

**FIRST PART**  
**LEGISLATIVE TEXTS**

**PREMIÈRE PARTIE**  
**TEXTES LÉGISLATIFS**



## Mexico <sup>1</sup>

POLITICAL CONSTITUTION OF THE UNITED STATES OF MEXICO,  
SIGNED AT QUERETARO, JANUARY 31, 1917

. . . .

In the nation is likewise vested the ownership of the waters . . . of interior lakes of natural formation which are directly connected with streams having a constant flow; those of the main rivers and tributaries from their source to their mouth, whether they flow into the sea or cross two or more states; those of intermittent streams whose principal tributary crosses two or more states; the waters of rivers, streams, or ravines which form national or state boundary lines; waters extracted from mines; and the beds and banks of the foregoing lakes and streams to the extent fixed by law. Any other stream of water not comprised within the foregoing enumeration shall be deemed as an integral part of the private property through which it flows; but the utilization of the waters, if the stream flows from one property to another, shall be considered of public welfare, and shall be subject to the laws that may be passed by the States.

In the cases to which the two preceding paragraphs refer, the ownership of the nation shall be inalienable and imprescriptible; and concessions shall only be granted by the federal government to private individuals or civil or commercial corporations organized in accordance with Mexican laws, on condition that regular works are established for the utilization of said resources and that all requisites set forth in the laws are complied with . . .

## Netherlands <sup>2</sup>

(a) ACT NO. 147, OF 14 JULY 1904, CONTAINING REGULATIONS CONCERNING  
DRAINING AND EMBANKMENT OPERATIONS

. . . .

### Article 1

No draining or embankment operations other than those carried out by the State may be undertaken until a concession has been granted by Us after consulting the Executive Committee [*Gedeputeerde staten*] of the

<sup>1</sup> The text reproduced under Mexico has been provided in Spanish by the Permanent Representative of Mexico to the United Nations. English text taken from: Peaslee, *Constitutions of Nations*, second edition, vol. II, p. 668.

<sup>2</sup> The texts of laws and regulations reproduced under "Netherlands" have been provided in Dutch by the representative of the Netherlands to the United Nations. Translation by the Secretariat of the United Nations.

province or the Executive Committees of the provinces in which the land is situated.

This provision shall not apply to reclamation operations where the reclamation plan has already been drawn up in connexion with a permit for peat-cutting or where the reclamation is undertaken under the regulations governing a drainage district or fen polder.

The provisions of the first paragraph shall not apply to embankment operations undertaken under the regulations governing a drainage district.

Save as otherwise provided by special Acts, no reclamation or embankment operations shall be undertaken by the State until the Executive Committee or Executive Committees referred to in the first paragraph have been consulted, the provisions of articles 3, 4 and 5 have been complied with, and such measures as Our Minister for Public Works may consider necessary for public works purposes have been taken.

#### *Article 2*

When application is made for a concession, maps in duplicate of the proposed reclamation or embankment must be submitted, showing the dike, the public roads, the water conduits, the discharge sluices or drainage facilities and the position of the works in relation to their surroundings, explained by a description with the necessary drawings and accompanied by an estimate of the cost.

#### *Article 3*

The Executive Committee shall, after giving notice in the *Provinciaal Blad* [*Provincial Gazette*] and in one or more newspapers of the province, deposit the documents enumerated in the preceding article for general inspection for thirty days at the municipal clerk's office of one of the municipalities in which the land is situated and also at the office of the clerk of the Provincial States.

Objections to the undertaking may be lodged in writing by interested parties with the Executive Committee of the province within fourteen days after the expiry of the aforementioned period.

#### *Article 4*

The Executive Committee shall notify the person carrying out the undertaking that the objections lodged as aforesaid shall be open to his inspection for a specified period at a place designated by it. It shall also appoint a date and time at which the said person and the persons who have lodged objections shall have an opportunity to explain the undertaking and the objections thereto before a commission of its members.

An expert appointed by Our Minister for Public Works shall attend this meeting.

The proceedings of the meeting shall be recorded in minutes.

#### *Article 5*

The Executive Committee shall examine the project and the objections lodged as aforesaid and shall submit to Our Minister for Public Works a report thereon, which shall also contain the Committee's opinion.

It shall ensure, after giving notice to that effect in the *Provinciaal Blad*

and in the newspaper or newspapers in which the notice referred to in article 3 appeared, that a copy of the said report is deposited for general inspection at the places referred to in article 3.

*Article 6*

The concession shall be subject to such conditions as may be necessary to protect interests liable to suffer from the undertaking, and the deposit of a cash guarantee may be required to cover the cost of making good such damage as may be caused by faulty compliance with the terms of the concession.

The cash guarantee shall be refunded as soon and in so far as it ceases to be needed as cover.

*Article 7*

The concession may be withdrawn by Us if the work or specific parts thereof are not completed within the time-limits prescribed in the concession or subsequently extended by Us.

*Article 8*

The Executive Committee shall order the stoppage of work on any reclamation or embankment operations undertaken without the concession prescribed in article 1.

It shall ensure that the reclamation or embankment operations are carried out in accordance with the plan and the additional conditions under which the concession is granted by Us.

(b) ACT No. 282, OF 30 DECEMBER 1904, CONTAINING REGULATIONS CONCERNING IRRIGATION

. . . .

*Article 1*

For the purposes of this Act, the term "irrigation" means the artificial diversion for agricultural purposes of water from a river canal, brook or other watercourse over a tract of land prepared to receive it.

*Article 2*

It shall be the responsibility of the Provincial States [*Staten der provinciën*] to issue, subject to Our approval, the necessary provisions concerning the diversion and use of water for irrigation purposes and concerning the discharge of water after it leaves the irrigated land.

*Article 3*

1. Before any irrigation facilities may be provided, application for a permit shall be made to the Executive Committee of the province where the place from which the water is to be taken is situated.

2. Regulations shall be made by the province, subject to Our approval, concerning the following matters: the requirements to be met and the documents to be submitted in applying for a permit; the publication of the application, the notification thereof to interested parties, the invitation to

such parties to submit their objections orally or in writing to the Executive Committee, and the arrangement of other matters preparatory to a discussion of the application at a public meeting of the Executive Committee; the actual discussion of, and decision on, the application; the communication and publication of the decision and its deposit for inspection; and the manner and circumstances in which a permit may be modified or revoked by the Executive Committee.

3. Where no such regulations are in force in a province, a decree concerning the foregoing matters shall, subject to Our approval, be made by the Executive Committee and inserted in the *Provinciaal Blad* [*Provincial Gazette*].

#### *Article 4*

1. If the applicant wants the water to be discharged in a province other than that in which it is to be tapped, the Executive Committee of the latter province shall send the documents to the Executive Committee of the former province. The Executive Committee to which the documents are sent shall, within two months after receiving the same, inform the other Executive Committee whether or not it has any objection to the arrangements for the discharge of the water, and shall at the same time return the documents to that Committee.

2. If it has no objection, a decision may be taken on the application.

3. If it has an objection, it shall state the reasons therefor, and the objection shall constitute sufficient grounds for rejection of the application.

4. The decision shall be communicated to the Executive Committee of the province concerned.

#### *Article 5*

1. The decree of an Executive Committee whereby a permit is granted with or without conditions, or is refused, modified or revoked, must be accompanied by a statement of reasons.

2. An appeal shall lie to Us against a decree referred to in paragraph 1.

3. Such appeal may be lodged by any interested party within thirty days after the Executive Committee's decision has been published in accordance with the provisions to be laid down in the provincial regulations referred to in article 3, paragraph 2, or, in the absence of such regulations, in the decree referred to in paragraph 3 of that article.

4. The appeal shall be addressed to Us but shall be filed with Our Commissioner in the province, who shall note on the appeal the date of receipt and shall then forward it to Us. He shall issue a receipt.

5. Subject to the time-limit specified in paragraph 3 of this article, an appeal may also be lodged by Our Commissioner in the province and, in the case referred to in article 4, paragraph 1, also by Our Commissioner in the province into which the water is to be discharged.

#### *Article 6*

1. A decree referred to in paragraph 2 of the preceding article shall not take effect before the time-limit for appeal has expired or, if an appeal has been lodged, before We have ruled on the appeal. Nevertheless the

Executive Committee may, pending the expiry of the time-limit for appeal or, if an appeal has been lodged, pending the ruling thereon, order the partial or complete suspension of the irrigation operations for which it has modified or revoked the permit.

2. Such order for suspension may be set aside by Us at any time.

#### *Article 7*

1. The owner of land, through or over which water must, for irrigation purposes, be diverted or discharged, or in, on or adjacent to which civil engineering works for irrigation purposes, or a portion of such works, must be constructed, shall, subject to compensation, consent to such diversion, discharge or construction and to the use and maintenance of the diversion and discharge works and the civil engineering works if that land has been designated for the said purposes in the decree granting the permit.

2. The aforementioned obligation shall not exist in relation to buildings or their appurtenant yards or gardens.

#### *Article 8*

The usufructuary of the water of a watercourse shall, subject to compensation, consent to the use thereof for irrigation purposes if such water has been designated for the said purposes in the decree granting the permit.

#### *Article 9*

The owner of civil engineering works the joint use of which is required for irrigation purposes shall, subject to compensation, consent to such joint use if those works have been designated for the said purposes in the decree granting the permit.

#### *Article 10*

Where the owner of land, through or over which water must, for irrigation purposes, be diverted or discharged, or in, on or adjacent to which civil engineering works for irrigation purposes, or a portion of such works, must be constructed, himself wishes to make use of the relevant diversion or discharge works or civil engineering works for the irrigation of that land, the applicant for a permit to construct the said works shall, subject to compensation, consent to such joint use if this obligation is imposed both in the decree granting the aforementioned owner a permit to provide irrigation facilities for his land and in the decree granting a permit for the construction of the works aforesaid.

#### *Article 11*

Where the owner of land, through or over which water is diverted or discharged for irrigation purposes, himself wishes to make use of the relevant diversion or discharge works for the irrigation of the said land, the person to whom a permit for the construction of the said works was granted, or his assigns, shall, subject to compensation, consent to such joint use if this obligation is imposed in the decree granting the aforementioned owner a permit to provide irrigation facilities for the said land.

*Article 12*

The obligations imposed by virtue of articles 7, 8, 9 and 11 shall not be such as to cause any significant change in the intended use, and shall interfere as little as possible with the actual use, of the land, the usufruct, the civil engineering works and the existing irrigation facilities.

*Article 13*

A person who, in virtue of a right *in rem* or *in personam*, has the usufruct of the land, the water rights or the civil engineering works shall be accorded the same treatment as the owner referred to in articles 7, 9, 10 and 11 and as the usufructuary referred to in article 8.

*Article 14*

The decision on an application for a permit to provide irrigation facilities for land situated in a drainage district, fen district or fen polder shall not be given until the advice of the authorities administering such areas has been requested.

*Article 15*

1. For the purposes of articles 7, 8, 9, 10 and 11, the term "compensation" means both reimbursement for damage actually suffered and in so far as the joint use of works is concerned, reimbursement by way of a contribution to the installation, expansion and maintenance of the works.

2. Upon application in writing by the person liable for compensation, the Executive Committee shall appoint three experts to determine the same.

3. The said experts shall not begin work until they have been sworn by a cantonal judge, who shall be designated by the Executive Committee when it appoints the experts, nor until the applicant has deposited with the office of the clerk of the Provincial States a cash guarantee, in an amount specified by the Executive Committee, to cover their expenses.

4. The report issued by the experts shall be deposited for inspection at the office of the clerk of the Provincial States for thirty days after the Executive Committee has given notice of such deposit both to the person liable for compensation and to the persons entitled thereto.

5. The cost of the expert investigation, which shall be borne by the person by whom the application referred to in paragraph 2 was made, shall be determined by the Executive Committee on the basis of the scale of judicial costs and salaries in civil cases and shall be entered by the said Committee at the foot of the report.

6. A copy of the report shall be supplied against payment to interested parties at their request.

*Article 16*

1. Unless the parties are already in agreement on the compensation, the person liable therefor shall, whether or not the provisions of the preceding article have been applied, make the opposing party an offer of compensation in due legal form.

2. The service of this offer shall be null and void unless it is accompanied by:

- a.* The decree whereby the permit was granted;
  - b.* If the decree referred to in sub-paragraph *a* is a decree of the Executive Committee, a statement by Our Commissioner in the province that no appeal to a higher authority has been lodged against the said decree within the statutory time-limit or, if an appeal has been lodged, that it has been rejected;
  - c.* If the expert investigation referred to in article 15 has been held, a copy of the experts' report and a statement that the provisions of that article concerning deposit for inspection and notice thereof have been complied with, the said copy and statement both to be issued by the clerk of the Provincial States.
3. Within six weeks after the offer referred to in paragraph 1, the recipient thereof may claim compensation through the courts; if he fails to do so, he shall be deemed to be satisfied with the offer.

*Article 17*

If the amount of compensation determined by the court exceeds that offered, costs shall be awarded against the respondent; otherwise they shall be awarded against the claimant.

*Article 18*

The use or joint use of land, water or works, as referred to in articles 7, 8, 9, 10 and 11, shall not begin until agreement has been reached on the compensation, or the offer of compensation has been accepted as satisfactory, or the judicial award of compensation has become final.

*Article 19*

The decree designating land, water or works for use or joint use under articles 7, 8, 9, 10 and 11, or modifying or cancelling such use or joint use, shall be entered in the public registers referred to in article 671. of the Civil Code.

*Article 20*

- 1. The provision of irrigation facilities without a permit or in contravention of the conditions attached to the permit, or the maintenance of such facilities where the same have been provided after the entry into force of this Act, shall be an offence punishable by imprisonment for a term of not more than fourteen days or by a fine of not more than 100 guilders.
- 2. The offence aforesaid shall be regarded as a petty offence [over-treding].
- 3. [Deleted.]

*Article 21*

- 1. The Executive Committee shall be empowered to take action at the offender's expense to prevent irrigation facilities provided or maintained in contravention of the Act from being used.
  - 2. Save in urgent cases, the aforementioned power shall not be exercised until the persons concerned have been cautioned in writing.
- . . .

- (c) ACT No. 339, OF 9 NOVEMBER 1908, TO ENSURE THE MAINTENANCE IN PROPER CONDITION OF THE PRINCIPAL RIVERS AND STREAMS OF THE STATE

## CHAPTER I

### GENERAL PROVISIONS

#### *Article 1*

The principal rivers and streams of the State, hereinafter referred to as "rivers and streams", shall be considered to include the following waterways:

- (a) The Rhine, the Maas, the Scheldt and all other rivers and streams which join them and carry water from them;
- (b) The Oosterschelde;
- (c) The Hollandsche IJssel below the dam at Gouda;
- (d) The Overijsselsche Vecht;
- (e) The Zwartewater and the Zwolsche Diep (Zwolsche Canal);
- (f) The Donge below the point where it leaves the left bank of the 's Gravemoersche Vaart ('s Gravemoersche Canal);
- (g) All tributaries, branches, inlets, creeks, brooks and channels which join the rivers and streams referred to in (a) to (f).

#### *Article 2*

Rivers and streams shall be deemed to extend out to sea up to boundaries which shall be fixed by Order in Council.

#### *Article 3*

1. The term "minor bed" means the area occupied by the river or stream at normal high summer water-level or at normal flood tide.

