



National Security and  
International Affairs Division

B-281122

September 30, 1998

The Honorable Benjamin A. Gilman  
Chairman, Committee on International Relations  
House of Representatives

The Honorable Harold Rogers  
Chairman, Subcommittee on Commerce, Justice,  
State, the Judiciary and Related Agencies  
Committee on Appropriations  
House of Representatives

Subject: International Joint Commission: U.S. Activities and Oversight

The United States provides funds for a number of independent international commissions, including the International Joint Commission (IJC). You expressed concern about the lack of visibility and transparency (openness) of these commissions' programs and activities. The IJC is responsible for resolving issues involving the use, obstruction, or diversion of U.S. and Canadian boundary waters. The Commission is composed of a U. S. Section and a Canadian Section.

As agreed with your office, this letter (1) provides information on the Commission's operations and activities, including proposed changes in the scope of its responsibilities; (2) identifies the U.S. Section's source and uses of funds; and (3) examines financial and managerial oversight of the U.S. Section's activities.

In completing our review, we limited our work to the U.S. Section of the Commission. We examined selected U.S. Section budget documents and financial records. We discussed financial management and oversight responsibilities with the Department of State and U.S. Section officials in Washington, D.C. We also reviewed the Commission's founding treaty and other agreements between the United States and Canada bearing on Commission activities, and the Commission's proposed changes in the scope of its

responsibilities. We did not meet with or obtain Canadian officials' views on the Commission's activities. See the enclosure for a detailed description of the scope and methodology for our review.

### BACKGROUND

The International Joint Commission, a binational commission of the United States and Canada, was established in 1910 by treaty between the governments of the United States and Great Britain (on behalf of Canada).<sup>1</sup> The Commission is composed of a U.S. Section, located in Washington, D.C.; a Canadian Section, located in Ottawa, Ontario; and a binational regional office in Windsor, Ontario. Each section has three Commissioners and a small group of advisors and other staff to assist the Commission in carrying out its responsibilities.<sup>2</sup>

The IJC has two broad responsibilities under its founding treaty. First, the Commission acts as a quasijudicial body that considers for approval applications submitted by the two governments to build and operate certain works, such as dams and hydropower projects, in boundary waters and in rivers that flow across the boundary. Second, at the request of the governments, the Commission undertakes studies and provides nonbinding recommendations to the governments on transboundary issues. The Commission is also authorized to act as an arbitration body on issues referred to it by the two governments, although it has never been called upon to do so.

### RESULTS IN BRIEF

The International Joint Commission is actively involved in the management of boundary and transboundary waters of the United States and Canada. As new water and environmental issues have arisen, the range of the Commission's activities has expanded. This trend is expected to continue, as the Commission has proposed at the request of the two governments several broad initiatives for assisting the governments in meeting the binational environmental challenges of the 21st century.

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<sup>1</sup>The Boundary Waters Treaty was signed in 1909 and ratified by the United States and Great Britain in 1910. It entered into force on May 13, 1910.

<sup>2</sup>As of August 1998, the U.S. Section had an authorized staffing level of 24 and a full-time staff of 18. The Section also had one employee on detail from the State Department. Two of the three U.S. Commissioners serve on a part-time basis. Eight of the U.S. Section's full-time staff are assigned to the Commission's Windsor, Ontario, office; the remainder are assigned to the Washington, D.C., office. The U.S. Section's authorized staff levels are determined jointly by the State Department and the U.S. Section, based on funds available.

The U.S. Section of the Commission received funding of about \$3.2 million in fiscal year 1997, which was used mainly to fund operating expenses for its Washington, D.C. office, its share of the costs of the Commission's Windsor, Ontario, regional office, and work done for the Commission by the U.S. Geological Survey.

U.S. Section and State Department officials acknowledged that oversight of the Commission's activities is limited. The State Department's Inspector General performed a program audit of the U.S. Section's activities in 1982; GAO performed the last audit of commission programs in 1989. There have been no financial or program audits of the U.S. Section since 1989, nor is there a requirement to do so. After we completed our review, the U.S. Section informed us that it was working with the State Department's Inspector General's Office to develop a schedule of regular financial audits by independent accounting firms and, possibly, program audits by the Inspector General's Office.

