

**TERMS OF REFERENCE**  
**UNITED STATES-MEXICO JOINT COOPERATIVE ACTIONS**  
**IN THE LOWER RIO BRAVO/RIO GRANDE RIVER BASIN**

**Legal Framework**

Article 3 of the 1944 Treaty Relating to Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande authorizes the International Boundary and Water Commission (IBWC) “... to give preferential attention to the solution of all border sanitation problems...” Article 24 authorizes the Parties “...to initiate and carry on investigations and develop plans for the works which are to be constructed or established” dealing with trans-boundary waters.

The IBWC agreed in its Minute 261 to define as a “border sanitation problem” any case in which the waters that cross the boundary have sanitary conditions that present a hazard to the health and well-being of the inhabitants of either side of the border or impair the beneficial uses of these waters. Minute 261 includes coastal waters or waters that flow in the limitrophe reaches of the Rio Bravo/Rio Grande.

The IBWC Commissioners agreed in Point 6 of Minute 261 “That in each case where the approved course of action provides that the border sanitation problem be jointly corrected by the two Governments, the Commission develop the plans and designs for the work necessary therefore, as well as the division of work and costs between the two countries, submit them for approval of the two Governments, and upon such approval, each Government through its Section of the Commission proceed to carry out the construction, operation and maintenance, with the greatest speed and timeliness possible.” Under IBWC Minute No. 289 entitled “Observation of the Quality of the Waters along the United States and Mexico Border”, the Commission agreed to evaluate water quality and develop an integrated program for the observation of water quality in the international waters of the United States and Mexico.