2. The term "major bed" means the area between the minor bed and the outer crest of the dike which confines the river or stream at high water, or, if there is no dike, the area between the minor bed and the high ground which confines the river or stream at the maximum level; provided that land which serves the purpose of laterally diverting high upstream water shall be included in the major bed only if it has always served that purpose and has been defined as such by Order in Council.

3. The major bed of a river or stream shall be deemed to include those shoals, islands and periodically appearing pieces of land which are inundated only by high upstream water or the flood tide.

## CHAPTER II

### POLICE PROVISIONS

#### *Article 4*

1. In the minor bed of a river or stream, or within the boundaries fixed in accordance with article 2, it shall be unlawful without authorization from Our Minister of Public Works [Waterstaat]:

- (a) To construct any works, or to dump, pile up or deposit soil, mud, rubbish or other materials which sink to the bottom;

- (b) To plant hedges, trees, reeds or rushes, or, between 1 November and 1 April, to permit the growth of naturally occurring vegetation ;
- (c) To install salmon traps or other fishing apparatus consisting wholly or in part of weirs made of stakes, wattling or osiers;
- (d) To moor floating objects or contrivances which are not intended for purposes of transport ;
- (e) To make any alteration in existing works or in fishing apparatus of the kind specified in (c).

2. The provisions of paragraph 1(a) shall not apply to the construction of non-projecting works for the protection of the banks, on condition that the said works do not extend above the banks.

#### *Article 5*

1. In the major bed of a river or stream, it shall be unlawful, without authorization from Our Minister aforesaid:

- (a) To construct, shift, reinforce or increase the height of a dike, inner dike or other work intended to confine the water or direct the course of the river or stream;
- (b) To erect or alter a building or other structure, or to raise the ground level;
- (c) To plant hedges, trees, reeds or rushes, or, between 1 November and 1 April, to permit the growth of naturally occurring vegetation;
- (d) To leave a fence standing between 1 December and 15 March or a temporary barrier between 15 November and 15 March.

2. The provisions of paragraph 1 (a) shall not apply as regards reinforcing or increasing the height of dikes which confine the river or stream at high water or as regards reinforcing the slopes of such dikes or of high ground as referred to in article 3, paragraph 2.

3. The provisions of paragraph 1 (a) and (b) shall not apply to the construction or installation of temporary barriers between 15 March and 15 November.

4. In the case of dikes which confine the river or stream at high water or of high ground as referred to in article 3, paragraph 2, the provisions of paragraph 1 (b) and (c) shall apply to the same only if they have been designated by Order in Council.

#### *Article 6*

Where, because the minor or the major bed covers a considerable area or because of other circumstances, the provisions of article 4 or 5 are wholly or partly inapplicable to portions of rivers and streams or of the areas lying within the boundaries fixed in accordance with article 2, the said portions shall be designated by Order in Council.

#### *Article 7*

It shall be unlawful, without authorization from Our Minister aforesaid, to alter the course of any portion of a river or stream.

#### *Article 8*

1. An authorization as provided for in this Act may be granted subject to withdrawal, or for a specified period of time or without conditions as to withdrawal.

2. An authorization shall be denied, and an authorization granted subject to withdrawal shall be withdrawn, only if this is considered necessary in the public interest as it relates to rivers and streams.

*Article 9*

1. An authorization may be made subject only to such conditions as are conducive to protecting the public interest as it relates to rivers and streams.

2. An authorization may be revoked if the conditions are not complied with.

3. Save in urgent cases, an authorization shall not be revoked until the person to whom it was granted or his assigns have been given a reasonable period of time to comply with the conditions imposed upon him.

*Article 10*

1. A person violating the provisions of this Act shall be required, by virtue of a written order from officials to be designated by Us and within the time-limit therein specified, to remove or cause to be removed, to restore to its original condition or cause to be so restored, or to do or cause to be done, as the case may be, anything which has been or is constructed, installed, done or left undone in contravention of this Act.

2. The officials referred to in paragraph 1 may, at the expense of the offender and, if necessary, with the assistance of the law-enforcement authorities, cause anything which has been or is constructed, installed, done or left undone in contravention of this Act to be removed, prevented, carried out or restored to its original condition, as the case may be. Save in urgent cases, no such action may be taken until written notice has been given to the offender.

*Article 11*

1. An offence against article 4, paragraph 1, article 5, paragraph 1, or article 7 shall be punished by a fine not exceeding 500 guilders.

2. An offence as aforesaid shall be regarded as a petty offence [overtreding].

3. Notwithstanding article 70, paragraph 1, of the Penal Code, exemption from prosecution in respect of the offences referred to in article 4, paragraph 1 (a), (c) and (e), shall be acquired by lapse of time after five years.

*Article 12*

The authorities responsible for the investigation of offences under this Act shall be, in addition to the persons specified in article 8 of the Code of Criminal Procedure, such officials and employees of the Ministry of Public Works as We shall designate.

*Article 13*

1. Upon the withdrawal or revocation of an authorization, or upon the expiry of the period for which it was granted, the person to whom it

was granted or his assigns shall, within a time-limit to be fixed by Our Minister aforesaid, remove anything which has been constructed or planted and restore the minor or the major bed, or the area lying within the boundaries fixed in accordance with article 2, to its original condition or to a condition adjudged by the said Minister to be satisfactory.

2. Where the foregoing provisions are not complied with, such removal and restoration may be effected by the State at the expense of the person to whom the authorization was granted or of his assigns.

#### *Article 14*

1. Where persons to whom an authorization has been denied or granted, or their assigns, object to the application of article 8 or article 9, they may, within three months from the date of the action to which they object, submit such objections to Us for decision.

2. A decision on the said objections shall be taken by Us, by and with the advice of the Council of State (Administrative Disputes Division).

3. Where the provisions of article 13 have been applied, the person concerned shall, in the event that the objections are wholly or partially upheld, receive full or partial compensation for the damage he has sustained.

### CHAPTER III

#### WORKS CARRIED OUT BY THE STATE

#### *Article 15*

1. With respect to land situated within the minor or the major bed of rivers and streams or within the boundaries fixed in accordance with article 2, being land which is wholly or partly owned by persons other than the State or in which persons other than the State have an interest, the State, in the public interest as it relates to rivers and streams, may:

(a) Join to or extend across the said land state river-works and such groynes, breakwaters and river-bank reinforcements as have been constructed by persons other than the State and may maintain or alter the same upon that land.

(b) For the purpose of carrying out state river-works, transport earth and construction materials across the said land, in vehicles if necessary, or store such earth and materials temporarily upon that land or process them there.

2. Save where a statement indicating the necessity of immediate action is transmitted to the persons having use of the land, the powers referred to in paragraph 1 may not be exercised unless the intention of doing so has been notified to the said persons in writing at least forty-eight hours beforehand.

3. The provisions of paragraph 2 shall not apply to normal maintenance work.

#### *Article 16*

1. Any damage resulting from the application of article 15, paragraph 1, shall be compensated for by the State.

2. The relevant claim shall be submitted to the judge of the canton in which the land with respect to which the damage was sustained is wholly or partly situated.

*Article 17*

In the public interest as it relates to rivers and streams, the State may raise or level off the land referred to in article 15, paragraph 1, fill in gulleys there or remove vegetation, buildings and works situated thereon.

*Article 18*

1. Where the State wishes to exercise any of the powers referred to in article 17, the president of the court having jurisdiction over the area in which the land with respect to which such powers are to be exercised is wholly or partly situated shall appoint and duly swear three experts for the purpose of furnishing a description of the work in question and determining what compensation shall be made. Notice of the appointment of the said experts shall be published by the head of the municipal government in one or more newspapers and shall be announced in the customary manner in the municipality or municipalities in which the land is situated.

2. The report of the experts, comprising a description, illustrated by sketches, of the existing situation and the changes to be made, as well as an opinion concerning compensation, shall be deposited for thirty days, for general inspection, with the municipal clerk's office of the municipality or municipalities in which the land is situated, notice of such deposit to be published in one or more newspapers and to be announced in the customary manner beforehand by the head of the municipal Government and to be given, by registered letter, to all persons known to be directly concerned.

3. The work may not be started until the period referred to in paragraph 2 has expired.

4. Where no agreement concerning compensation is reached with the persons directly concerned, the State shall, within thirty days after the expiry of the period referred to in paragraph 2, make an offer of compensation in due legal form.

5. Within thirty days after the date of the offer, the person to whom it is made may submit a claim for compensation to the court whose president appointed the experts as provided in paragraph 1, and if the said person fails to submit such a claim, he shall be presumed to be satisfied with the offer.

6. In the event that the amount of compensation fixed by the court is greater than that offered by the State, the latter shall be ordered to pay costs; otherwise, the claimant shall be so ordered.

CHAPTER IV

THE EFFECTS ON RIPARIAN RIGHTS OF RIVER-BANK EXTENSION  
CARRIED OUT BY THE STATE

*Article 19*

1. Where the State, in the public interest as it relates to rivers and streams, constructs groynes, breakwaters or similar river-works as extensions

of the land situated along the banks or of any works joined to the said land, the persons having riparian rights with respect to such land shall lose the right of accretion referred to in article 651 of the Civil Code on the river side of the vegetation line but shall acquire ownership of the strip of land situated between the vegetation line and the bank line if the said strip belongs to the State.

2. The term "vegetation line" means the line which joins, in such a manner as to permit permanent demarcation, the successive points at which the area of uninterrupted vegetation along the river bank ends; provided that the said line shall at no time be deemed to be situated further landwards than the bank line.

#### *Article 20*

1. Where a groyne or similar work joined to the land situated along the bank is constructed, the provisions of article 19, paragraph 1, shall apply upstream to a distance equivalent to one-and-a-half times the length of the said work and downstream to a distance equivalent to two-and-a-half times such length, both distances being measured along the vegetation line from its point of intersection with the axis of the said work.

2. Where one of the works referred to in paragraph 1 is constructed together with a connecting breakwater, the provisions of article 19, paragraph 1, shall apply over the same distances augmented by the length of the upstream and downstream arms of the breakwater.

3. Where an existing work is extended or enlarged, the applicability of article 19, paragraph 1, shall be determined by the new dimensions of the said work, but no change shall ensue in the effects of the existing work on the relevant riparian rights.

#### *Article 21*

The provisions of article 19, paragraph 1, shall not apply where rights of ownership or accretion can be invoked against the State with respect to land situated in a river or stream, which land, in accordance with the Civil Code, otherwise constitutes part of the river or stream together with its banks.

#### *Article 22*

Notwithstanding the provisions of article 15, paragraph 2, the construction of any of the works referred to in article 19, paragraph 1, shall not be begun until the vegetation line has been marked out by the State; the markers shall remain in place until the vegetation line has been finally delimited.

#### *Article 23*

1. The vegetation line may be delimited by written agreement. The instrument of such agreement shall be entered in the public registers referred to in article 671 of the Civil Code.

2. The provisions of article 19, paragraph 1, shall apply as from the date on which the said instrument is registered.

#### *Article 24*

1. In the event that no agreement is reached, there shall within sixty days after the construction of the work has been begun, be deposited for

thirty days, for general inspection, with the municipal clerk's office of the municipality or municipalities in which the land with respect to which a vegetation line is to be delimited is situated:

- (a) A sketch of the work in question, drawn to a scale no smaller than 1 : 1250 and indicating the vegetation line and the cadastral plots affected;
- (b) A list of the cadastral designations of the said plots.

2. Notice of such deposit shall be published in one or more newspapers and be announced in the customary manner beforehand by the head of the government of the municipality or the municipalities referred to in paragraph 1, and shall also be given, by registered letter, to all persons known to have riparian rights with respect to the relevant land.

#### *Article 25*

1. The applicability of article 19, paragraph 1, may be challenged, on the basis of article 21, in accordance with normal legal procedure.

2. In other cases, an appeal concerning the content of the sketch may, within thirty days after the expiry of the period of deposit referred to in article 24, paragraph 1, be lodged by any person having riparian rights with respect to the relevant land, with the court having jurisdiction over the area in which the land with respect to which a vegetation line is to be delimited is wholly or partly situated, and the said line shall then be delimited by the court.

3. If no appeal as referred to in paragraph 2 is lodged, the persons having riparian rights with respect to the relevant land shall, without prejudice to the provisions of article 21, be presumed to accept as the riverward boundary of their property the vegetation line indicated in the aforementioned sketch.

4. In the application of paragraph 2, the subsequent proceedings shall be governed by the Code of Civil Procedure, save that:

- (a) All actions relating to a single work shall be combined;
- (b) If the plaintiff is awarded a larger area than that to which he would be entitled on the basis of the sketch, the State shall be ordered to pay costs; otherwise, the plaintiff shall be so ordered.

#### *Article 26*

1. If no appeal as referred to in article 25, paragraph 2, is lodged, a statement to that effect shall be attached to the sketch by the clerk of the court referred to in the said paragraph, and the sketch shall thereupon be entered in the public registers referred to in article 671 of the Civil Code.

2. If the vegetation line is fixed by a judicial decision which has become final, such decision shall be registered in like manner.

3. The provisions of article 19, paragraph 1, shall apply as from the date on which the sketch or decision is registered.

#### *Article 27*

Until such time as the strip of land acquired, in accordance with article 26, by the persons having riparian rights is completely filled in by alluvial accretion or is otherwise transformed into dry land, the State may dump soil and mud there without being required to pay compensation.

*Article 28*

1. If the strip of land acquired, in accordance with article 23 or article 26, by the persons having riparian rights is cut off from the river or stream by land belonging to the State that has been built up by alluvial deposits or otherwise, any one of the said persons may, without being obliged to pay compensation, ask that he be granted an outlet or outlets to the river or stream, each not more than three metres wide, under such conditions as are least detrimental to the interests of the State, if the grant of such outlet or outlets is indispensable to the use of his portion of the said strip of land and of the original land situated along the banks. The location and direction of the said outlets may be fixed by the agreement referred to in article 23, paragraph 1.

2. An outlet as aforesaid shall be laid out and maintained by and at the expense of the person to whom it is granted.

3. In the event of disagreement, the request for the grant of an outlet as provided in paragraph 1 may be submitted to the court having jurisdiction over the area in which the strip of land referred to in the said paragraph is wholly or partly situated.

## CHAPTER V

## TRANSITIONAL AND FINAL PROVISIONS

*Article 29*

Upon the entry into force of this act, there shall stand repealed:

Title XXVII, articles 42, 43 and 44, of the Ordinance of August 1669 concerning waterways and forests;

The Order of 9 March 1798 (19 Ventôse, Year VI) of the executive Directory, containing measures to ensure the unimpeded use of navigable and floatable rivers and canals;

The Act of 4 May 1803 (14 Floréal, Year XI) concerning the clearing of non-navigable canals and rivers and the maintenance of their dikes;

The publication of 24 February 1806 providing for a comprehensive system of river or waterway legislation governing the rivers and streams of this republic.

*Article 30*

Any authorization granted under a provision repealed by this Act may be withdrawn or revoked if it relates to measures for which an authorization is required under this Act and if it was granted subject to withdrawal or revocation.

*Article 31*

Anything which, before the entry into force of this Act, was constructed or installed contrary to a provision repealed by this Act may be removed in accordance with article 10 if its construction or installation without authorization is prohibited by this Act.

*Article 32*

1. The provisions of article 18 shall not apply to the removal, in accordance with article 17, of vegetation whose removal without compensation could previously be ordered under article 8 of the Publication of 24 February 1806.

2. Save in urgent cases, the provisions of article 17 shall not be applied to such vegetation until the parties concerned have been notified in writing.

