Annexes will focus on environmental issues or specific management functions that are a priority to both governments and will benefit from co-operative and coordinated action.

Each Annex will specify:

- Five-year societal goals for the Great Lakes Basin ecosystem, specific to the environmental issue or component of environmental management, which is the subject of the Annex. These goals are, in the opinion of the Parties, both reasonable and desirable to achieve over the duration of the Annex;
- Identification of results that the Parties will pursue jointly or separately in order to contribute towards the achievement of the stated goals;
- A clear articulation of the specific commitments each of the Parties will deliver over the duration of the Annex in order to contribute to the achievement of the stated goals and objectives; and,
- A management structure that will ensure the coordination and sound management of the actions of the Parties. This will include:
 - Timeframes for meeting the agreed-on results; and
 - Quantitative and measurable environmental outcomes and the names of the Parties -- governments, departments and ministries -- responsible for specific actions and monitoring and reporting the results.

Administration

The Agreement

The Agreement will come into force upon signing by the duly authorized signatories of the Government of Canada and the Government of Ontario, and will remain in force for a period of five years from the date of signing. The Agreement may be terminated earlier by either party giving the other at least twelve months notice.

Nothing in this Agreement alters the legislative or other authority of the governments with respect to the exercise of their legislative or other authorities under the Constitution of Canada.

Reviewing the Agreement

Canada and Ontario will conduct a comprehensive review of the effectiveness of this Agreement in the fifth year. The review will be completed within six months. They will consult with the public on the review and make public the findings and outcomes of the review 60 days thereafter.

Amending the Agreement

Upon completion of the Agreement review, or at any other time, the agreement may be amended by consent of Canada and Ontario. Any amendments will include a public consultation process administered by the Parties. Amendments will be confirmed by an exchange of letters by Canada and Ontario that will specify any and all amendments to the Agreement, and the effective date or dates when such amendments take force.

Annexes

Annexes to the Agreement may be developed pursuant to the Agreement at any time, and will come into force upon signing of the Annexes by Canada and Ontario. Annexes will be developed with public consultation.

Since the achievement of the goals of a particular Annex may require the cooperation and coordination of actions of a number of departments, ministries and agencies of Canada and Ontario, Annexes shall be signed by Ministers of Environment on behalf of the Parties. Each signatory will confirm acceptance of the commitments identified within the Annex for each department, ministry or agency and will provide regular reporting on progress in accordance with the administrative requirements of the Agreement.

Annexes developed pursuant to the Agreement come into force upon signature by Canada and Ontario and will remain in force for five years unless otherwise specified in an Annex.

If Canada and Ontario both agree, then new Annexes may be added pursuant to the Agreement at any time. Canada and Ontario, however, commit to include public consultations on the new Annexes pursuant to the Agreement. The new Annexes will be confirmed in writing by an exchange of letters between Canada and Ontario.

Amending Annexes

An Annex may be amended by exchange of letters between Canada and Ontario. The letters will specify the effective date or dates of such amendments. Annexes may be terminated by either party giving the other at least three months notice.

Canada and Ontario commit to including public consultations when amending or terminating Annexes pursuant to the Agreement.

If the governments terminate the Agreement, Annexes are terminated as well.

If any department, ministry or agency of either the Government of Canada or the Government of Ontario is unable to fulfill its obligations as specified within an Annex at a minimum of twelve months prior, written waiver must be provided to all Annex signatories by the department, ministry of agency.

Resources

Canada and Ontario commit themselves to providing the resources needed to implement the Agreement and the Annexes pursuant to it. The governments will create opportunities for others to contribute to achieving the COA vision

COA Management Committee

The administration of the Agreement and all Annexes developed pursuant to it will be entrusted to a Management Committee. The committee will include a co-chair from Environment Canada and co-chair from the Ontario Ministry of the Environment, as well as Regional Director General and Assistant Deputy Minister level representatives from all departments, ministries, and agencies of Canada and Ontario who are participants in any Annex of the Agreement and/or one or more of the Annexes developed pursuant to it.

The COA Management Committee will be put in place when the Agreement comes into force. The COA Management Committee will be responsible for:

- Setting priorities and establishing strategies for addressing emerging environmental or management issues pursuant to this Agreement based on regular and ongoing review of scientific information, monitoring reports, public consultations, and other information;
- Identifying gaps and coordinating the development and amendment of Annexes to the Agreement to fill these gaps;
- Approving workplans of the Annexes pursuant to the Agreement;
- Coordinating the internal annual assessment of the Agreement and Annexes developed pursuant to it against objectives established at the outset;
- Evaluating the results of the assessment against the objectives established at the outset, and recommending amendments as appropriate;
- Conducting ongoing evaluations of the administration and implementation of the Agreement as well as promoting any actions needed for continuous improvement;
- Facilitating the free exchange of information pertaining to the Agreement and pursuant Annexes between departments, ministries and agencies of Canada and Ontario to ensure the effective coordination of actions;
- Addressing the implications of changes or adjustments to government policy, programs or resourcing that may affect the ability of the two governments to meet the commitments laid out in the Annexes;
- Producing progress reports and State of the Lakes reports every two years for the public that are meaningful, timely, reliable and in plain language;
- Conducting regular and ongoing public consultation; and
- Developing common position and joint action plans for representing Canadian interests and engaging in cooperative initiatives with U.S. agencies and the International Joint Commission.

Commitment to Notify

The Government of Canada will consult with the Government of Ontario regarding any changes to the Canada-U.S. Great Lakes Water Quality Agreement or on any other international activities that may affect this Agreement. Similarly, the Government of Ontario will consult with the Government of Canada over the initiation of programs and agreements with other provinces or states that may affect this Agreement.

Dispute Avoidance

The two governments are committed to working collaboratively to avoid and resolve any dispute concerning the management of the Agreement and performance of obligations set out in the Annexes.

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In the event of a dispute under this Agreement, either government may provide notice in writing of the matter in dispute together with related information and documentation. Within 60 days of a dispute notice, the governments will meet to discuss the dispute in a cooperative, collaborative manner. If the dispute is not resolved within 120 days of the meeting, or such longer period as the Parties may agree, the parties may jointly retain a third party to provide fact finding advice for mediation in connection with the resolution of the dispute.

IN WITNESS WHEREOF, this Agreement has been executed on the _____ day of _____, 2001.

Her Majesty The Queen in Right of Canada

Witness

Her Majesty The Queen in Right of Ontario

Witness