### IJC ACTIVITIES

The IJC operates as an independent binational commission of the United States and Canada. The range of the Commission's activities has evolved significantly since its founding in 1910 and can be expected to continue to do so into the next century.

### IJC Operations and Activities

The IJC has a total of six commissioners—three each from the United States and Canada. The U.S. commissioners are appointed by and serve at the pleasure of the President in an independent capacity. The three current U.S. commissioners were sworn-in on April 7, 1994, for indefinite terms. According to the State Department and U.S. Section officials, the U.S. and Canadian commissioners act as a single independent body in reaching Commission decisions, rather than as separate national delegates representing the positions of their governments. While the Commission's founding treaty provides that Commission decisions can be made on the basis of a simple majority of commissioner votes, U.S. Section officials told us the commissioners strive for consensus in reaching Commission decisions.

One of the Commission's two primary responsibilities under the 1909 treaty is to consider for approval applications to build and operate projects that affect U.S. and Canadian boundary waters or transboundary rivers. Examples of projects submitted to the Commission for its approval include construction of hydropower projects on the St. Lawrence River near Massena, New York, and the St. Marys River, near the cities of Sault Ste. Marie, Michigan, and Ontario. (These projects affected both water outflows from Lakes Ontario and Superior,

and navigation in the St. Lawrence and St. Mary Rivers.) The Commission's decisions on such projects must be based on the rules and principles set forth in the treaty and are not subject to judicial review.

The Commission's decisions on projects, called "orders of approval," often include certain performance parameters such as the maintenance of water flows. For example, the "order of approval" for the St. Lawrence River hydropower project included requirements to regulate Lake Ontario water levels within a target range and to protect navigation interests downstream. The Commission retains jurisdiction over the projects it has approved and adjusts the terms of its approval to changing circumstances.

The Commission's oversight of the projects is accomplished by surveillance bodies called "Boards of Control." These boards are established by and report to the Commission but are staffed primarily by different federal agencies, provinces or states, or universities that have interests or expertise in the projects to be monitored. For example, a U.S. Army Corps of Engineers official heads the five-member U.S. delegation on the St. Lawrence River Board of Control, and Corps of Engineers personnel provide the Board necessary technical data and support needed to monitor project operation.

According to U.S. Section officials, there were approximately 20 project- or issue-specific control and advisory boards,<sup>3</sup> with about 90 U.S. members from other federal agencies, states, universities, and other sources as of February 1998.

The Commission's second primary treaty responsibility is to undertake studies and provide nonbinding recommendations to the governments on transboundary issues. The governments' requests for such studies are called "references"; the resulting studies and recommendations are advisory and nonbinding on the governments. As with the Boards of Control, the bulk of the U.S. Section's participation in these studies is by different federal agencies, states, and others, which pay the salaries and expenses of their respective participants.

According to U.S. Section officials, the governments have broad latitude in the types of issues and responsibilities the Commission can be given under references. Examples of references include requests for

- a study of the impacts of a proposed British Columbia coal mine on the waters of the Flathead River in British Columbia and Montana,

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<sup>3</sup>Including the advisory boards involved with assisting the Commission in carrying out its responsibilities under the Great Lakes Water Quality Agreement (see p. 5).

- studies to help the governments understand the nature and extent of air pollution along the border, and
- a study of the causes and effects of damaging floods in the Red River basin and recommendations for reducing damage from future flooding in the basin.