*Article 33*

Pending the entry into force of the Order in Council referred to in article 6, the provisions of article 4, paragraph 1 (a), shall not apply, in so far as the dumping, piling up or deposit of materials which sink to the bottom is concerned, to areas used for the cultivation of shellfish.

*Article 34*

Documents drawn up for purposes of complying with or giving effect to this Act, including documents relating to litigation arising out of the application of the Act shall require no seal and shall be exempt from registration formalities.

. . . .

- (d) DECREE NO. 765, OF 24 NOVEMBER 1919, ESTABLISHING GENERAL POLICE REGULATIONS FOR RIVERS, CANALS, LOCKS, BRIDGES AND APPURTENANT WORKS UNDER THE CONTROL OF THE STATE

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## TITLE V

## PROVISIONS RELATING TO THE MAINTENANCE OF CANALS

*Article 87*

Without prejudice to acquired rights, it shall be unlawful, without authorization from the Minister:

1. To divert water from a canal or appurtenant water-conduits;
2. To construct any work in, on, under or over a canal. Notwithstanding the foregoing provision and subject to the permission of Our Commissioner, it shall be lawful to construct, alter or remove a step or flight of steps, foot-path, ramp, parapet or way of egress along the canal dike or canal road, including such works as may be required for these purposes in the ditches at the foot of the dike.

*Article 88*

It shall be unlawful:

1. To hamper or prevent the use of the works;
2. To throw or drop solid materials into a canal or onto the adjacent ground without the written permission of the chief managing engineer;

3. To walk or ride over a bridge until it is completely closed and locked in position, or to walk over a lock-gate until it is completely closed;
4. To ride over a bridge faster than at walking pace;
5. To ride on a bicycle or motor-cycle along the walls or gates of a lock or over bridges belonging to a lock if these are not intended to permit passage of bicycles and other vehicles;
6. To open the barrier of a bridge without the permission of the person in charge of the bridge;
7. To transport a load over a bridge if, in the opinion of the person in charge of the bridge, the weight of the load might damage the bridge;
8. To go, or to take anything, on board a ferry if this is prohibited by the person in charge of the ferry;
9. To go on any work to which access is obviously prohibited;
10. Except by request of those officials of the Ministry of Public Works [Waterstaat] referred to in article 2, items (b) and (c), to raise, turn, open or close a bridge, to open or close a lock-gate, to raise or close a sluice-gate, to raise stop planks or to carry out any other functions of the said officials;
11. To deposit at the loading and unloading wharves any goods or objects other than those that are to be shipped or unloaded, or to leave goods deposited there for longer than the time allowed by the officials of the Ministry of Public Works as referred to in article 2, items (b) and (c) for the loading or removal thereof;
12. To search for or draw up from the bottom stones or other sunken objects in any canal or harbour without the permission of an official of the Ministry of Public Works as referred to in article 2, item (a), or the permission of the harbour-master.

- . . . .
- (e) DECREE NO. 562, OF 3 NOVEMBER 1934, ESTABLISHING REGULATIONS CONCERNING DREDGING AND EXCAVATING, DRAWING UP OBJECTS FROM THE WATER, DUMPING OF MATERIALS WHICH SINK TO THE BOTTOM, AND THE CONSTRUCTION OF WORKS IN RIVERS AND STREAMS, THE NORTH SEA WITHIN THE TERRITORIAL FRONTIER, THE WADDENZEE, THE NETHERLANDS PORTION OF THE EMS, THE DOLLARD AND THE IJSELMEER, THE SAME BEING UNDER THE CONTROL OF THE STATE
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## CHAPTER I

### DREDGING AND EXCAVATING IN RIVERS AND STREAMS UNDER THE CONTROL OF THE STATE

#### *Article 1*

This chapter applies to:

- (a) The Rhine, the Waal, the Lower Rhine, the Lek and the IJssel;
- (b) The Maas, the Heusdensch Canal, the Afgedamde Maas, the Bergsche Maas, the Oude Maasje, the Donge below the 's-Gravemoersche Vaart ('s-Gravemoersche Canal) and the Amer;

(c) The Upper, Lower and Nieuwe Merwede, the Wantij, the Noord, the Mallegat and the Dordtsche Kil;

(d) The Nieuwe Maas, the Scheur, the Doorgraving, the Koningshaven, the Noordgeul, the Westgeul, the Botlek, the Brielsche Maas above the 158-kilometre mark and the Hartelsche Gat;

(e) The Oude Maas, the Spui and the Beerengat;

(f) The Hollandsch Diep above a line joining the west mole of the ferry harbour at Willemsdorp with the east mole of Moerdijk harbour;

(g) The Hollandsche IJssel below the Gouda dam;

(h) The Overijsselsche Vecht;

(i) The Zwarte Water and the Zwolsche Diep (Zwolsche Canal);

(k) All tributaries, branches, inlets, creeks, brooks and channels which join the rivers and streams mentioned in (a) to (i).

#### Article 2

In the absence of written authorization granted by or on behalf of our Minister of Public Works, it shall be unlawful:

(1) To dredge with apparatus other than hand or hoist gear;

(2) To dredge with hoist gear in rivers and streams and in portions of rivers and streams, specifically designated by our Minister aforesaid;

(3) To anchor in navigable waters any dredging craft or apparatus, including, for the purposes of these regulations, any craft used for the collection or handling of dredged material.

The designation of the rivers and streams and portions of rivers and streams referred to in item (2) shall be published in the *Nederlandsche Staatscourant*.

#### Article 3

In the absence of written authorization granted by or on behalf of our Minister aforesaid, it shall be unlawful to dredge or to excavate:

(1) To landward of a line drawn twelve metres off and parallel to the river bank at the mean low-water or low-tide level;

(2) To landward of:

(a) A line drawn along the outer ends of a series of groynes or other river-works spaced not more than 300 metres apart and such points along the bank at the mean low-water or low-tide level as are situated 300 metres above the groyne or work of the series that is furthest upstream and 300 metres below the groyne or work of the series that is furthest downstream;

(b) Lines joining the outer end or ends of a groyne or other river-work not forming part of a series as referred to in item (a) with such points on the shore at the mean low-water or low-tide level as are situated 300 metres above or below the groyne or river-work.

(3) Within fifteen metres of:

(a) The deposited and dumped material forming part of groynes and other river-works;

(b) Abutments, beams, piers, ice-aprons, piles, fenders and other parts of bridges, weirs, sluices and other works;

(c) A sunken craft;

- (4) Within twenty-five metres of:
- (a) The anchors of pontoon bridges and ferry-boats;
  - (b) The anchors of fixed parts of bathing establishments;
  - (c) A line between warning notices indicating the location of cables or pipes;
  - (d) River correction and other civil engineering works where these are indicated by signs on the site of operations or on the shore:

*Article 4*

1. Our Minister aforesaid may designate portions of rivers or streams where, notwithstanding the provisions of article 3, dredging and excavating are to be performed at a specified distance from the shore or civil engineering works.

2. The designation of such portions of rivers and streams shall be published in the *Nederlandsche Staatscourant*.

3. It shall be unlawful, in the portions of rivers or streams designated in accordance with the provisions of paragraph 1 of this article, to dredge or excavate in disregard of the distances specified for such portions by Our Minister aforesaid.

*Article 5*

1. Dredging shall be carried out evenly without creating trenches or ridges.

2. The transport and disposal of dredged material and all other operations shall be performed in such a manner as not to cause any raising or unevenness of the river bottom.

3. The dredging, transport and discharge of the material shall not hinder navigation or towing operations.

4. Dredging may be carried out only between sunrise and sunset.

5. Dredging craft and apparatus shall lie in the direction of the navigable channel and not broadside on.

6. If the craft or apparatus does not return to its base, it shall be tied up somewhere outside the navigable channel from half an hour after sunset to half an hour before sunrise.

7. If the foregoing requirement cannot fully be met, the craft or apparatus may not remain at the dredging site overnight.

8. Excavations shall be carried out in an even manner, the edges of an excavation shall be flattened, and the material between the excavations shall be levelled.

9. During the months of January, February, November and December, dredging with apparatus other than hand or hoist gear shall be prohibited.

10. The authorization referred to in articles 2 and 3 may provide for departures from the foregoing provisions.

*Article 6*

1. In the absence of written authorization granted by or on behalf of our Minister aforesaid, it shall be unlawful, during the period when

fishing with large salmon-nets is permitted, to dredge in, or to be in possession of dredging craft or apparatus lying at anchor in a portion of a river or stream in which fishing is being carried on with a windlass and from a fixed place or places for hauling in nets, or within a distance of 200 metres above or 500 metres below such portion.

2. The limits of the area in which such fishing is being carried on shall be lines drawn perpendicular to the axis of the river from the place where the net is cast and from the lowest point downstream where it is hauled in.

3. This article shall apply only to the portions of rivers and streams where, and during the periods when, fishing with large salmon-nets is usually being carried on.

. . .

## CHAPTER 2

DREDGING AND EXCAVATING, DRAWING UP STONES, FISHING FOR SHELLS, SHELLFISH AND MUSSELS, DUMPING OF MATERIALS WHICH SINK TO THE BOTTOM, AND CONSTRUCTION OF WORKS IN RIVERS AND STREAMS, THE NORTH SEA WITHIN THE TERRITORIAL FRONTIER, THE WADDENZEE, THE NETHERLANDS PORTION OF THE EMS, THE DOLLARD AND THE IJSSSELMEER, THE SAME BEING UNDER THE CONTROL OF THE STATE

### *Article 8*

This chapter applies to:

- (a) Streams in South Holland and Zeeland, in so far as chapter 1 does not, by virtue of article 1, apply thereto;
- (b) The North Sea within the territorial frontier;
- (c) The Waddenzee;
- (d) The Netherlands portion of the Ems and the Dollard;
- (e) The IJsselmeer;
- (f) All tributaries, branches, inlets, creeks, brooks and channels which join the waters mentioned in (a) to (e).

### *Article 9*

In the absence of written authorization granted by or on behalf of our Minister aforesaid, it shall be unlawful to dredge with apparatus other than hand or hoist gear.

### *Article 10*

1. In the absence of written authorization granted by or on behalf of our Minister aforesaid, it shall be unlawful:

- (1) To dredge, excavate, remove mud, pull drag-nets, draw up or gather stones or shells, fish for shellfish or mussel seed, spear eels or place fixed fishing-tackle within a distance of 500 metres measured in the direction or directions of the relevant waters from piling situated at the water's edge or from the heads of jetties or, where no such piling or jetties exist, from the toes of dikes, embankments, sea-walls or other retaining walls, or within the same distance as measured from a line between notice boards

indicating the location of cables or pipes. The foregoing prohibition shall not apply to the setting-out of eel pots or herring nets or to fishing for shellfish with hand gear or other non-mechanical gear, on condition that no dredging or excavating is involved;

(2) To fish for, gather or cut loose shells, shellfish or mussels from any point on a work under the control of the State or within a distance of twenty-five metres from such a work;

(3) To place fixed fishing-tackle in navigable channels, in harbours or on or near other works under the control of the State.

2. The authorities having control over sea-walls shall not require an authorization as provided in paragraph 1 in order to use for the purpose of repairing and improving dikes and sea-walls the mud, slabs and loose stones which are situated in front of the same and are uncovered at low water.

3. Where the mud or slabs are uncovered at low water, an authorization shall likewise not be required for the digging of mud trenches to facilitate accretion.

#### *Article 11*

1. Our Minister aforesaid may designate portions of areas in which the activities referred to in article 10, paragraph 1, item (1), may be restricted by a specified distance other than 500 metres.

2. The designation of the said portions of areas shall be published in the *Nederlandsche Staatscourant*.

3. It shall be unlawful, in the portions of areas designated in pursuance of paragraph 1 of this article, to carry on the activities referred to in article 10, paragraph 1, item (1), in disregard of the instances specified for such portions by our Minister aforesaid.

#### *Article 12*

In so far as no provision in this respect is made in the Rivers Act, it shall be unlawful, in the absence of written authorization granted by or on behalf of Our Minister aforesaid, to construct any works, or to dump, pile or deposit soil, mud, rubbish or other materials which sink to the bottom.

### CHAPTER 3

#### GENERAL PROVISIONS

#### *Article 13*

These regulations shall not apply to dredging and excavation performed for the maintenance of discharge channels.

#### *Article 14*

The person to whom an authorization as provided in article 2, item (1), or article 9, has been granted shall, at the dredging site, designate with clearly visible markers the lines specified in the authorization, to landward of which no dredging may be performed, and he shall maintain these markers during the period of dredging.

*Article 15*

1. The officials referred to in article 17 shall at all times be afforded such assistance as they may require in order to satisfy themselves that these regulations are being complied with and in order that they may take such bearings as they consider necessary.

2. A copy of the present regulations and, where dredging is being carried out by virtue of an authorization, the certificate issued to the person to whom the authorization was granted or a clearly legible copy thereof certified by the said person shall be carried on board all dredging craft and apparatus and shall, on request, be produced to the officials referred to in article 17.

*Article 16*

If an authorization as referred to in these regulations is withdrawn or revoked, the person to whom the authorization was granted shall, within a time-limit prescribed by or on behalf of Our Minister aforesaid, surrender the certificate or certificates of authorization that were issued to him to the person by whom the authorization was granted.

## CHAPTER 4

## PROVISIONS CONCERNING THE ENFORCEMENT OF THE REGULATIONS

*Article 17*

1. In addition to the persons referred to in article 141 of the Code of Criminal Procedure, reports concerning offences against these regulations may be drawn up by other officers of the state and municipal police, the officials and employees of the Ministry of Public Works, including the officials and employees of the Zuider Zee Works, the officials and employees of the provincial departments of public works, the officials of drainage districts, of the pilotage service and of the water rescue service, and those responsible for the supervision of public lands and fisheries.

2. The authorities referred to in paragraph 1 shall be authorized to perform the actions specified in articles 3 and 6 of the Act of 28 February 1891 (*Staatsblad* No. 69).

*Article 18*

A copy of any report concerning an offence against these regulations shall be communicated to the managing director of the Zuider Zee Works, where relevant, and to the competent chief managing engineer of the Ministry of Public Works.

*Article 19*

Offences against the present regulations shall, to the extent that no penalty in respect thereof is provided by the Act, be punished as follows:

(a) Offences against article 4, final paragraph, article 11, final paragraph, and article 12 by a fine of not more than 100 guilders;

(b) Offences against article 2, introductory paragraph, items (1) and (2), and articles 3, 5, 6, 7, 9, 10 and 14 by a fine of not more than 75 guilders;

(c) Offences against article 2, introductory paragraph, item (3), and articles 15 and 16 by a fine of not more than 50 guilders.

. . . .

(f) DECREE NO. 579, OF 23 DECEMBER 1937, TO AMEND THE DREDGING REGULATIONS LAID DOWN IN THE ROYAL DECREE OF 3 NOVEMBER 1934

. . . .

I. That the Dredging Regulations laid down in the Royal Decree of 3 November 1934 (*Staatsblad*, No. 562) shall be amended as follows:

A. In the title of the regulations and in the heading of chapter 2 thereof, the words "and the IJsselmeer" shall be replaced by the words "the IJsselmeer and the Amstelmeer".

B. In article 8 a new provision, bearing the letter (f) and reading as follows: "(f) The Amstelmeer", shall be inserted between the provisions under letters (e) and (f); the existing letter (f) shall be changed to (g), and in this latter provision the designation "(a) - (e)" shall be changed to "(a) - (f)".

