

Technical Fact Sheet

Feuille de renseignements



Ministry of Natural Resources

Ministère des Richesses naturelles

December 13, 2005

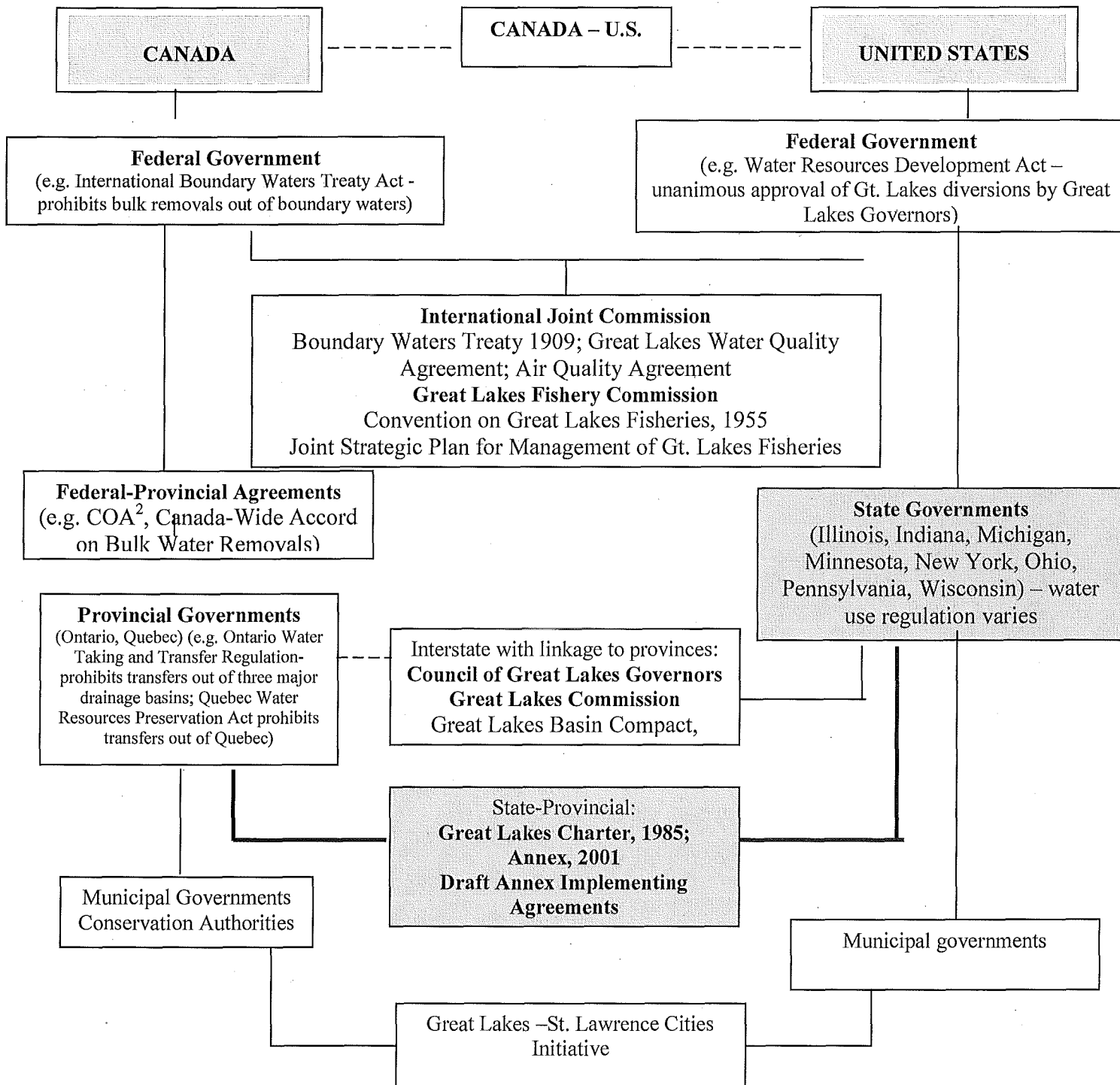
ENHANCING EXISTING GREAT LAKES PROTECTIONS THROUGH CHARTER ANNEX IMPLEMENTING AGREEMENTS

- Protecting and managing the shared waters of the Great Lakes-St. Lawrence River Basin involves all levels of government as well as agencies like the International Joint Commission (IJC) that are run jointly by Canada and the United States (US). Neither the federal nor the provincial governments have exclusive jurisdiction, but the provinces are responsible for the general management of waters within their borders.
- This table highlights some of the important agreements and laws that help protect Great Lakes-St. Lawrence River Basin waters against diversions and manage water withdrawals. It also shows the limitations of the existing protections, and how the Charter Annex implementing agreements will complement and strengthen them.