### IJC's Evolving Activities

The scope of the Commission's activities expanded significantly in the 1970s as a result of the Great Lakes Water Quality Agreement between the United States and Canada.<sup>4</sup> The agreement expresses the commitment of each country to restore and maintain the chemical, physical, and biological integrity of the Great Lakes Basin ecosystem and includes a number of objectives and guidelines to achieve these goals. The agreement, by a reference from the two governments, assigns the Commission responsibilities for monitoring and assessing progress under the agreement, advising the governments on matters related to the quality of the boundary waters of the Great Lakes system, and assisting the governments with agreement-related joint programs. The agreement provides for two binational boards (the Great Lakes Water Quality Board and the Great Lakes Science Advisory Board) to advise the Commission. Several additional councils, committees, boards, and temporary task forces have subsequently been established to assist the Commission on specific problems or issues. The Commission's regional office in Windsor, Ontario, was established to assist the Commission and its subsidiary groups in carrying out their responsibilities under the agreement.<sup>5</sup>

In April 1997, the U.S. and Canadian governments requested that the Commission develop proposals on how it might best assist the governments in meeting environmental challenges of the 21st century. In October 1997, the Commission issued a report to the governments, in which it offered a series of proposals that would further expand the range of its activities. The proposals included the following:

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<sup>4</sup>The Great Lakes Water Quality Agreement was first signed in 1972 and replaced in 1978. In 1987, a protocol was signed amending the agreement. The amendment was added to strengthen the programs, practices and technology described in the 1978 agreement and to increase accountability for their implementation.

<sup>5</sup>The members of Commission Great Lakes Boards, councils, committees, and task forces serve on a nonsalaried basis. The Commission may reimburse them for necessary travel-related expenses, however.

- A reference from the governments, authorizing the Commission to establish ecosystem-based international watershed boards from coast to coast to monitor, study, advise, and report on a range of transboundary environmental and water-related issues. The boards would also assure coordination with existing agencies and institutions in the watersheds and receive and investigate comments and concerns on transboundary environmental issues from the public. The Commission would establish the boards at appropriate times on a staged basis, following consultations with relevant federal, state, provincial, and private organizations and groups.
- Initiation of broad studies of the management of transboundary waters and of water quality, transboundary air quality, and the core data required to determine and report on the watersheds' environmental status and trends.
- Commission review of the currency and relevance of existing Commission orders governing the maintenance and operation of structures on the transboundary watersheds.
- Commission examination of and reporting on certain nuclear issues, including the impending decommissioning of nuclear reactors in the Great Lakes basin and remediation of the sites, hazards posed by certain radioactive chemical pollutants, risk assessment guidelines for radioactivity and specific nuclides, and the effects on air quality of the move to low-sulfur coals in electric power generation.
- Biennial Commission reports on the transboundary environment.

U.S. Section officials told us the Commission's proposals, if implemented, would be phased in over time and would be carried out in a manner analogous to various past references and with Boards or committees established, as necessary, to advise the Commission. The advisory bodies would serve in a nonsalaried status.

U.S. Section officials said that implementing some or all of these proposals would result in additional U.S. Section costs and workload. However, they told us the Commission has not yet developed cost estimates. U.S. Section officials emphasized that the Commission's proposals are within its current treaty authority and do not represent requests for expansion of that authority.

The U.S. Department of State and Canada's Foreign Ministry have welcomed the Commission's proposals and have accepted, in principle, its proposal to establish ecosystem-based watershed boards along the border. The Department and Ministry have asked the Commission to initiate the first steps toward

eventual full implementation of this proposal. They have not yet acted on the other proposals.

In addition to the previous responsibilities, Department of State officials informed us of a growing number of emerging issues, including water diversions, emergency flood relief, and a proposed mine development project, that will likely require the governments to call on the Commission, through the reference process, to initiate studies and develop recommended solutions. During the 1990s, exclusive of their request regarding 21st century environmental challenges, the governments have given the Commission only two references for studies—a small 1991 request on air quality issues, and a 1997 request on flooding in the Red River Basin. However, according to State Department officials, as many as seven additional references may be forthcoming. State Department officials said no funding has been identified, to date, for these potential requests.

#### THE SOURCE AND USES OF U.S. SECTION FUNDS

The U.S. Section receives its funds through the Department of State's appropriations.<sup>6</sup> This is the U.S. Section's only source of funds. Table 1 shows the Section's budget requests to State, the executive branch's requests to Congress on the Section's behalf, and actual appropriations for the U.S. Section for fiscal years 1997-99.