C. Article 17 shall read as follows:

1. Notwithstanding the provisions of article 141 of the Code of Criminal Procedure, reports concerning offences against these regulations may be drawn up by other officers of the state and municipal police, the officials and employees of the Ministry of Public Works, including the officials and employees of the Zuider Zee Works, the officials and employees of the Wieringermeer, the officials and employees of the provincial departments of public works, the officials of drainage districts, of the pilotage service and of the water rescue service, and those responsible for the supervision of public lands and fisheries.

2. The officials referred to in paragraph 1 shall be authorized to perform the actions specified in articles 3 and 6 of the Act of 28 February 1891 (*Staatsblad*, No. 69).

D. Article 18 shall read as follows:

Notwithstanding the provisions of articles 157 and 159 of the Code of Criminal Procedure, a copy of any report concerning an offence against these regulations shall be communicated to the competent chief managing engineer of the Ministry of Public Works and, where relevant, to the manager of the Wieringermeer.

. . . .

(g) DECREE NO. 576, OF 28 JULY 1937, ESTABLISHING POLICE REGULATIONS GOVERNING THE USE OF VARIOUS DIKES, BREAKWATERS AND LANDING-STAGES UNDER THE CONTROL OF THE STATE AS WELL AS DREDGING, EXCAVATION AND MUD-REMOVAL OPERATIONS ALONG SUCH WORKS ("REGULATIONS FOR RIVER DIKES OF THE STATE")

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## CHAPTER 2

## THE USE OF THE DIKES

*Article 2*

In the absence of written authorization granted by or on behalf of our Minister of Public Works, it shall be unlawful to carry out or maintain any work in, on, under or over a dike and its appurtenances, in such a manner as to alter the condition thereof.

Operations connected with normal maintenance, the trimming or cutting of vegetation and the mowing of grass shall not, when undertaken by or on behalf of authorized persons, be considered to constitute alteration, on condition that traffic is not thereby impeded.

*Article 3*

Without prejudice to acquired rights, it shall be unlawful, in the absence of written authorization granted by or on behalf of Our Minister aforesaid, to plant or maintain trees, shrubs or bushes on a dike or its appurtenances.

. . . .

## CHAPTER 3

## DREDGING, EXCAVATION AND MUD-REMOVAL OPERATIONS ALONG DIKES

*Article 6*

In the absence of written authorization granted by or on behalf of Our Minister aforesaid, it shall be unlawful to carry out dredging, excavation or mud-removal operations within fifty metres of the inner toe or thirty metres of the outer toe of a dike or, beyond those distances, to a depth greater than that corresponding to a gradient of 25 per cent descending from a point at which either of the aforementioned distances terminates.

If, because of the shape of a dike, the position of the toe is uncertain, the toe shall be considered to lie at a distance of eight metres, measured with a spirit-level, from the nearside edge of the crest of the dike.

**Norway**<sup>1</sup>

. . . .

- (a) ACT OF 12 JUNE 1931 RELATING TO THE CONVENTION OF 11 MAY 1929 BETWEEN NORWAY AND SWEDEN<sup>2</sup> ON CERTAIN QUESTIONS RELATING TO THE LAW ON WATERCOURSES

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## CHAPTER I

## SCOPE OF THE ACT

*Article 1*

1. The present Act, to the extent hereinafter determined, relates to

<sup>1</sup> The texts of laws and regulations reproduced under Norway have been provided in Norwegian by the Permanent Representative of Norway to the United Nations. Translation by the Secretariat of the United Nations.

<sup>2</sup> See *infra*, Treaty No. 237, p. 871.

installations or works or other operations on watercourses in Norway or Sweden which are of such a nature as to cause an appreciable change in watercourses in the other country in respect of their depth, position, direction, level or volume of water, or to hinder the movement of fish to the detriment of fishing in the latter country.

2. This Act also refers to transport and floating on watercourses which form the frontier between the countries or otherwise lie within the territory of both countries, or which flow into such a watercourse.

3. The term "watercourse" within the meaning of this Act shall include lakes and other bodies of water. The installations, works and operations referred to in paragraph 1 shall be termed "undertakings" in this Act.

## CHAPTER II

### UNDERTAKINGS CARRIED OUT IN NORWAY

#### *Article 2*

1. Subject to compliance with the provisions of the Convention of 11 May 1929 and of this Act, an undertaking shall be subject to the Norwegian legislation on watercourses for the time being in force.

2. The authorization of the King shall, however, in every case be required for the carrying out of an undertaking referred to in article 6, paragraph 1, being an undertaking which under the general provisions of the legislation on watercourses could be set up without authorization.

#### *Article 3*

Authorizations for an undertaking may be granted independently of the question whether the waterfall, the immovable property or the transport or floating interest on account of which the undertaking is to be carried out belongs to Norway or Sweden.

An official survey which, under the Norwegian legislation on watercourses, is conducted in order to enable an undertaking to be carried out shall be deemed to constitute an authorization.

#### *Article 4*

1. In deciding whether an undertaking may be carried out, its effects in both Norway and Sweden shall be taken into consideration. As a rule, however, the utility of the undertaking shall be considered to be solely its utility for the waterfall, the immovable property or the transport or floating interest on account of which the undertaking is to be carried out.

2. In deciding whether an undertaking may be carried out without special authority, its effects in Sweden shall also be taken into consideration.

#### *Article 5*

If the undertaking is to be carried out on account of a waterfall or other immovable property in Sweden, the provisions of article 8 of the Convention of 11 May 1929 in respect of charges and funds shall apply.

*Article 6*

1. An undertaking may not be authorized without the approval of Sweden, as provided in article 12 of the Convention between Norway and Sweden of 11 May 1929, if the undertaking is likely to involve any considerable inconvenience in Sweden in the use of a watercourse for transport or floating or to hinder the movement of fish to the detriment of fishing in Sweden, or if the undertaking is likely to cause considerable disturbance in conditions governing the water-supply over an extensive area.

2. Sweden may subject its approval to conditions referring to the planning of the work and the prevention or reduction of public damage or nuisances and to conditions concerning security for the fulfilment of the conditions in respect of consent and for any other obligations in Sweden which may result from the undertaking.

*Article 7*

1. An application for the authorization of an undertaking shall be accompanied by the particulars, etc., required by the Norwegian legislation on watercourses and, in addition, by the particulars required to enable the effects which the undertaking will produce in Sweden to be determined.

2. If the waterfall, the immovable property or the transport or floating interest on account of which the undertaking is to be carried out belongs to Sweden, the application shall be accompanied by a declaration from the competent Swedish authorities to the effect that Sweden has no objection to the application being considered. This provisions shall not apply if the applicant is the Swedish State.

3. When an application has been received by the competent ministry, a copy thereof, together with the enclosures and the relevant particulars of the manner in which the application was dealt with in Norway, shall be transmitted to the competent Swedish authority.

*Article 8*

1. Where, as provided in the Norwegian legislation on watercourses, an undertaking is to be carried out by virtue of an official survey, the survey application shall be accompanied both by the particulars required under article 8 of the Official Surveys Act of 1 June 1917 and by the particulars, etc., required under article 7 of the present Act. The person in charge of the survey shall, before setting a date for the proceedings, transmit the application together with the enclosures to the competent ministry so that the application can be dealt with as provided for in the Convention of 11 May 1929.

2. If no approval by Sweden is required under article 6 of this Act, of article 12 of the Convention of 11 May 1929, or if such approval is given without conditions, the survey court shall proceed with the survey application.

3. If approval by Sweden is required and is made subject to conditions, the King shall decide whether the survey proceedings may be carried forward. If the decision is in the affirmative, the survey court shall proceed with the survey application. If the survey judgement is to the effect that the undertaking may be carried out, the judgement may be made subject to any conditions which the King may have prescribed.

4. A copy of the judgement on the survey shall be sent to the competent ministry for transmittal to the competent Swedish authority.

5. A survey held pursuant to article 19 of the Watercourse Regulation Act of 14 December 1917 may not alter the rules on the conservancy and outflow of water laid down in the authorization for an undertaking.

#### *Article 9*

1. Authorization for an undertaking shall contain not only the conditions prescribed by the competent authority in Norway but also any conditions to which Sweden, as provided in article 13 of the Convention of 11 May 1929, may have subjected its consent. The authorization shall further stipulate that it is not valid in Sweden unless the applicant has obtained the certificate mentioned in paragraph 3 of this article from the competent Swedish authority.

2. When the final decision has been reached, a copy thereof shall be transmitted to the competent Swedish authority at the same time as the decision is sent to the applicant.

3. When authorization for an undertaking has been granted and has acquired legal effect, the applicant must within 180 days obtain from the competent Swedish authority a certificate that authorization has been granted in the manner provided for in the Convention of 11 May 1929. If the certificate is not applied for within the above-mentioned period, the undertaking may not be carried out without fresh authorization.

#### *Article 10*

A charge payable to the State as a contribution to the costs of dealing with the application for the authorization of an undertaking may be reduced by the King, according to circumstances, below any figure which may otherwise have been established.

### CHAPTER III

#### UNDERTAKINGS CARRIED OUT IN SWEDEN

#### *Article 11*

Where an undertaking is carried out in Sweden, the King, in conformity with the provisions of the Convention of 11 May 1929 and of this Act, may apply to a waterfall or other immovable property or a transport or floating interest belonging to Norway the obligations and rights which under the Norwegian legislation on watercourses would apply if the installation, work or operation were carried out in Norway. In this connexion, consideration shall be given only to the effects of the undertaking in Norway and to interests in Norway.

#### *Article 12*

An application for authorization to carry out an undertaking in Sweden on account of a waterfall or other immovable property or a transport or floating interest belonging to Norway shall, unless the Norwegian State is the applicant, be accompanied by a declaration from the competent Norwegian ministry to the effect that Norway has no objection to the

application being considered. The application shall also be accompanied by the particulars, etc., required under Swedish law and, in addition, by the particulars, etc., which are prescribed by Norwegian law in connexion with applications for similar installations, works or operations in Norway.

*Article 13*

1. Where, as provided in article 14, paragraph 3, of the Convention of 11 May 1929, the competent Swedish authority has sent an application to the competent Norwegian authority, the application shall be accorded the same preliminary treatment as would apply under the Norwegian legislation on watercourses if the installation, work or operation were to be carried out in Norway.

2. The competent ministry shall also inform the interested parties, in such manner as it sees fit, of the action taken upon the application in Sweden and in that connexion shall obtain the necessary information from the competent Swedish authority.

*Article 14*

1. The question whether, under article 12 of the Convention of 11 May 1929, the consent of Norway is necessary for an undertaking carried out in Sweden and whether such approval shall be given and on what conditions shall be decided by the King. If such approval is necessary, the question shall be decided in accordance with the principles applicable to similar installations, works or operations under the Norwegian legislation on watercourses, subject, however, to the provisions of articles 3 and 4 of this Act.

2. Norway may subject its approval to conditions referring to the planning of the work and the prevention or reduction of public damage or nuisances and to conditions concerning security for the fulfilment of the conditions in respect of consent and for any other obligations in Norway which may result from the undertaking.

*Article 15*

1. When authorization for an undertaking has been granted in Sweden and has acquired legal effect there, the applicant must within 180 days obtain from the competent Norwegian ministry a certificate that authorization has been granted in the manner provided for in the Convention of 11 May 1929. If the certificate is not applied for within the above-mentioned period, the authorization shall not be valid in respect of Norwegian interests.

2. If the waterfall, the immovable property or the transport or floating interest on account of which authorization for an undertaking has been granted belongs to Norway, the certificate may not be issued unless a decision has been taken regarding the obligations to be imposed on the applicant under article 3, paragraph 2, of the Convention of 11 May 1929.

3. When such a certificate has been issued, any person shall be obliged, provided he receives compensation therefor, to give up such immovable property as may be required and to submit to any servitude upon it and tolerate any damage or nuisance caused by the undertaking, always subject to compliance with the Norwegian legislation on watercourses in so far as similar installations, works or operations carried out in Norway are concerned.

*Article 16*

The competent ministry may provide that an authorization to carry out an undertaking and any measures which may be taken by the King under article 11 of this Act shall be registered as a charge on a waterfall or property in respect of which such authorization or measures may entail obligations

## CHAPTER V

## TRANSPORT AND FLOATING

*Article 17*

With regard to the opening, maintenance or use for transport or floating of the watercourses mentioned in article 1, paragraph 2, the inhabitants of Sweden shall have the same rights and be subject to the same obligations in Norway as the inhabitants of Norway.

*Article 18*

1. An inhabitant of Sweden who is engaged in floating in Norway and is not represented by a Norwegian floating association shall have in Norway an agent domiciled there who shall represent him in the courts of justice and before other authorities and shall receive communications regarding disputes and other matters relating to the floating. Before the floating may be carried out, the name and address of the agent must be notified to, and the agent approved by, the police superintendent of the district in which the floating is to begin. If such notice is not given, the police superintendent concerned may, at the request of any interested party, appoint an agent with authority to bind the inhabitant of Sweden engaged in floating. The police superintendent shall give public notice of the agent's name and address in such manner as he sees fit.

2. The King may provide that an inhabitant of Sweden shall give security for obligations which he incurs by carrying on floating, and may specify the manner in which the security is to be given.

## CHAPTER VI

MISCELLANEOUS PROVISIONS CONCERNING UNDERTAKINGS CARRIED  
OUT IN NORWAY OR SWEDEN*Article 19*

The competent Norwegian authority shall communicate to the competent Swedish authority such information concerning the effects of an undertaking in Norway as may be necessary for the examination of an application for the authorization of the undertaking.

*Article 20*

The King may provide that an application concerning an undertaking shall, in accordance with article 17 of the Convention of 11 May 1929, be examined by a commission.

*Article 21*

Where a commission is appointed as provided in article 17 of the Convention of 11 May 1929, the relevant application shall be examined in accordance with articles 18 and 19 of the Convention.

*Article 22*

Those provisions of the Norwegian legislation on watercourses which relate to the right or obligation to take part in an installation, work or operation may not be adduced to the advantage or disadvantage of a waterfall or other immovable property or an interest in Sweden. However, an agreement entered into by parties in both countries to share in an undertaking shall be valid if it is approved by the King of Norway and by the competent Swedish authority.

2. Where there is an agreement as referred to in paragraph 1, only that part of the costs connected with the undertaking may be allocated within Norway which, under the agreement, relates to a waterfall or other immovable property or an interest in Norway.

3. The relationship between parties in Norway as regards the right or obligation to take part in an undertaking carried out in Sweden shall be determined, having due regard for the provisions of paragraph 2 of this article according to the same principles which, under the Norwegian legislation on watercourses, would apply if the installation, work or operation were carried out in Norway.

*Article 23*

1. With regard to compensation for damage or nuisances resulting from an undertaking, the law of the country in which the damage or nuisance occurs shall apply. With regard to measures for preventing or reducing the damage or nuisance, the law of the country in which the measures are to be carried out shall apply.

2. No obligation may be imposed to supply power from a waterfall in one country as compensation for damage or nuisance, or in order otherwise to safeguard interests, in the other country.

*Article 24*

1. The supervision and maintenance of an undertaking shall be subject to the laws of the country in which the undertaking is carried out, but any measures taken in the other country for preventing or reducing damage or nuisance shall be subject to the laws of that country. The inhabitants of both countries shall have an equal right to safeguard their interests.