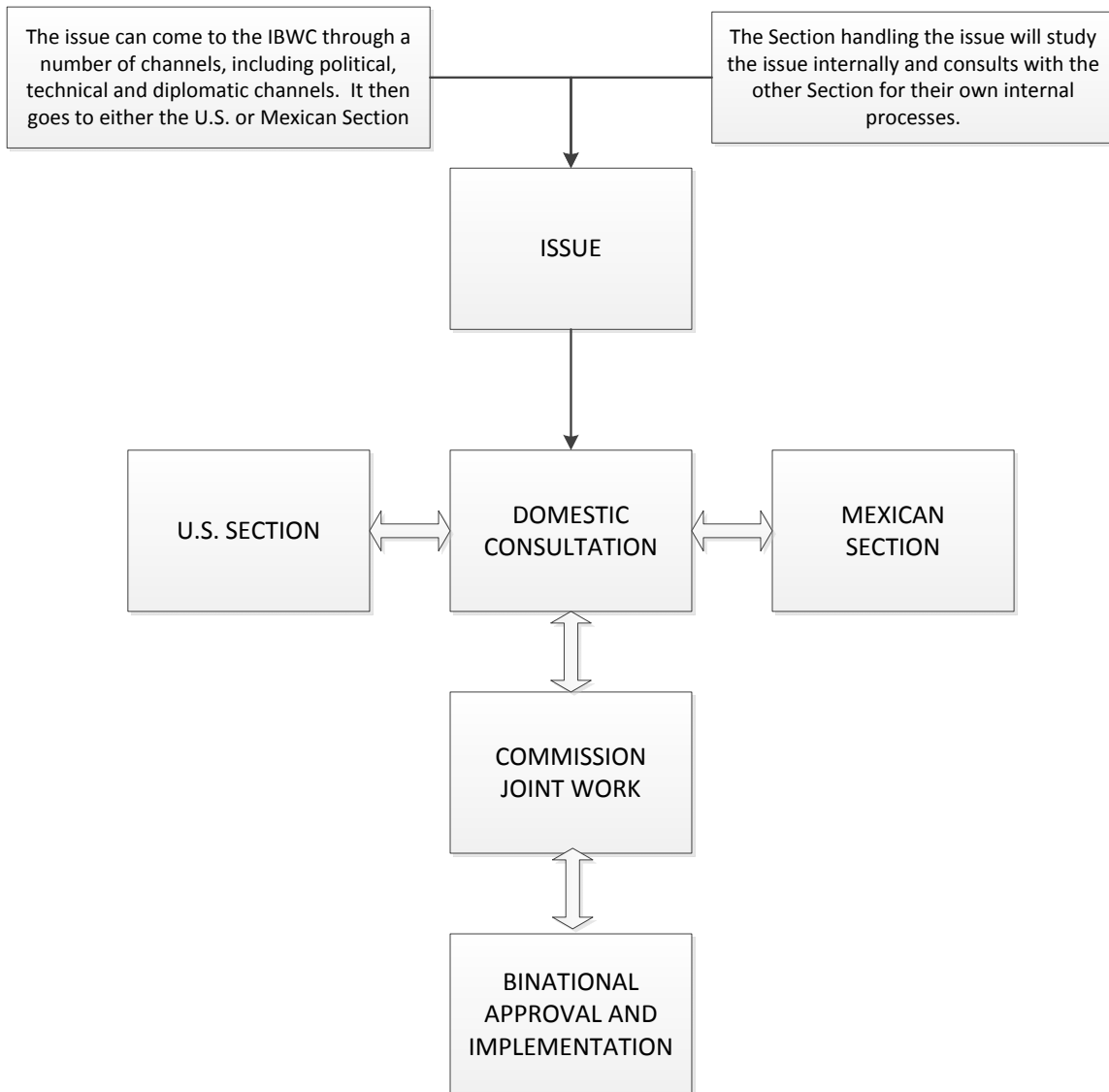
**IBWC Position and Process Framework**

Both Sections of the IBWC are aware of the binational interest to pursue the evaluation of cooperative, innovative and holistic measures that could benefit water users in the United States and Mexico. As binational initiatives that can affect international waters between the U.S. and Mexico have to be accomplished under IBWC auspices, the Commission will follow the normal binational cooperation process used by both Sections. Due to the complexity and the numerous stakeholders involved, both sections of the Commission will establish the necessary framework to allow for the joint evaluation of proposed cooperative measures that could benefit both nations.

The Terms of Reference will serve as the framework used by all entities participating in the joint cooperative process. The following flowchart depicts the

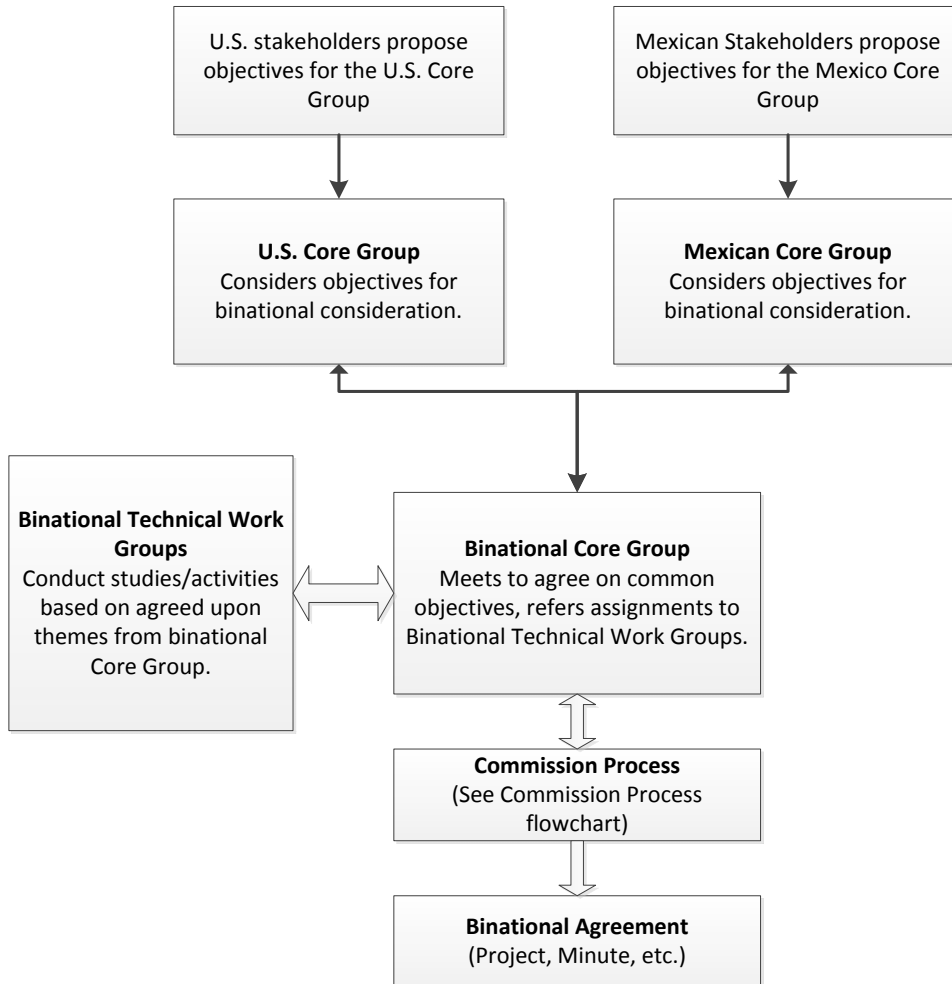
binational cooperation process that is normally followed by the Commission when addressing binational issues.