Table 1: Source of U.S. Section Funds, Fiscal Years 1997-99

Dollars in millions

	Fiscal Years		
	1997	1998	1999
U.S. Section budget request	\$3.444	\$3.360	\$4.297
Budget requests to Congress	3.260	3.225	3.432
Appropriations	3.181	3.189	n/a <sup>a</sup>

<sup>a</sup>Congress had not appropriated IJC funds for fiscal year 1999, as of September 18, 1998.

Source: GAO table based on U.S. Section and State Department data.

<sup>6</sup>The U. S. Section is funded through federal budget code 300—natural resources and environment, subcode 301—water resources.

Uses of Funds in Fiscal Year 1997

The U.S. Section conducts its fiscal activities through the Department of State's financial management system. According to Department of State year-end financial records, the U.S. Section spent about \$2.7 million during fiscal year 1997<sup>7</sup> for its operations in Washington, D.C., and Windsor, Ontario. In addition, the State Department allotted \$450,000 of U. S. Section funds to the U.S. Geological Survey to fund Geological Survey field office support activities for the Section's fiscal year 1997 operations. The Section returned to the U.S. Treasury \$63,000 in fiscal year 1997 funds that it did not use by the end of the fiscal year. Table 2 shows the U.S. Section's fiscal year 1997 expenditures for its operations in Washington, D.C., and its share of the Windsor, Ontario office's operating expenses.

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<sup>7</sup>Fiscal year 1997 was the last fiscal year for which year-end financial records were available.

Table 2: U.S. Section Fiscal Year 1997 Expenditures for its Washington, D.C., and Windsor, Ontario, Offices

Dollars in thousands

Uses of funds	Washington, D.C.	Windsor, Ontario <sup>a</sup>	Total
Personnel compensation	\$894.0	\$559.0	<b>\$1,453.0</b>
Personnel benefits	141.0	99.0	<b>240.0</b>
Personnel travel	161.0	0.4	<b>161.4</b>
Printing	0	24.0	<b>24.0</b>
Rent, communications, utilities	50.0 <sup>b</sup>	77.0	<b>127.0</b>
Other services	93.0	45.0	<b>138.0</b>
Supplies and materials	43.0	12.0	<b>55.0</b>
Equipment	9.0	8.0	<b>17.0</b>
Grants, subsidies, contributions	0	72.0	<b>72.0</b>
Unliquidated obligations	265.0	135.0	<b>400.0</b>
<b>Total</b>	<b>\$1,656.0</b>	<b>\$1,031.4</b>	<b>\$2,687.4</b>

<sup>a</sup>According to U.S. Section officials, the office's total operating and administrative expenses, including salaries, are shared equally.

<sup>b</sup>The U.S. Section's Washington, D.C. office rent is paid by the State Department and the General Services Administration and is not charged against the U.S. Section's budget.

Source: GAO analysis based on Department of State fiscal year 1997 year-end financial reports.

#### OVERSIGHT OF U.S. SECTION ACTIVITIES LIMITED

Oversight of the U.S. Section is limited. The Commission has a well-developed structure to obtain guidance on its programs and activities. In addition, State reviews its budget submissions and processes its financial transactions. However, the U.S. Section has no internal audit capability and requirements for external financial or program audits, and none have been performed since 1989.

Good management practices call for periodic external audits of financial records to express opinions on financial statements, to provide oversight bodies external analyses of financial condition, and to ensure that only authorized transactions occur and that they are properly recorded and reported to management. Good management practices also call for periodic program audits to determine if the organization is achieving the desired results or benefits established by its charter, to evaluate the effectiveness of its programs and activities, and to assess its compliance with applicable laws and regulations.