2. Compensation for damage or nuisance caused by defective maintenance shall be governed by the laws of the country in which the damage or nuisance occurs.

3. The provision of the present article regarding maintenance shall apply *mutatis mutandis* to the conservancy and outflow of water.

*Article 25*

1. If an undertaking is abandoned, the legislation of the country in which it has been carried out shall apply. The inhabitants of both countries

shall have an equal right to safeguard their interests. In this respect the provisions of articles 15 and 16 of the Convention of 11. May 1929 shall apply *mutatis mutandis*.

2. The provisions of article 23, paragraph 1, of this Act shall apply *mutatis mutandis* to compensation for any damage or nuisance caused by the stoppage of an undertaking.

#### Article 26

With regard to investigatory work in preparation for an undertaking, the inhabitants of Sweden shall enjoy the same rights and be subject to the same obligations in Norway as the inhabitants of Norway.

#### Article 27

Any person who is authorized to carry out an undertaking and is not domiciled in Norway may be requested by the competent ministry to appoint an agent approved by that ministry and domiciled in Norway, who shall represent such person in the courts of justice and before other authorities and shall receive communications regarding disputes and other matters relating to the undertaking. The agent's name and address shall be communicated to the competent ministry. If these provisions are not complied with within the prescribed time-limit, the ministry may appoint an agent. The ministry shall publish the agent's name and address in the Norwegian *Official Gazette*.

#### Article 28

1. A final judgement or an award which has acquired legal force in Sweden in respect of an undertaking or in respect of transport or floating to which the present Act applies shall, provided such judgement or award can be executed in Sweden and does not prescribe a penalty, be immediately executed on request in Norway.

2. If the person affected by the judgement or award is not a national of or is not domiciled in Sweden, execution may not be claimed unless he has appeared in the action or unless he personally or his agent, appointed in accordance with the provisions of article 18 or 27 of this Act, has been lawfully summoned in due time.

3. The provisions of paragraph 1 regarding a judgement or award shall apply *mutatis mutandis* to any other decision or claim in Sweden which may be executed or recovered in the same manner as a legal judgement under Swedish law.

4. Application for execution shall be made by the legal section of the Swedish Ministry of Foreign Affairs, or by the competent provincial administration, to the competent Norwegian ministry. The application shall be accompanied by a certificate issued by the authority from which it emanates to the effect that the judgement, award, decision or claim fulfils the above-mentioned provisions in respect of its execution. The ministry shall transmit the application to the Seizure Court, cf. article 29 of the Enforcement of Judgements Act.

5. Execution shall be effected in accordance with the laws in force. The right of priority granted by Norwegian law to claims for charges or

funds may not, however, be applied. Sums recovered shall be transmitted to the authority which applied for execution.

6. The refund of costs to which, under the terms of the settlement of the case, the person to whom the judgement or award applies is subject may be effected in accordance with the provisions of the present article.

*Article 29*

If an undertaking has been carried out without authorization, the inhabitants of both countries shall, in respect of the legality of the undertaking, have an equal right to safeguard their interests.

*Article 30*

The provisions of this Act in respect of the rights and obligations of the inhabitants of Sweden shall also apply to the Swedish State and its communes, associations and institutions belonging to Sweden. The term " commune " shall be held to include administrative subdivisions known as " landsting ".

*Article 31*

If, under the Norwegian legislation on watercourses, any undertaking must be begun or completed within a specified time after it has been authorized, such time shall be calculated from the date on which the certificate mentioned in articles 9 and 15 is issued for an undertaking carried out, respectively, in Norway or Sweden.

*Article 32*

If an undertaking includes the transfer of water from one drainage area to another, the King of Norway or the competent Swedish authority may, as provided in article 2 of the Convention of 11 May 1929, require that the question shall be the subject of special negotiations between the countries which, in that case, shall not be bound by the provisions of the Convention. This Act shall likewise not apply in such case; provided that the king, in so far as Norway is concerned, may bring into force any provisions of the Act which may be appropriate.

. . .

(b) WATERCOURSES ACT OF 15 MARCH 1940 (No. 3)

. . .

*Article 157* — Control over watercourses which form the frontier or which flow into or from a neighbouring country shall be subject to the restrictions imposed by the rules of international law or by agreements with the neighbouring country. Regulations for clarifying and giving effect to the rules of international law or an agreement with a neighbouring country, including regulations for the control and regulation of transport, floating and fishing, may be made by the King.

. . .

(c) ACT CONCERNING VARIOUS MEASURES FOR THE MARKING AND SUPERVISION  
OF THE FRONTIER, OF 14 JULY 1950 (No. 2)

*Article 1*

In order to ensure the marking, clearing, protection or supervision of the frontier or a frontier road, the public authorities may take any necessary action in respect of immovable property in the area, without regard to private rights. The King or a person authorized by him may, so far as is necessary to facilitate such supervision or to prevent pollution of frontier waters or damage to frontier marks or to the territory of a neighbouring country, prohibit specified types of actions or activities.

The King or a person authorized by him may, for the purposes mentioned in the first paragraph, make orders that ownership or usufructuary interests in movable or immovable property shall be ceded to the State.

The King or a person authorized by him may also make orders concerning the obligation of communal and other local authorities to give the frontier authorities (the frontier commissioner) any assistance for which they (he) may ask.

Any person having an interest in property who suffers loss or damage because of the cession of such interest under the second paragraph or because of any action or prohibition under the first paragraph may claim compensation which, in the absence of an amicable agreement, shall be determined on the basis of an official survey.

. . . .

(d) ROYAL DECREE OF 7 NOVEMBER 1950 CONCERNING THE USE OF RIVERS  
ON THE FRONTIER WITH THE SOVIET UNION

. . . .

*Article 7*

Timber floating in the Grense-Jakobselv frontier river shall be prohibited.

All timber which is floated in the Pasvikelv river and the lakes formed by it shall be marked. The marks used shall be approved by the Norwegian frontier commissioner for the Norwegian-Soviet frontier. Timber may only be floated at such times as are fixed annually by the frontier commissioner.

All timber floated in the Pasvikelv river and the lakes formed by it shall be barked, and care shall be taken that no bark enters the water of that river. Timber floated in cradles or rafts need not be barked.

*Article 8*

In rivers and lakes through which the frontier between Norway and the Soviet Union passes, Norwegian nationals may fish up to the frontier line. It shall be unlawful:

(a) To use explosive, poisonous or narcotic substances capable of killing or injuring fish;

(b) To spear fish;

(c) To fish from boats at night, except in lakes where vessels may navigate at night under article 5, second paragraph.

. . .

### Sweden <sup>1</sup>

(a) ACT NO. 405, OF 20 DECEMBER 1929, CONTAINING REGULATIONS RELATING TO THE APPLICATION IN SWEDEN OF THE SWEDISH-NORWEGIAN CONVENTION OF 11 MAY 1929<sup>2</sup> RELATING TO THE LAW ON WATERCOURSES

. . .

UNDERTAKINGS IN RESPECT OF WHICH AN APPLICATION IS MADE IN SWEDEN

#### *Article 1*

An application in proceedings which under the Convention have been instituted in a water-rights court shall be submitted in a number of copies exceeding by one the number otherwise prescribed in each particular instance.

Where, as provided in article 14 of the Convention, an application must be accompanied by the declaration referred to in that article, the application shall be rejected if it is not accompanied by such declaration. Where an application is made for the appointment of a person to conduct an official survey as provided in chapter 10 of the Watercourses Act, such appointment may not be made in a case as aforesaid in the absence of the aforementioned declaration. The foregoing provisions shall not, however, apply to an application made by the Norwegian State.

#### *Article 2*

The provisions of the Watercourses Act in respect of the substance of an application shall also apply to the effect of the undertaking in Norway; provided that no information need be given concerning properties in Norway which are affected by the undertaking, the owners or usufructuaries of such properties or the amount of compensation payable to an owner or other person for damage to property in Norway.

An official notice issued in connexion with an application shall, as far as the effect of the undertaking in Norway is concerned, contain information in respect only of the water area in Norway which is likely to be affected by the undertaking.

#### *Article 3*

As soon as an official notice is issued in connexion with the application, a copy of the application documents and of the notice shall be sent by the judge of the water-rights court to the Ministry of Foreign Affairs for transmittal to the competent Norwegian authority. When the preliminary

<sup>1</sup> The texts of the Acts reproduced under Sweden have been provided in Swedish by the Ministry of Foreign Affairs of Sweden. Translation by the Secretariat of the United Nations.

<sup>2</sup> See *infra*, Treaty No. 237, p. 87.

correspondence has been concluded, no further action shall be taken on the case until notification has been received from the Ministry of Foreign Affairs as provided in article 4 or 5 of this Act.

If the matter is to be dealt with by means of an official survey as provided in chapter 10 of the Watercourses Act, the person in charge of the survey shall, as soon as a meeting with the parties to the proceedings has been decided upon, transmit copies of the application documents to the Ministry of Foreign Affairs and inform the said ministry of the time and place of such meeting, but no final opinion on the undertaking shall be given until the aforementioned notification has been received by the person in charge of the survey.

If, in view of the extent and nature of the further investigation required, the judge of the water-rights court or the person in charge of the survey considers that the matter should be dealt with by a commission, he shall make a recommendation to that effect to the Ministry of Foreign Affairs, and a decision on the recommendation shall then be made by the King.

#### *Article 4*

If the Ministry of Foreign Affairs is informed that the approval of Norway is not required or that such approval has been given unconditionally, it shall so notify the judge of the water-rights court or the person in charge of the survey.

If such approval is refused, the judge of the water-rights court or the person in charge of the survey shall be so informed, and the water-rights court or the board of surveyors shall reject the application.

#### *Article 5*

Where Norway has given its approval subject to special conditions, the King shall determine whether a decision in the matter shall be reserved to himself as provided in article 20, second sentence, of the Convention. When the necessary action in this regard has been taken, the decision of the King as well as the conditions laid down by Norway shall be notified to the judge of the water-rights court or the person in charge of the survey for such further action as, having regard to the said decision and conditions, is required for the settlement of the case.

Where, as provided in the first paragraph, the King reserves to himself the decision on a particular matter, and where the undertaking by its nature is such that under the provisions of the Watercourses Act a question concerning the undertaking may be submitted to the King for a decision, all decisions which in particular respects may thus be reserved to the King shall be made at the same time.

#### *Article 6*

The provision of article 7 of the Convention that authorization for an undertaking may be granted for a specified period shall not apply to a waterfall, immovable property or an interest in Sweden on account of which the undertaking is to be carried out.

Where an authorization is granted for a specified period, the provisions of the Watercourses Act in respect of re-examination shall not apply to a waterfall, immovable property or an interest that is thereby affected. The period for which an authorization is granted may not exceed sixty years

from the calendar year during which the undertaking, as provided in the relevant order, was to have been completed.

*Article 7*

Where an official notice or other communication which under the Watercourses Act must be inserted in a local newspaper concerns a party in Norway, a copy of such notice or communication shall be sent to the Ministry of Foreign Affairs for transmission to the competent Norwegian authority as provided in article 15 of the Convention.

The provisions of the Watercourses Act concerning the notification of a board of directors or an administration as referred to in chapter 10, article 8, second paragraph, and article 40 of that Act, and concerning the delivery of an official notice or other communication in the manner prescribed for the service of a summons shall also apply to a party in Norway.

UNDERTAKINGS IN RESPECT OF WHICH AN APPLICATION IS MADE IN NORWAY

*Article 8*

The declaration referred to in article 14 of the Convention shall be made by the King.

The person wishing to obtain such a declaration shall apply for that purpose to the judge of the water-rights court. The application shall describe as fully as possible the nature, extent and effect of the undertaking and the water area which is likely to be affected by the undertaking. The judge of the water-rights court shall transmit the application, together with his own observations, to the Ministry of Foreign Affairs.

*Article 9*

Where an application concerning an undertaking is submitted to an authority in Norway, it shall on reaching the Swedish Ministry of Foreign Affairs be transmitted, together with the supporting documents, to the judge of the water-rights court. The foregoing provision shall also apply to the information referred to in article 15, third sentence, of the Convention.

When the judge of the water-rights court receives the documents referred to in the first paragraph, he shall forthwith issue an official notice concerning the application. The official notice shall contain, firstly, information on the nature and extent of the undertaking and the effects which it may be expected to produce in Swedish territory; and, secondly, information concerning not only the formalities that must be observed by a party wishing to file an objection to the undertaking, with a Norwegian authority, but also the fact that objections to the application must be filed with the judge of the water-rights court within a time-limit set out in the official notice. The official notice shall state that a copy of the application documents is available at the offices of the water-rights court or at some other suitable place determined by the judge of that court. The said judge shall see to it that the official notice is inserted as soon as possible in one or more newspapers of the relevant locality as well as in national newspapers. A copy of the official notice shall also be transmitted to the Ministry of Foreign Affairs.

If after an official notice has been issued, information is received from

an authority in Norway that the matter is still under consideration there, such information shall also be made public in the aforesaid manner.

If an undertaking by its nature is such that it is obviously not likely to have any harmful effects in Sweden, no official notice as aforesaid shall be required.

#### *Article 10*

If an undertaking is likely to be harmful to transport, floating, fishing or similar public interests of any importance or to water-control or drainage undertakings already carried out or likely to be carried out, the judge of the water-rights court shall obtain the opinion of the authority which in such matters is responsible for protecting the rights of the public and the opinion of the board of directors or the manager of the undertakings that will be affected. Such opinion must be given within the time-limit for the filing of objections as provided in the official notice.

#### *Article 11*

After the expiry of the time-limit set out in article 9 of this Act for the filing of objections, the judge of the water-rights court shall advise the King whether Swedish approval of the undertaking as provided in article 12 of the Convention appears to be necessary and whether, in view of the extent and nature of the further investigation that is necessary, the matter should be dealt with by a commission. If the stage reached in the investigation makes it possible to do so, the judge of the water-rights court should also state whether, in his opinion, such approval should be granted, and in that case he should propose the conditions to which it should be made subject. The judge's statement shall be accompanied by all the documents in the case. A copy of the King's decision in the matter shall be transmitted to the judge of the water-rights court.

#### *Article 12*

Where the nature of the matter so requires, the judge of the water-rights court should, in making observations as provided in article 8 or 11 of this Act, confer with the water-rights engineers. A water-rights consultant may also be called upon to discuss the matter with the water-rights judge. If a special inquiry is necessary, the judge of the water-rights court may order this to be carried out by the water-rights engineers or any one such engineer with or without the assistance of a water-rights consultant.

The costs of the inquiry and the expenditure relating to official notices and the like shall be defrayed by the State.

#### *Article 13*

Where an undertaking is to be carried out for the account of the Swedish State, the King may prescribe that the question of approval of the undertaking shall be dealt with otherwise than as provided in articles 9-12 of this Act. The provisions of article 9 shall, however, apply even in such case in so far as they relate to the provision of information to the parties concerning the application and its processing and to the formalities they must observe if they wish to file an objection to the undertaking with a Norwegian authority.

*Article 14*

The certificate referred to in article 22 of the Convention shall be issued by the water-rights court. The application for such certificate shall be submitted to the judge of the water-rights court in triplicate. If the application is made after the expiry of the period prescribed by article 22 of the Convention, it shall be rejected by the said judge.

In connexion with the certificate referred to in the first paragraph, consideration shall also be given to any matter referred to in article 3, second paragraph, or article 6 of this Act which by its nature is such that a decision thereon must under the Watercourses Act be included in the authorization for the undertaking.