Existing Protections	Limits of Existing Protections	How Annex Agreements Strengthen Protection
<p>Boundary Waters Treaty: Gives the Canadian and U.S. governments and the IJC authority to approve or not approve proposed water diversions directly from the Great Lakes and other waters shared by Canada and the U.S., <u>only</u> if the diversions may affect water levels or flows.</p>	<ul style="list-style-type: none"> • Does not ban diversions; instead, requires approval of both federal governments and the IJC • Approvals only required for diversions directly from Great Lakes (not underground water or streams, lakes, rivers that flow into Great Lakes) • No consensus on whether the treaty applies to Lake Michigan (entirely with the U.S.) • Approvals apply only to diversions that may affect Great Lake water levels or flows – in other words, proposals that involve large quantities of water. Smaller Great Lake diversions have gone ahead without needing approval under the treaty • Illinois diversion at Chicago existed before the treaty and is arguably not governed by it • IJC authority to resolve a dispute requires joint reference by both governments (e.g. Devil's Lake) 	<ul style="list-style-type: none"> • Ban diversions with rare exceptions • Extend protection to all basin waters including groundwater and other streams, lakes, rivers; • Apply to smaller scale proposals which may not affect levels and flows individually but may cause cumulative impacts • Agreements recognize authority of Boundary Waters Treaty, federal governments and IJC, which will continue, unaffected by the agreements
<p>International Boundary Waters Treaty Act: A Canadian federal law that implements the Boundary Waters Treaty and was amended in 2002 to ban bulk water removals out of the Great Lakes and other boundary waters on the Canadian side</p>	<ul style="list-style-type: none"> • Applies only in Canada, and to bulk removals from the Great Lakes themselves (not to removals from underground water, or streams, lakes or rivers that flow into the Great Lakes, or to diversions from one Great Lake watershed to another) • No such ban exists on the U.S. side of the Great Lakes 	<ul style="list-style-type: none"> • Extend the ban on diversions to all Great Lakes-St. Lawrence River Basin waters on both sides of the border, subject to rare exceptions
<p>Canada-Wide Accord on Bulk Water Removals: A good-faith agreement that commits Canadian provinces and the federal government to take action to ban bulk removals from Canadian waters</p>	<ul style="list-style-type: none"> • Very general commitment only • Not all provinces signed the agreement (although most provinces have taken action to ban bulk removals) 	<ul style="list-style-type: none"> • Extend principles of Accord to include U.S. Great Lakes states and Quebec.