U.S. Section officials told us that in addition to regular executive sessions, the U.S. and Canadian Commissioners meet semiannually with representatives of the two governments and individual boards to review Commission programs and activities and to provide appropriate guidance for future activities. In addition, U.S. Section staff monitor the activities of the Commission's boards, councils and task forces, and programs and contracts carried out on the U.S. Section's behalf. For example, according to both U.S. Geological Survey and Section officials, Section staff monitor the progress and reporting of Geological Survey field offices, which operate water gauging stations along the U.S. and Canadian boundary, analyze the data generated, and report the results to Commission Boards of Control and the U.S. Section. (U.S. Geological Survey activities in support of the Commission are funded through an interagency agreement with the U.S. Section.)

State Department officials informed us that the Department analyzes the U.S. Section's annual budget submissions, makes expenditures for and provides financial reports on U.S. Section purchases and obligations, and consults frequently with the Section on its programs and activities. However, the Department told us it does not have the authority to monitor or oversee U.S. Section operations because the Commission is an independent international organization, and the U.S. Section is not a part of the Department. Both State Department and U.S. Section officials told us they believe the Department and the Section enjoy an excellent working relationship, while recognizing that the commissioners are independent U.S. representatives to the Commission.

Notwithstanding State Department officials' position that the Department has no authority to oversee U.S. Section operations, the Department's Inspector General's Office informed us that, in its opinion, it has the authority<sup>8</sup> to undertake financial, management, and program audits of the Section, subject to any limitations prescribed by U.S. statutes, applicable treaties, or other international agreements. It based its opinion on a determination that the U.S. Section constitutes "operations" of the State Department, for purposes of the Inspector General Act, due to the significant relationship existing between it and the Department.

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<sup>8</sup>Inspector General Act of 1978 (5 U.S.C. app. 3).

State Inspector General officials told us its last audit of the U.S. Section was a management audit in May 1982, conducted at the Commission's request. The officials attributed the lack of more recent audits to resource constraints. GAO conducted program audits of the Commission in 1978, 1982, and 1989.<sup>9</sup>

In an August 17, 1998, letter to us, the U.S. Section expressed the Commissioners' desire for an appropriate, high-quality audit program for its activities. The letter outlined the Section's plans, in coordination with the State Inspector General, for an independent accounting firm to develop a fiscal year 1998 financial statement for the Section (to include U.S. funding for the Windsor office) and for a separate firm to audit the Section's fiscal year 1998 financial activities. Both reports would be presented to the Section commissioners for their review and approval. The audits would be repeated on an annual or biennial basis. The letter also stated that should the State Department be determined to have inspection responsibility for the Commission, the accounting firms' reports would be made available to the Inspector General for its use in other inspections. In light of the Section's initiatives, this letter contains no recommendations for audit of the Section.

#### AGENCY COMMENTS

We did not obtain written comments on this letter from the Department of State or the U.S. Section. However, we discussed a draft with State Department and U.S. Section officials, who generally concurred with our findings and observations. The officials provided us with technical comments, which we have incorporated as appropriate.

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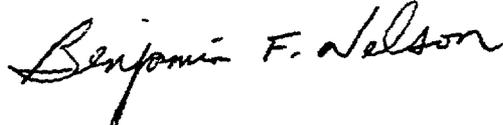
We are sending copies of this letter to the Department of State, the U.S. Army Corps of Engineers, the Environmental Protection Agency, the U.S. Geological Survey, and the commissioners of the International Joint Commission. Copies will be made available to others on request.

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<sup>9</sup>How the United States Can and Should Improve Its Funding of International Joint Commission Activities (GAO/ID-78-10, Feb. 8, 1978); International Joint Commission Water Quality Activities Need Greater U.S. Government Support and Involvement (GAO/CED-82-97, June 23, 1982); and State Department: Need to Reassess U.S. Participation in the International Joint Commission (GAO/NSIAD-89-164, June 29, 1989).

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Major contributors to this letter were Elliott C. Smith, David R. Martin, and Rona Mendelsohn. If you or your staff have any questions concerning this letter, please call me at (202) 512-4128.

A handwritten signature in cursive script that reads "Benjamin F. Nelson".

Benjamin F. Nelson  
Director, International Relations  
and Trade Issues