If the application documents have not been submitted in the prescribed number of copies, or if the judge of the water-rights court considers that additional copies are required, or if the documents do not contain information necessary for dealing with the matter referred to in this article, then the judge of the water-rights court may order the applicant to remedy such deficiencies within a specified time, subject to the penalty, if this is not done, that the application may be declared invalid.

*Article 15*

The procedure for dealing with a matter referred to in article 14 of this Act shall be governed, *mutatis mutandis*, by those provisions of the Watercourses Act which relate to application proceedings.

*Article 16*

When the certificate referred to in article 14 of this Act has been issued and has acquired legal effect, all relevant particulars of the rights and obligations in Sweden which for the future have been agreed upon with the undertaking shall be entered in the watercourses register, and such entries shall be governed, *mutatis mutandis*, by the provisions concerning the registration of decisions as referred to in chapter 12, article 3, of the Watercourses Act.

*Article 17*

An application or a matter referred to in articles 8, 9 or 14 of this Act shall be dealt with by the judge of the water-rights court having jurisdiction over the area in which the affected water resources are situated.

## SPECIAL PROVISIONS

*Article 18*

The provisions of the Watercourses Act in respect of an obligation to share the cost of, or contribute a subsidy towards, an undertaking shall also apply to undertakings which under the Convention are carried out to the advantage of a waterfall, immovable property or an interest in Sweden; provided that only such advantage as accrues in Sweden from the undertaking may be taken into account.

If, by virtue of an agreement as referred to in article 10 of the Convention, an obligation to take part in an undertaking also rests on immovable property or an interest in Norway, the costs of the undertaking for the

purposes of the present article of this Act shall be deemed to comprise only that portion thereof which under such agreement is attributable to property or to an interest in Sweden.

*Article 19*

Where an agreement as referred to in article 10 of the Convention relates to undertakings in respect of which an application is made in Sweden, the approval of such agreement shall be considered in conjunction with the authorization for the undertaking and in other respects according to the procedure prescribed in articles 14 and 15 of this Act for the cases referred to in those articles.

*Article 20*

Where water-control measures under the Watercourses Act entail an obligation on the part of the owner of a waterfall to pay water-control charges, the regulations in that regard shall also apply to undertakings for which authorization is granted under the Convention; provided that such obligation may not be imposed to the advantage of interests outside Sweden and that account shall be taken only of the increase in utilizable water-power obtained in Sweden by means of the undertaking. The foregoing provision shall also apply to the obligation incumbent on the owner of a waterfall in Sweden to supply power to the surrounding area.

The charges referred to in the first paragraph may be reduced below what would otherwise be payable, or may be entirely waived, if such action is considered reasonable having regard to an obligation to pay charges incurred under article 8 of the Convention or to other circumstances.

*Article 21*

The provisions of article 12 of this Act concerning the observations referred to in that article shall also apply to information which the judge of the water-rights court is asked to supply as provided in article 16 of the Convention.

Where an authority in Sweden wishes to obtain information as referred to in article 16 of the Convention, the request for such information shall be submitted to the Ministry of Foreign Affairs for transmittal to the competent Norwegian authority.

*Article 22*

The question of giving security as provided in article 11 of the Convention shall, in the case of undertakings, in respect of which an application is made in Sweden, be dealt with in conjunction with the authorization for the undertaking and in other respects in connexion with the approval of the undertaking or according to the procedure prescribed by articles 14 and 15 of this Act for the cases referred to in those articles. The provisions of chapter 14, article 8, of the Watercourses Act shall apply to such security.

*Article 23*

The request referred to in article 29 of the Convention shall be made by the representative of the King in the country in which the undertaking is carried out or the relevant floating takes place or, if the undertaking

is carried out in Norway, where the water resources affected by the undertaking are situated.

When an agent has been appointed in pursuance of the said article, notice of such appointment and the name and address of the agent shall be inserted in one or more newspapers of the relevant locality as well as in national newspapers. If any change occurs in the particulars previously notified, such change shall be made public in the same manner. The aforementioned particulars shall also be entered in a special register which may be consulted at the office of the King's representative.

The costs of the official notices referred to in the present article of this Act may be collected according to the procedure prescribed for the collection of document fees.

. . . .

(6) ACT No. 183, OF 28 APRIL 1949, CONCERNING TIMBER FLOATING  
IN THE TORNE AND MUONIO FRONTIER RIVERS

. . . .

Subject to the condition that the Agreement of 17 February 1949<sup>1</sup> between Sweden and Finland concerning timber floating in the Torne and Muonio frontier rivers is ratified, the King hereby proclaims that articles I-V of the Agreement and the regulations annexed thereto, the text of the said articles and regulations being reproduced in the annex to this Act, shall come into force in Sweden as from the date determined by the King and shall remain in force for the duration of the Agreement.

As from the date so determined by the King, there shall stand repealed the Act of 10 June 1912 (No. 322) concerning the floating of forest products in the Torne and Muonio frontier rivers and the Notice of 23 November 1917 (No. 761) concerning the application of the regulations embodied in the said Act.

. . . .

**United States of America**<sup>2</sup>

**I. INTERNATIONAL BOUNDARY AND WATER COMMISSION,  
UNITED STATES AND MEXICO**

(a) UNITED STATES CODE, TITLE 22<sup>3</sup>

SECTION 277. *International Boundary Commission, United States and Mexico; study of boundary waters.*

The President is authorized to designate the American Commissioner on the International Boundary Commission, United States and Mexico, or other federal agency, to co-operate with a representative or representatives

<sup>1</sup> See *infra*, Treaty No. 172, p. 630.

<sup>2</sup> The texts of laws and regulations reproduced under United States have been forwarded or indicated by the Representative of the United States to the United Nations.

<sup>3</sup> 1958 edition.

of the Government of Mexico in a study regarding the equitable use of the waters of the lower Rio Grande and the lower Colorado and Tia Juana Rivers, for the purpose of obtaining information which may be used as a basis for the negotiation of a treaty with the Government of Mexico relative to the use of the waters of these rivers and to matters closely related thereto. On completion of such study the results shall be reported to the Secretary of State. (May 13, 1924, ch. 153, section 1, 43 Stat. 118; Mar. 3, 1927, ch. 381, section 1, 44 Stat. 1403; Aug. 19, 1935, ch. 561, 49 Stat. 660).

*SECTION 277a. Investigations of commission; construction of works or projects.*

The Secretary of State, acting through the American Commissioner, International Boundary Commission, United States and Mexico, is further authorized to conduct technical and other investigations relating to the defining, demarcation, fencing, or monumentation of the land and water boundary between the United States and Mexico, to flood control, water resources, conservation, and utilization of water, sanitation and prevention of pollution, channel rectification, and stabilization and other related matters upon the international boundary between the United States and Mexico; and to construct and maintain fences, monuments and other demarcations of the boundary line between the United States and Mexico, and sewer systems, water systems, and electric light, power and gas systems crossing the international border, and to continue such work and operations through the American Commissioner as are now in progress and are authorized by law.

The President is authorized and empowered to construct, operate, and maintain on the Rio Grande River below Fort Quitman, Texas, any and all works or projects which are recommended to the President as the result of such investigations and by the President are deemed necessary and proper. (May 13, 1924, ch. 153, section 2, 43 Stat. 118; Mar. 3, 1927, ch. 381, section 2, 44 Stat. 1403; Aug. 19, 1935, ch. 561, 49 Stat. 660.)

*SECTION 277b. Works or projects; construction under treaty with Mexico; operation, maintenance and supervision.*

(a) The President is further authorized to construct any project or works which may be provided for in a treaty entered into with Mexico and to repair, protect, maintain, or complete works now existing or now under construction or those that may be constructed under the treaty provisions aforesaid; and to construct any project or works designed to facilitate compliance with the provisions of treaties between the United States and Mexico; and

(b) To operate and maintain any project or works so constructed or, subject to such rules and regulations for continuing supervision by the said American Commissioner or any federal agency as the President may cause to be promulgated, to turn over the operation and maintenance of such project or works to any federal agency, or any state, county, municipality, district, or other political subdivision within which such project or works may be in whole or in part situated, upon such terms, conditions, and requirements as the President may deem appropriate. (May 13, 1924, ch. 153, section 3, as added Aug. 19, 1935, ch. 561, 49 Stat. 660.)

*SECTION 277c. Agreements with political subdivisions; acquisition of lands.*

In order to carry out the provisions of sections 277-277d of this title, the President, or any federal agency he may designate is authorized,

(a) In his discretion, to enter into agreements with any one or more of said political subdivisions, in connection with the construction of any project or works provided for in paragraph (2) of section 277a and section 277b of this title, under the terms of which agreements there shall be furnished to the United States, gratuitously, except for the examination and approval of titles, the lands or easements in lands necessary for the construction, operation, and maintenance in whole or in part of any such project or works, or for the assumption by one or more of any such political subdivisions making such agreement, of the operation and maintenance of such project or works in whole or in part upon the completion thereof: *Provided, however,* That when an agreement is reached that necessary lands or easements shall be provided by any such political subdivision and for the future operation and maintenance by it of a project or works or a part thereof, in the discretion of the President the title to such lands and easements for such projects or works need not be required to be conveyed to the United States but may be required only to be vested in and remain in such political subdivision;

(b) To acquire by purchase, exercise of the power of eminent domain, or by donation, any real or personal property which may be necessary;

(c) To withdraw from sale, public entry or disposal of such public lands of the United States as he may find to be necessary and thereupon the Secretary of the Interior shall cause the lands so designated to be withdrawn from any public entry whatsoever, and from sale, disposal, location or settlement under the mining laws or any other law relating to the public domain and shall cause such withdrawal to appear upon the records in the appropriate land office having jurisdiction over such lands, and such lands may be used for carrying out the purposes of sections 277-277d of this title: *Provided,* That any such withdrawal may subsequently be revoked by the President; and

(d) To make or approve all necessary rules and regulations. (May 13, 1924, ch. 153, section 4, as added Aug. 19, 1935, ch. 561, 49 Stat. 660, and amended May 22, 1936, ch. 447, 49 Stat. 1370.)

SECTION 277d. *Funds received from Mexico; expenditure.*

Any moneys contributed by or received from the United Mexican States for the purpose of co-operating or assisting in carrying out the provisions of sections 277-277d of this title shall be available for expenditure in connection with any appropriation which may be made for the purposes of such sections. (May 13, 1924, ch. 153, section 5, as added Aug. 19, 1935, ch. 561, 49 Stat. 660.)

SECTION 277d-1. *Authorizations for Mexican treaty projects; acquisition of lands for relocation purposes; contracts and conveyances.*

The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico (herein referred to as the "Commission"), in connection with any project under the jurisdiction of the United States Section, International Boundary and Water Commission, United States and Mexico, is authorized:

(a) To purchase, or condemn, lands, or interests in lands, for relocation of highways, roadways, railroads, telegraph, telephone, or electric transmission lines, or any other properties whatsoever, the relocation of which, in the judgment of the said Commissioner, is necessitated by the construction

or operation and maintenance of any such project, and to perform any or all work involved in said relocations on said lands, or interests in lands, other lands, or interests in lands owned and held by the United States in connection with the construction or operation and maintenance of any such project, or properties not owned by the United States;

(b) To enter into contracts with the owners of the said properties whereby they undertake to acquire any, or all, property needed for said relocation, or to perform any, or all, work involved in said relocations; and

(c) For the purpose of effecting completely said relocations, to convey, or exchange government properties acquired or improved under clause (a) of this section, with or without improvements, or other properties owned and held by the United States in connection with the construction or operation and maintenance of said project, or to grant term or perpetual easements therein or thereover. Grants or conveyances hereunder shall be by instruments executed by the Secretary of State without regard to provisions of law governing the patenting of public lands. (Sept. 13, 1950, ch. 948, title I, section 101, 64 Stat. 846.)

SECTION 277d-2. *Same; construction and maintenance of roads, highways, etc.; housing and other facilities for personnel.*

The United States Commissioner is authorized to construct, equip, and operate and maintain all access roads, highways, railways, power lines, buildings, and facilities necessary in connection with any such project, and in his discretion to provide housing, subsistence, and medical and recreational facilities for the officers, agents, and employees of the United States, and/or for the contractors and their employees engaged in the construction, operation, and maintenance of any such project, and to make equitable charges therefor, or deductions from the salaries and wages due employees, or from progress payments due contractors, upon such terms and conditions as he may determine to be to the best interest of the United States, the sums of money so charged and collected or deducted to be credited to the appropriation for the project current at the time of obligations are incurred. (Sept. 13, 1950, ch. 948, title I, section 102, 64 Stat. 846.)

SECTION 277d-3. *Same; authorization for appropriations; activities for which available; contracts for excess amounts.*

There are authorized to be appropriated to the Department of State for the use of the Commission, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of the Treaty of February 3, 1944,<sup>1</sup> and other treaties and conventions between the United States of America and the United Mexican States, under which the United States Section operates, and to discharge the statutory functions and duties of the United States Section. Such sums shall be available for construction, operation and maintenance of stream gaging stations, and their equipment and sites therefor; personal services and rent in the District of Columbia and elsewhere; services, including those of attorneys and appraisers, in accordance with the provisions of section 55a of Title 5, at rates for individuals not in excess of \$100 per diem and the United States Commissioner is authorized, notwithstanding the

<sup>1</sup> See *infra*, Treaty No. 77, p. 236.

provisions of any other Act, to employ as consultants by contract or otherwise without regard to the Classification Act of 1949, as amended, and the civil-services laws and regulations, retired personnel of the Armed Forces of the United States, who shall not be required to revert to an active status, and who shall be entitled to receive, as compensation for such temporary service, the difference between the rates of pay established therefor and their retired pay during the period or periods of such temporary employment; travel expense, including, in the discretion of the Commissioner, expenses of attendance at meetings of organizations concerned with the activities of the Commission which may be necessary for the efficient discharge of the responsibilities of the Commission; hire, with or without personal services, of work animals, and animal-drawn and motor-propelled (including passenger) vehicles and aircraft and equipment; acquisition by donation, purchase, or condemnation of real and personal property, including expenses of abstracts, certificates of title, and recording fees; purchase of ice and drinking water; inspection of equipment, supplies and materials by contract or otherwise; drilling and testing of foundations and dam sites, by contract if deemed necessary; payment for official telephone service in the field in case of official telephones installed in private houses when authorized under regulations established by the Commissioner; purchase of fire-arms and ammunition for guard purposes; and such other objects and purposes as may be permitted by laws applicable, in whole or in part, to the United States Section: *Provided*, That, when appropriations have been made for the commencement or continuation of construction or operation and maintenance of any such project, the United States Commissioner, notwithstanding the provisions of section 665 of Title 31, and sections 11 and 12 of Title 41, or any other law, may enter into contracts beyond the amount actually appropriated for so much of the work on any such authorized project as the physical and orderly sequence of construction makes necessary, such contracts to be subject to and dependent upon future appropriations by Congress. (Sept. 13, 1950, ch. 948, title I, section 103, 64 Stat. 847.)