#### COMMISSION PROCESS



The following chart shows the framework that will be used in the evaluation of binational cooperative actions.

## Rio Bravo/Rio Grande Joint Cooperative Process



Once a project is agreed for implementation by the binational core group, the Commission will develop minutes where appropriate to ensure continuity of projects regardless of administration changes in each government.

Not all projects may require the development of a Commission Minute. The necessity for a Minute will be determined on a case-by-case basis.

## **General Objective**

The objective of the joint cooperative process is to establish under the auspices of the International Boundary and Water Commission, a group of representatives from the United States and Mexico to explore border sanitation issues and water quality management with potential binational benefits. Any joint cooperative projects and measures must be consistent with the 1944 Treaty.

## **Specific Objectives**

- a. Address current and future water quality issues of the Lower Rio Bravo/Rio Grande.
- b. Implement management procedures and programs that enable affected parties to manage wastewater discharges and improve water quality conditions.
- c. Evaluate current wastewater discharge infrastructure and management strategies for the potential for improving the quality of effluent discharges into the Lower Rio Bravo/Rio Grande.
- d. Evaluate new mechanisms and strategies for system operations that could improve ambient water quality and address border sanitation concerns.
- e. Improve salinity management for return flows into the Lower Rio Bravo/Rio Grande.
- f. Based on the results of the evaluations carried out, implement programs and projects to meet these objectives as appropriate, and result in measurable and sustainable improvements in the ambient water quality of the Lower Rio Bravo/Rio Grande.

## **Organization and Management**

The IBWC, acting under the foreign policy guidance respectively of the U.S. Department of State and the Mexican Foreign Ministry, will be the lead in the joint cooperative process.

Each Section of the Commission, in its respective country, will form a core group of members representing the IBWC, other federal agencies, the States of Tamaulipas and Texas, and other stakeholders, which may include local government officials or non-governmental organizations (NGOs). Each of the binational partner agencies involved in water quality will determine the appropriate stakeholder involvement. To enhance the availability of information to all parties, any U.S. or Mexican core group member may invite a technical expert to advise the core group with approval from IBWC, as there can be a benefit from utilizing research or outreach efforts of other organizations and agencies. The Principal Engineers or their designated representatives will chair their respective core groups.

The composition of the U.S. core group will be as follows:

- U.S. Section, International Boundary and Water Commission (USIBWC)

- U.S. Environmental Protection Agency (EPA)
- Government of Texas, through the Texas Commission on Environmental Quality (TCEQ)

U.S.-based non-governmental organizations or local government institutions may participate if invited by the core group, but not as members of the U.S. core group.

The composition of the Mexican core group will be as follows:

- Mexican Section, International Boundary and Water Commission (MxIBWC)
- National Water Commission (CONAGUA)
- Government of the State of Tamaulipas, through the State Water Commission of Tamaulipas (CEAT)

Mexican-based non-governmental organizations or local government institutions may participate if invited by the core group, but not as members of the Mexican core group.

Each one of the core group members must designate one primary and alternate core group representatives. Alternate core group representatives will also be allowed to attend meetings where the primary representative is in attendance. The Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADB) are two institutions which are binational in character and composition, whose expertise in infrastructure investment will be beneficial to both Mexico and the United States. BECC and NADB will be invited to observe and participate, although they do not represent either of the national core groups, because their boards and staffs are binational.

The binational core group will form technical work groups to work on specific issues, measures and projects selected by the national core group. Each binational technical work group will be composed of a representative from each Section of the IBWC and members from each country with the required knowledge and expertise to work on specific issues related to the objectives. A group leader from each country will be selected by the binational core group members from that country. To enhance the availability of information to all parties, any member of the U.S. or Mexican core group may invite a technical expert to advise the core group with approval from IBWC. The BECC and NADB representatives also may be helpful when binational work groups meet.

The names of the members of each work group will be documented in the core group's meeting minutes.

## **Conduct of Meetings**

Each nation's core group meetings will be conducted as necessary and as determined by each core group. Each nation's core group will be free to schedule and conduct its meetings.