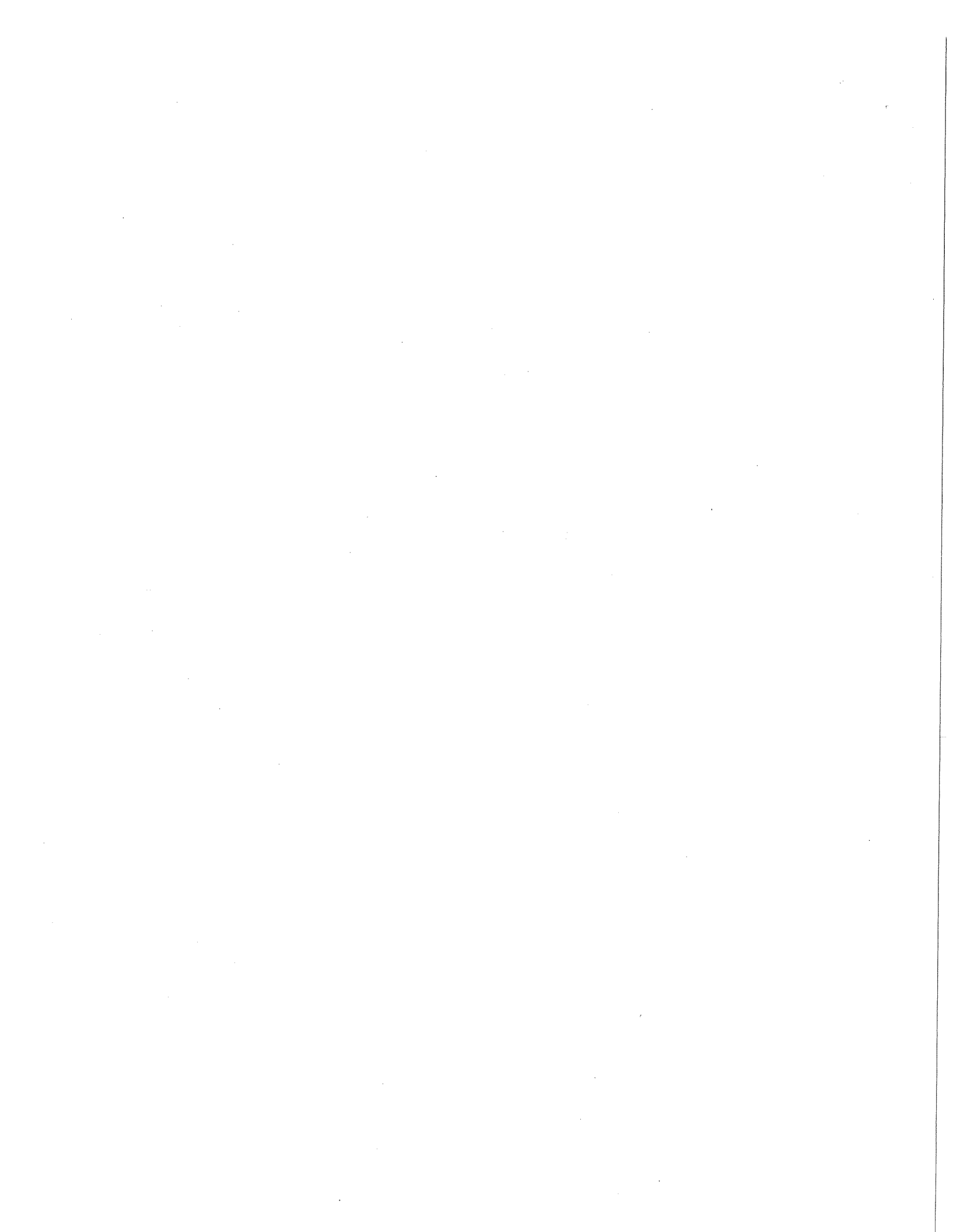
Existing Protections	Limits of Existing Protections	How Annex Agreements Strengthen Protection
<p>U.S. Water Resources Development Act: Requires approval of the eight Great Lakes governors for any proposed water diversion out of the Great Lakes-St. Lawrence River Basin.</p>	<ul style="list-style-type: none"> • Applies only to water diversions out of the basin, not to diversions between Great Lake watersheds • No consensus on whether it applies to diversions from groundwater • Small-scale diversions have been approved under the act, some involving diversions of replacement water into the basin to supplement return flow • Ontario and Quebec have no authority to approve diversions under the act • No environmental standard to guide decisions under the act • Easily amended 	<ul style="list-style-type: none"> • Strengthen control of diversions through a virtual ban • Under the interstate compact, one governor's vote can stop U.S. proposals for most exceptions to the ban on diversions. • The agreements would apply to proposed transfers of surface water or groundwater, and to diversions out of the basin as well as between Great Lake watersheds. • Interstate compact to be approved by 8 states and U.S. Congress – not easily amended • Provide an environmental standard and criteria as objective basis for decision-making
<p>U.S. Supreme Court Decree (Wisconsin et al v. Illinois et al): The result of legal action to limit the Illinois diversion at Chicago. Through the decree the diversion has been reduced and controlled through strict monitoring and conservation</p>	<ul style="list-style-type: none"> • Ontario and Quebec are not parties to the decree, nor is Canada • Illinois diversion at Chicago existed before the Boundary Waters Treaty and is arguably not governed by it 	<ul style="list-style-type: none"> • Require formal input of Ontario and Quebec for any modification to decree • Other diversions or increases to diversions out of the Great Lakes states subject to the ban on diversions • Illinois not eligible for diversion exceptions, but subject to management, conservation, information-sharing, science requirements
<p>Great Lakes Charter and Charter Annex: Good-faith agreements that commit Ontario, Quebec and the eight Great Lakes states to manage water withdrawals and to notify and consult with each other on proposals for major diversions or consumptive uses of Great Lakes-St. Lawrence River Basin water. The Charter applies to all surface waters and underground waters of the Great Lakes-St. Lawrence River Basin. The Charter Annex committed the two provinces and eight states to develop the Charter Annex agreements.</p>	<ul style="list-style-type: none"> • Requires only prior notice and consultation for proposed diversions and consumptive uses over a certain size • Provides limited or no opportunity for input from public or Basin First Nations or Tribes • No environmental standard to guide the review of proposals • Good faith commitments to conservation, science, research not implemented 	<ul style="list-style-type: none"> • Enhance commitments of charter through ban on diversions, regulation of water uses, stronger conservation and science with mechanisms to ensure implementation • Commit to consultation with First Nations and public input on significant proposals • Replace previous good-faith arrangement with enforceable binding law in U.S., domestic law in Ontario, Quebec • For proposed exceptions to the ban on diversions, prior notice and consultation is replaced with joint, consensus-based review based on an environmental standard, additional stringent criteria • For significant consumptive use proposals, the commitment to prior notice and comment by the 10 states and provinces continues
<p>Water Taking and Transfer Regulation under the Ontario Water Resources Act: Bans water transfers out of Ontario's three major water basins, including the Great Lakes-St. Lawrence River Basin, and regulates water withdrawals to protect the environment</p>	<p>Management and regulation of water withdrawals varies widely among Great Lakes states and provinces, with some states not regulating them at all, others regulating only public water supply proposals. Ontario and Minnesota have the most advanced water permitting programs.</p>	<ul style="list-style-type: none"> • Ontario ban on diversions maintained and extended through agreements to all Great Lakes-St. Lawrence River Basin states and provinces • Provide for progress in water-use regulation based on environmental standards by all basin states and provinces
<p>Water Preservation Act: Quebec legislation that prohibits water transfers out of the province</p>	<p>Permits transfers out of the basin as long as they stay in Quebec</p>	<ul style="list-style-type: none"> • Ban diversions out of basin • Provide for progress in water-use regulation based on environmental standards by all basin states and provinces

GREAT LAKES PROTECTION SHARED¹



¹ Adapted from "Pathways to Sustainability: Assessing our Progress" National Round Table on the Environment and the Economy, 1995

² Canada-Ontario Agreement Respecting the Great Lakes Basin Ecosystem



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