SECTION 277d-4. *Same; acquisition of properties of Imperial Irrigation District of California.*

The United States Commissioner, in order to comply with the provisions of articles 12 and 23 of the treaty of February 3, 1944,<sup>1</sup> between the United States and Mexico, relating to the utilization of the waters of the Colorado and Tijuana Rivers and of the Rio Grande below Fort Quitman, Texas, is authorized to acquire, in the name of the United States, by purchase or by proceedings in eminent domain, the physical properties owned by the Imperial Irrigation, District of California, located in the vicinity of Andrade, California, consisting of the Alamo Canal in the United States, the Rockwood Intake, the Hanlon Heading, the quarry, buildings used in connection with such facilities, and appurtenant lands, and to reconstruct, operate and maintain such properties in connection with the administration of said treaty. (Sept. 13, 1950, ch. 948, title I, section 104, 64 Stat. 847.)

SECTION 277d-5. *Same; availability of prior appropriations; restriction to projects agreed to under treaty.*

Funds heretofore appropriated to the Department of State under the heading "International Boundary and Water Commission, United States

<sup>1</sup> See *infra*, Treaty No. 77, p. 236.

and Mexico” shall be available for the purposes of sections 277d-1 to 277d-5, of this title: *Provided*, That authorizations under said sections shall apply only to projects agreed upon by the two governments in accordance with the treaty of February 3, 1944.<sup>1</sup> (Sept. 13, 1950, ch. 948, title I, section 105, 64 Stat. 848.)

SECTION 277d-6. *Douglas-Agua Prieta Sanitation Project; operation by Commission; division of costs; contribution by City of Douglas, Arizona.*

The Secretary-of State is authorized, notwithstanding any other provision of law and subject to the conditions provided in this section and section 277d-7 of this title, to enter into an agreement with the appropriate official or officials of the United Mexican States for the operation and maintenance by the International Boundary and Water Commission, United States and Mexico, of the Douglas-Agua Prieta sanitation project, located at Douglas, Arizona, and Agua Prieta, Sonora, Mexico, heretofore constructed by the said Commission, which agreement shall contain such provisions relating to a division between the two governments of the costs of such operation and maintenance, or of the work involved therein, as may be recommended by said Commission and approved by the Government of Mexico and by the Secretary-of State on behalf of the Government of the United States: *Provided*, That no such agreement shall be entered into until the governing body of the city of Douglas, Arizona, has given assurances satisfactory to the Secretary-of State that it will, so long as such agreement remains in force, contribute an equitable proportion, as determined by the United States Section of said Commission, subject to the approval of the Secretary of State, of the costs of such operation and maintenance allocated to the United States. (Sept. 13, 1950, ch. 948, title II, section 201, 64 Stat. 848.)

SECTION 277d-7. *Same; authorization for appropriations; availability of prior appropriations; use of moneys received.*

There is authorized to be appropriated to the United States section, International Boundary and Water Commission, United States and Mexico, such sums as may be necessary to defray such costs as may accrue to the United States arising out of any such agreement for the operation and maintenance of such project: *Provided*, That funds heretofore appropriated to the Department of State under the heading “International Boundary and Water Commission, United States and Mexico” shall be available for expenditure for the purposes of this section and section 277d-6 of this title: *Provided further*, That any moneys received from the United Mexican States under the terms of any such agreement shall be available for expenditure in connection with any appropriations which may be available or which may be made for the purposes of said sections: *And provided further*, That moneys received from the city of Douglas, Arizona, pursuant to the provisions of said sections shall be available for expenditure in connection with any appropriations which may be available or which may be made available for the purposes of said sections. (Sept. 13, 1950, ch. 948, title II, section 202, 64 Stat. 848.)

SECTION 277d-8. *Calxico Mexicali Sanitation Project; operation by Commission; division of costs; contribution by City of Calxico, California.*

The Secretary of State is authorized, subject to the conditions provided in this section and section 277d-9 of this title, to enter into an agreement

<sup>1</sup> See *infra* Treaty No. 77, p. 236.

with the appropriate official or officials of the United Mexican States for the construction, operation, and maintenance by the International Boundary and Water Commission, United States and Mexico, of a sanitation project for the cities of Calexico, California and Mexicali, Lower California, Mexico, which agreement shall contain such provisions relating to a division between the two governments of the cost of such construction and operation and maintenance, or of the work involved therein, as may be recommended by the said Commission and approved by the Government of Mexico and by the Secretary of State on behalf of the Government of the United States: *Provided*, That no such agreement shall be entered into until the governing body of the city of Calexico, California, has given assurances satisfactory to the Secretary of State that, so long as such agreement remains in force, the city of Calexico will contribute an equitable proportion as determined by the United States Section of said Commission, subject to the approval of the Secretary of State, of the costs of such construction, operation, and maintenance allocated to the United States. (Sept. 13, 1950, ch. 948, title III, section 301, 64 Stat. 848).

SECTION 277d-9. *Same; authorization for appropriations; availability of prior appropriations; use of moneys received.*

There is authorized to be appropriated to the United States section, International Boundary and Water Commission, United States and Mexico, such sums as may be necessary to defray such costs as may accrue to the United States arising out of any such agreement for the construction, operation, and maintenance of such project: *Provided*, That funds heretofore appropriated to the Department of State under the heading "International Boundary and Water Commission, United States and Mexico", shall be available for expenditure for the purposes of this section and section 277d-8 of this title: *Provided further*, That any moneys received from the United Mexican States under the terms of any such agreement shall be available for expenditure in connection with any appropriation which may be available or which may be made available for the purposes of said sections: *And provided further*, That moneys received from the city of Calexico, California, pursuant to the provisions of said sections, shall be available for expenditure in connection with any appropriations which may be available or which may be made available for the purposes of said sections. (Sept. 13, 1950, ch. 948, title III, section 302, 64 Stat. 849.)

SECTION 277e. *Disposal of lands; issuance of licenses for use of lands; compensation for injured property.*

The Secretary of State is authorized to lease any land heretofore or hereafter acquired under any act, executive order, or treaty in connection with projects, in whole or in part, constructed or administered by the Secretary of State through the said American Commissioner, or to dispose of such lands when no longer needed, subject to applicable regulations under the Federal Property and Administrative Services Act of 1949, as amended, by sale at public auction, after thirty days' advertisement, at a price not less than that which may be fixed by three disinterested appraisers, to be designated by the Secretary of State, or by private sale, or otherwise, at not less than such appraised value: *Provided*, That any of such land as shall have been donated to the United States and which is no longer needed may be reconveyed, without cost, to the grantor or his heirs: *Provided further*, That the lease or disposal of any land pursuant hereto may, in the discre-

tion of the Secretary of State, be subject to reservations in favor of the United States for rights-of-way for irrigation, drainage, river work, and other purposes, and any such disposal may be conditioned upon and made subject to inclusion of such lands, in any existing irrigation district in the vicinity of such lands, the proceeds of any such lease or sale to be covered into the Treasury of the United States: *And provided further*, That in the discretion of the Secretary of State, and subject to such conditions as he may deem appropriate, conveyances of any other of such lands not needed by the United States may be made to the State to which they lie adjacent or to any similarly situated county, city, or other governmental subdivision of such State, without cost, for use for public purposes.

The Secretary of State is further authorized to issue revokable licenses for public or private use for irrigation or other structures or uses not inconsistent with the use of such lands made, or to be made, by the United States, across any lands retained by the United States, and to execute all necessary leases, title instruments, and conveyances, in order to carry out the provisions of this section.

Whenever the construction of any project or works undertaken or administered by the Secretary of State through the International Boundary and Water Commission, United States and Mexico, results in the interference with or necessitates the alteration or restoration of constructed and existing irrigation or water-supply structures, sanitary or sewage disposal works, or other structures, or physical property belonging to any municipal or private corporation, company, association, or individual, the Secretary of State may cause the restoration or reconstruction of such works, structures, or physical property or the construction of others in lieu thereof or he may compensate the owners thereof to the extent of the reasonable value thereof as the same may be agreed upon by the American Commissioner with such owner.

The Secretary of State, acting through such officers as he may designate, is further authorized to consider, adjust, and pay from funds appropriated for the project, the construction of which resulted in damages, any claim for damages accruing after March 31, 1937 caused to owners of lands or other private property of any kind by reason of the operations of the United States, its officers or employees, in the survey, construction, operation, or maintenance of any project constructed or administered through the American Commissioner, International Boundary and Water Commission, United States and Mexico, if such claim for damages does not exceed \$1,000 and has been filed with the American Commissioner within one year after the damage is alleged to have occurred, and when in the opinion of the American Commissioner such claim is substantiated by a report of a board appointed by the said Commissioner. (Aug. 27, 1935, ch. 763, 49 Stat. 906; June 19, 1939, ch. 212, 53 Stat. 841; Oct. 31, 1951, ch. 654, section 2 (15), 65 Stat. 707; Aug. 28, 1957, Pub. L. 85-201, 71 Stat. 475.)

*SECTION 277f. Valley Gravity Canal and Storage Project.*

The Secretary of State, with the approval of the President, shall designate the features of the Valley Gravity Canal and Storage Project which he deems international in character, and shall direct such changes in the general project plan as he deems advisable with respect to such features; and the features so designated shall be built, after consultation with the Bureau of Reclamation as to general design, by the American section of the International Boundary Commission, United States and Mexico, and shall

be operated and maintained by said Commission in so far as their operation and maintenance in such manner are, in the opinion of the Secretary of State, necessary because of their international character. The construction, operation, and maintenance of such project shall be pursuant to the federal reclamation laws, except as hereinbefore provided and except that—

(1) In addition to the nonreimbursable allocation to flood control or navigation which may be made by the Secretary of the Interior under section 485h (b) of Title 43, the President, after consultation with the Secretary of State and the Secretary of the Interior, shall allocate such part of the total estimated cost of the project as he deems proper to the protection of American interests from drought hazards resulting from the uncontrolled and unregulated flow of the international portion of the Rio Grande below Old Fort Quitman, Texas. Provisions of law applicable with respect to allocations to flood control under section 485h (b) of Title 43 shall, insofar as they are not inconsistent with the foregoing provisions, be applicable in like manner with respect to any allocation made under this subparagraph; and

(2) All revenues received by the United States in connection with the construction, operation, and maintenance of such projects shall be covered into the Treasury as miscellaneous receipts. (June 28, 1941, ch. 259, section 1, 55 Stat. 338.)

(b) AN ACT<sup>1</sup> AUTHORIZING CONSTRUCTION, OPERATION AND MAINTENANCE OF RIO GRANDE CANALIZATION PROJECT AND AUTHORIZING APPROPRIATION FOR THAT PURPOSE. APPROVED 29 AUGUST 1935

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That upon the completion of the engineering investigation, study, and report to the Secretary of State, as heretofore authorized by Public Resolution Numbered 4, Seventy-fourth Congress, approved February 13, 1935, the Secretary of State, acting through the American Section, International Boundary Commission, United States and Mexico, in order to facilitate compliance with the convention between the United States and Mexico concluded May 21, 1906,<sup>2</sup> providing for the equitable division of the waters of the Rio Grande, and to properly regulate and control, to the fullest extent possible, the water supply for use in the two countries as provided by treaty, is authorized to construct, operate, and maintain, in substantial accordance with the engineering plan contained in said report, a diversion dam in the Rio Grande wholly in the United States, with appurtenant connections to existing irrigation systems, and to acquire by donation, condemnation, or purchase such real and personal property as may be necessary therefor.

SECTION 2. There is authorized to be appropriated the sum of \$1,000,000 for the purposes of carrying out the provisions of section 1 hereof, other than for operation and maintenance, including salaries and wages, fees for professional services; rents, travel expenses; per diem in lieu of actual subsistence; printing and binding, law books and books of reference: *Provided*, That the provisions of section 3709 of the Revised Statutes (U.S.C.,

<sup>1</sup> 49 Stat. 961.

<sup>2</sup> See *infra*, Treaty No. 75, p. 232.

title 41, sec. 5) shall not apply to any purchase made or service procured when the aggregate amount involved is \$100 or less; purchase, exchange, maintenance, repair and operation of motor-propelled passenger- and freight-carrying vehicles; hire with or without personal services, of work animals and animal-drawn and motor-propelled vehicles and equipment; acquisition by donation, condemnation, or purchase of real and personal property; transportation (including drayage) of personal effects of employees upon change of station; telephone, telegraphic, and air-mail communications; rubber boots for official use by employees; ice; equipment, services, supplies, and materials and other such miscellaneous expenses as the Secretary of State may deem necessary properly to carry out the provisions of the Act: *Provided*, That any part of any appropriation made hereunder may be transferred to, for direct expenditure by, the Department of the Interior pursuant to such arrangements therefor as may be from time to time effected between the Secretary of State and the Secretary of the Interior, or as directed by the President of the United States.

(c) AN ACT<sup>1</sup> AUTHORIZING CONSTRUCTION, OPERATION, AND MAINTENANCE OF RIO GRANDE CANALIZATION PROJECT AND AUTHORIZING APPROPRIATION FOR THAT PURPOSE. APPROVED 4 JUNE 1936

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That upon the completion of the engineering investigation, study, and report to the Secretary of State, as heretofore authorized by Public Resolution Numbered 4, Seventy-fourth Congress, approved February 13, 1935, the Secretary of State, acting through the American Section, International Boundary Commission, United and Mexico, in order to facilitate compliance with the convention between the United States and Mexico concluded May 21, 1906,<sup>2</sup> providing for the equitable division of the waters of the Rio Grande, and to properly regulate and control, to the fullest extent possible, the water supply for use in the two countries as provided by treaty, is authorized to construct, operate, and maintain, in substantial accordance with the engineering plan contained in said report, works for the canalization of the Rio Grande from the Caballo Reservoir site in New Mexico to the international dam near El Paso, Texas, and to acquire by donation, condemnation, or purchase such real and personal property as may be necessary therefor.

SECTION 2. There is authorized to be appropriated the sum of \$3,000,000 for the purposes of carrying out the provisions of section 1 hereof, other than for operation and maintenance, including salaries and wages, fees for professional services; rents, travel expenses; per diem in lieu of actual subsistence; printing and binding, law books, and books of reference: *Provided*, That the amount herein authorized to be appropriated shall include so much as may be necessary for completion of construction of the diversion dam in the Rio Grande wholly in the United States, in addition to the \$1,000,000 authorized to be appropriated for this purpose by the Act of August 29, 1935 (49 Stat. 961): *Provided further*, That the total cost of construction of said diversion dam and canalization works shall not exceed \$4,000,000: *Provided further*, That the provisions of section 3709 of the

<sup>1</sup> 49 Stat. 1463.

<sup>2</sup> See *infra*, Treaty No. 75, p. 232.

Revised Statutes (U.S.C., title 41, sec. 5) shall not apply to any purchase made or service procured when the aggregate amount involved is \$100 or less; purchase, exchange, maintenance, repair and operation of motor-propelled passenger- and freight-carrying vehicles; hire with or without personal services, of work animals and animal-drawn and motor-propelled vehicles and equipment; acquisition by donation, condemnation, or purchase of real and personal property; transportation (including drayage) of personal effects of employees upon change of station; telephone, telegraphic, and air-mail communication; rubber boots for official use by employees; ice; equipment, services, supplies, and materials and other such miscellaneous expenses as the Secretary of State may deem necessary properly to carry out the provisions of the Act: *And provided further*, That any part of any appropriation made hereunder may be transferred to, for direct expenditure by the Department of the Interior pursuant to such arrangements therefor as may be from time to time effected between the Secretary of State and the Secretary of the Interior, or as directed by the President of the United States.

(d) AN ACT<sup>1</sup> AUTHORIZING THE RECONSTRUCTION OR REPLACEMENT OF CERTAIN BRIDGES NECESSITATED BY THE RIO GRANDE CANALIZATION PROJECT AND AUTHORIZING APPROPRIATION FOR THAT PURPOSE.