Binational meeting minutes will be exchanged between U.S. and Mexican core groups following each meeting that takes place. The Binational core group meetings will be conducted as follows:

- Meetings will be convened by the U.S. and Mexican Commissioners of the IBWC or their designated representatives and will be held as required, alternating meeting sites in the United States and Mexico if possible. When a core group member or stakeholder is unable to attend a meeting in person, other methods of participation will be made available.
- Binational core group meetings will be chaired jointly by the U.S. and Mexican Principal Engineers of the IBWC or by their designated representatives. The binational core group can establish work groups under the direction of the binational core group; these work groups will not have decision-making authority.
- The binational core group will develop joint work plans and meeting agendas. The agendas will, to the extent practical, be shared in advance of the meetings.
- The co-chairing Principal Engineers will make every effort possible to achieve a consensus among the binational core group for all those activities under consideration.
- The binational core group will strive to ensure that the principal points of the presentations and dialogue at the meetings and events are documented in summary reports in the English and Spanish languages. All binational meetings will have professional simultaneous interpretation support furnished by the country hosting the meeting and/or event. To the extent possible each Section will provide its presentation documents to the other Section prior to the binational core group meeting so that the documents can be translated. Each Section will provide presentation documents in the primary language of the country to its core group members 48 hours prior to the meeting.
- Every effort will be made to convene meetings at times and places where all members can be present. In the event that a designated primary core group member is not able to be present, the designated alternative person may represent the primary person at that meeting. In the alternative,

accommodations may be made, in extraordinary circumstances, for the members to participate by telephone conversation and/or video teleconference. However, accommodations for language interpretation for those participating electronically may not be available.

- Other personnel of the government and non-government organizations and agencies, including personnel involved in presentation of information, studies and progress reports, may participate in support of work groups as established in the work plan and meeting agendas. The binational core group must approve their participation. Representatives of the U.S. Department of State and the Mexican Foreign Ministry may attend national core group and binational core group meetings at their discretion. The two Principal Engineers or their designees must approve the participation of other personnel who are not members of the core group.

### Framework of Activities

The binational core group will conduct its activities in accordance with work plans that cover the following framework:

- Identification of objectives and selection of binational items to be evaluated.
- Definition of objectives and selection of binational items to be evaluated.
- Selection and establishment of binational work groups that will be working on the topics for which binational data gathering, analysis and other work can be advanced through work groups.
- Identification of tours and field visits necessary to initiate dialogue and enhance understanding of U.S. and Mexican objectives.
- Definition of obligations for core and work group members and definition of the required progress reports and work products for presentation by binational work groups at binational core group meetings.
- Provide advice and guidance to each work group in reference to assignments.
- Establishment of deadlines for exchange of information required for binational review.
- Recommendation of projects for binational implementation.

Binational work groups will conduct their activities in accordance with the guidance provided by the binational core group. National work groups will conduct their

activities in accordance with the guidance provided by each country's core group. The binational technical work groups will be responsible for the following activities:

- Evaluation of assigned issues to include feasibility, cost and potential benefit for both nations.
- Arrangement of tours and field visits.
- Preparation of reports outlining findings and recommendations.
- Presentation of reports.

Unofficial interaction between U.S. and Mexican interest groups is encouraged in order to have a creative environment, foster better relations and promote productive dialogue that could lead to the generation and/or positive evaluation of joint cooperative measures and projects that could be beneficial to both nations. Any formal discussions and evaluations of any proposal will follow the Terms of Reference established for the "United States-Mexico Joint Cooperative Actions in the Lower Rio Bravo/Rio Grande River Basin."

Funding and cost share decisions will be made on a case-by-case basis and are subject to appropriations. All projects and measures considered under this joint cooperative process are subject to the availability of funds. Any agreement to pursue the evaluation of a specific project or measure does not commit any of the parties to provide funding for the execution of projects and measures.

Core group members and work group members participating in this process will not be compensated by either Section of the Commission, nor will participants' travel expenses related to this process be reimbursed by either Section.

### **Communication and Use of Information**

The two Sections of the IBWC will be the official repository of records generated by the national or binational core and work groups, meetings, studies and any information exchanged and/or presented to the core groups.

Credit shall be given to those who provide information.

### **Outcomes and Performance Measurement**

The United States and Mexican Sections of the IBWC will report on the progress of United States-Mexico joint cooperative actions in the Lower Rio Bravo /Rio Grande. Each report will include results from monitoring of ambient water quality within the Lower Rio Bravo /Rio Grande. This effort seeks significant and sustainable improvements in ambient water quality within the main stem of the Lower Rio



Bravo /Rio Grande from the Falcon Reservoir to the Gulf of Mexico. This project will be considered a success if it has demonstrated that:

1. Opportunities to improve water quality have been identified, and
2. Implementation of these opportunities improves water quality in the Lower Rio Bravo /Rio Grande.