APPROVED 22 APRIL 1940

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of State, acting through the American Section, International Boundary Commission, United States and Mexico, is authorized to reconstruct or replace certain bridges over the Rio Grande within the Rio Grande canalization project known as the Courchesne, Country Club, Borderland, and Vinton Bridges in El Paso County, Texas, and the Berino, Vado, Mesquite, Shalem, and Hatch-Rincon Bridges in Dona Ana County, New Mexico, and such other bridges within said project as the Secretary of State may determine to include.

SECTION 2. That notwithstanding the limitation imposed on the total cost of construction of the Rio Grande canalization project by section 2 of the Act entitled "An Act authorizing construction, operation, and maintenance of Rio Grande canalization project and authorizing appropriation for that purpose", approved June 4, 1936, there is authorized to be appropriated the sum of \$350,000, which shall be in addition to appropriations heretofore authorized for such project, for the purposes of carrying out the provisions of section 1 thereof, other than for operation and maintenance, including salaries and wages, fees for professional services; rents, travel expenses; per diem in lieu of actual subsistence; printing and binding, lawbooks and books of reference; purchase, exchange, maintenance, repair, and operation of motor-propelled passenger- and freight-carrying vehicles; hire with or without personal services, of work animals and animal-drawn and motor-propelled vehicles and equipment; acquisition by donation, condemnation, or purchase of real and personal property; transportation (including drayage) of personal effects of employees upon change of station; telephone, telegraphic, and air-mail communications; rubber boots for official use by employees; ice; equipment, services, supplies and materials and other such miscellaneous expenses as the Secretary of State may

<sup>1</sup> 54 Stat. 151.

deem necessary properly to carry out the provisions of the Act: *Provided*, That the provisions of section 3709 of the Revised Statutes (U.S.C., title 41, sec. 5) shall not apply to any purchase made or service procured when the aggregate amount involved is \$100 or less: *Provided further*, That not more than \$3,500 shall be expended for the purchase or real property, and expenses incidental thereto: *Provided further*, That no part of the appropriation herein authorized shall be expended for the construction of any of the county bridges to be located within any county until the governing body of such county has given assurance, satisfactory to the Secretary of State—

(a) That it will cause to be furnished, without cost to the United States, evidence satisfactory to the American Commissioner, International Boundary Commission, United States and Mexico, that title to all lands or easements in lands which may be designated by the said American Commissioner as necessary for the construction, operation, and maintenance of the bridges and approaches, the title to which is not vested in the United States, is vested in the County;

(b) That it will perform without cost to the United States all work involved in any required changes, including changes in pavements or other road surfaces, in the approaches or approach roads to the bridges to be located within such county;

(c) That it will, upon notification by the said American Commissioner that any bridge has been completed, take over and operate and maintain such bridge; and

(d) That it will hold the United States harmless on account of any damage or claim of damage arising out of or in any way connected with the construction, operation or maintenance, or failure to operate and maintain any bridge or bridges or any part thereof located within such county;

*And provided further*, That no part of the appropriation herein authorized shall be expended for the construction of any of the bridges to be located in Dona Ana County, New Mexico, until the governing body of said county has given assurance satisfactory to the Secretary of State that it will remove or rebuild, in accordance with plans and specifications to be approved by the American Commissioner, the bridges known as Old Anthony Bridge and Salem Bridge.

(e) FIRST DEFICIENCY APPROPRIATION ACT, APRIL 25, 1945<sup>1</sup>

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#### *International obligations*

Rio Grande bank protection project: For the Rio Grande bank protection project in Cameron and Hidalgo Counties, Texas, to be performed in conformity with the provisions of existing treaties with Mexico and in general accordance with the engineering plan contained in the Report of the International Boundary Commission, United States and Mexico, dated March 18, 1942, entitled "Report on Rio Grande Bank Protection Project", on file with the Department of State, as authorized by the Act approved August 19, 1935, as amended (22 U.S.C. 277b), including the

<sup>1</sup> 59 Stat. 77.

objects specified under the head "International obligations, construction, operation, and maintenance, Public Works projects", in the Department of State Appropriation Act, 1945, \$50,000 to remain available until expended: *Provided*, That no part of this appropriation shall be expended for construction on any land, site, or easement, except such as has been acquired by donation and the title thereto has been approved by the Attorney General of the United States: *Provided further*, That this appropriation may be expended only for the construction of such portions of said project as the American Commissioner deems necessary for the protection of the property of the United States Government, or of other public utilities, facilities, or organizations, including irrigation water-supply systems: *Provided further*, That no expenditure shall be made hereunder for the protection of other than United States Government property except on the basis or condition that the agency owning or controlling such property shall contribute at least 25 per centum of the actual construction cost thereof in money, labor, or materials, or any combination thereof satisfactory to the American Commissioner, and shall give satisfactory assurances that it will contribute in like manner and proportion to the permanent maintenance and operation of that portion of the project with which it is concerned: *And provided further*, That such money contributions shall be immediately available for expenditure for the purposes hereof.

. . . .

(f) AN ACT<sup>1</sup> TO AUTHORIZE THE CARRYING OUT OF THE PROVISIONS OF ARTICLE 7 OF THE TREATY OF FEBRUARY 3, 1944,<sup>2</sup> BETWEEN THE UNITED STATES AND MEXICO, REGARDING THE JOINT DEVELOPMENT OF HYDROELECTRIC POWER AT FALCON DAM, ON THE RIO GRANDE, AND FOR OTHER PURPOSES. APPROVED 5 OCTOBER 1949

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in accordance with the provisions of understanding (a) of the Senate resolution of ratification of the treaty of February 3, 1944, between the United States and Mexico, the approval of the Congress is hereby given to the negotiation of an agreement, in accordance with the provisions of article 7 of said treaty, for the joint construction, operation, and maintenance on a self-liquidating basis for the United States share, by the two sections of the International Boundary and Water Commission, United States and Mexico, of facilities for generating hydroelectric energy at the Falcon Dam on the Rio Grande being constructed by the said Commission under the provisions of article 5 of the said treaty.

SECTION 2. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this Act: *Provided*, That funds heretofore appropriated to the Department of State under the heading "International Boundary and Water Commission, United States and Mexico" shall be available for expenditure for the purposes of this Act.

<sup>1</sup> 63 Stat. 701.

<sup>2</sup> See *infra*, Treaty No. 77, p. 236.

- (g) AN ACT TO FACILITATE COMPLIANCE WITH THE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES SIGNED FEBRUARY 3, 1944.<sup>1</sup> APPROVED 13 SEPTEMBER 1950<sup>2</sup>

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "American-Mexican Treaty Act of 1950".*

TITLE I—*Authorizations for carrying out Treaty projects*

SECTION 101. That the Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico (herein referred to as the "Commission"), in connection with any project under the jurisdiction of the United States Section, International Boundary and Water Commission, United States and Mexico, is authorized: (a) to purchase, or condemn, lands, or interests in lands, for relocation of highways, roadways, railroads, telegraph, telephone, or electric transmission lines, or any other properties whatsoever, the relocation of which, in the judgment of the said Commissioner, is necessitated by the construction or operation and maintenance of any such project, and to perform any or all work involved in said relocations on said lands, or interests in lands, other lands, or interests in lands, owned and held by the United States in connection with the construction or operation and maintenance of any such project, or properties not owned by the United States; (b) to enter into contracts with the owners of the said properties whereby they undertake to acquire any, or all, property needed for said relocation, or to perform any, or all, work involved in said relocations; and (c) for the purpose of effecting completely said relocations, to convey, or exchange government properties acquired or improved under clause (a) above, with or without improvements, or other properties owned and held by the United States in connection with the construction or operation and maintenance of said project, or to grant term or perpetual easements therein or thereover. Grants or conveyances hereunder shall be by instruments executed by the Secretary of State without regard to provisions of law governing the patenting of public lands.

SECTION 102. The United States Commissioner is authorized to construct, equip, and operate and maintain all access roads, highways, railways, power lines, buildings, and facilities necessary in connection with any such project, and in his discretion to provide housing, subsistence, and medical and recreational facilities for the officers, agents and employees of the United States, and/or for the contractors and their employees engaged in the construction, operation, and maintenance of any such project, and to make equitable charges therefor, or deductions from the salaries and wages due employees, or from progress payments due contractors, upon such terms and conditions as he may determine to be to the best interest of the United States, the sums of money so charged and collected or deducted to be credited to the appropriation for the project current at the time the obligations are incurred.

<sup>1</sup> See *infra*, Treaty No. 77, p. 236.

<sup>2</sup> 64 Stat. 846.

SECTION 103. There are hereby authorized to be appropriated to the Department of State for the use of the Commission, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of the Treaty of February 3, 1944, and other treaties and conventions between the United States of America and the United Mexican States, under which the United States Section operates, and to discharge the statutory functions and duties of the United States Section. Such sums shall be available for construction, operation and maintenance of stream gaging stations, and their equipment and sites therefor; personal services and rent in the District of Columbia and elsewhere; services, including those of attorneys and appraisers, in accordance with the provisions of Section 15 of the Act of August 2, 1946 (5 U.S.C., sec. 55a), at rates for individuals not in excess of \$100 per diem and the United States Commissioner is hereby authorized, notwithstanding the provisions of any other Act, to employ as consultants by contract or otherwise without regard to the Classification Act of 1949, as amended, and the civil-service laws and regulations, retired personnel of the Armed Forces of the United States, who shall not be required to revert to an active status, and who shall be entitled to receive, as compensation for such temporary service, the difference between the rates of pay established therefor and their retired pay during the period or periods of such temporary employment; travel expense, including, in the discretion of the Commissioner, expenses of attendance at meetings of organizations concerned with the activities of the Commission which may be necessary for the efficient discharge of the responsibilities of the Commission; hire, with or without personal services of work animals, and animal-drawn and motor-propelled (including passenger) vehicles and aircraft and equipment; acquisition by donation, purchase, or condemnation, of real and personal property, including expenses of abstracts, certificates of title, and recording fees; purchase of ice and drinking water; inspection of equipment, supplies and materials by contract or otherwise; drilling and testing of foundations and dam sites, by contract if deemed necessary; payment for official telephone service, in the field in case of official telephones installed in private houses when authorized under regulations established by the Commissioner; purchase of firearms and ammunition for guard purposes; and such other objects and purposes as may be permitted by laws applicable, in whole or in part, to the United States Section: *Provided*, That, when appropriations have been made for the commencement or continuation of construction or operation and maintenance of any such project, the United States Commissioner, notwithstanding the provisions of sections 3679, 3732, and 3733 of the Revised Statutes or any other law, may enter into contracts beyond the amount actually appropriated for so much of the work on any such authorized project as the physical and orderly sequence of construction makes necessary, such contracts to be subject to and dependent upon future appropriations by Congress.

SECTION 104. The United States Commissioner, in order to comply with the provisions of articles 12 and 23 of the treaty of February 3, 1944, between the United States and Mexico, relating to the utilization of the waters of the Colorado and Tijuana Rivers and of the Rio Grande below Fort Quitman, Texas, is authorized to acquire, in the name of the United States, by purchase or by proceedings in eminent domain, the physical properties owned by the Imperial Irrigation District of California, located in the

vicinity of Andrade, California, consisting of the Alamo Canal in the United States, the Rockwood Intake, the Hanlon Heading, the quarry, buildings used in connection with such facilities, and appurtenant lands, and to reconstruct, operate and maintain such properties in connection with the administration of said treaty.

SECTION 105. Funds heretofore appropriated to the Department of State under the heading "International Boundary and Water Commission, United States and Mexico" shall be available for the purposes of this title: *Provided*, That authorizations under this title shall apply only to projects agreed upon by the two governments in accordance with the treaty of February 3, 1944.

#### TITLE II—*Douglas-Agua Prieta sanitation project*

SECTION 201. That the Secretary of State is authorized, notwithstanding any other provision of law and subject to the conditions provided in this title, to enter into an agreement with the appropriate official or officials of the United Mexican States for the operation and maintenance by the International Boundary and Water Commission, United States and Mexico, of the Douglas-Agua Prieta sanitation project, located at Douglas, Arizona, and Agua Prieta, Sonora, Mexico, heretofore constructed by the said Commission, which agreement shall contain such provisions relating to a division between the two governments of the costs of such operation and maintenance, or of the work involved therein, as may be recommended by said Commission and approved by the Government of Mexico and by the Secretary of State on behalf of the Government of the United States: *Provided*, That no such agreement shall be entered into until the governing body of the city of Douglas, Arizona, has given assurances satisfactory to the Secretary of State that it will, so long as such agreement remains in force, contribute an equitable proportion, as determined by the United States Section of said Commission, subject to the approval of the Secretary of State, of the costs of such operation and maintenance allocated to the United States.

SECTION 202. There is authorized to be appropriated to the United States section, International Boundary and Water Commission, United States and Mexico, such sums as may be necessary to defray such costs as may accrue to the United States arising out of any such agreement for the operation and maintenance of such project: *Provided*, That funds heretofore appropriated to the Department of State under the heading "International Boundary and Water Commission, United States and Mexico", shall be available for expenditure for the purposes of this title: *Provided further*, That any moneys received from the United Mexican States under the terms of any such agreement shall be available for expenditure in connection with any appropriations which may be available or which may be made for the purposes of this title: *And provided further*, That moneys received from the city of Douglas, Arizona, pursuant to the provisions of this title shall be available for expenditure in connection with any appropriations which may be available or which may be made available for the purposes of this title.

TITLE III—*Calexico Mexicali sanitation project*

SECTION 301. That the Secretary of State is authorized, subject to the conditions provided in this title, to enter into an agreement with the appropriate official or officials of the United Mexican States for the construction, operation, and maintenance by the International Boundary and Water Commission, United States and Mexico, of a sanitation project for the cities of Calexico, California, and Mexicali, Lower California, Mexico, which agreement shall contain such provisions relating to a division between the two governments of the cost of such construction and operation and maintenance, or of the work involved therein, as may be recommended by the said Commission and approved by the Government of Mexico and by the Secretary of State on behalf of the Government of the United States: *Provided*, That no such agreement shall be entered into until the governing body of the city of Calexico, California, has given assurances satisfactory to the Secretary of State that, so long as such agreement remains in force, the city of Calexico will contribute an equitable proportion, as determined by the United States Section of said Commission, subject to the approval of the Secretary of State, of the costs of such construction, operation, and maintenance allocated to the United States.

SECTION 302. There is authorized to be appropriated to the United States section, International Boundary and Water Commission, United States and Mexico, such sums as may be necessary to defray such costs as may accrue to the United States arising out of any such agreement for the construction, operation, and maintenance of such project: *Provided*, That funds heretofore appropriated to the Department of State under the heading "International Boundary and Water Commission, United States and Mexico", shall be available for expenditure for the purposes of this title: *Provided further*, That any moneys received from the United Mexican States under the terms of any such agreement shall be available for expenditure in connection with any appropriations which may be available or which may be made available for the purposes of this title: *And provided further*, That moneys received from the city of Calexico, California, pursuant to the provisions of this title shall be available for expenditure in connection with any appropriations which may be available or which may be made available for the purposes of this title.

(h) AN ACT<sup>1</sup> TO AUTHORIZE THE SECRETARY OF THE NAVY TO ENLARGE EXISTING WATER-SUPPLY FACILITIES FOR THE SAN DIEGO, CALIFORNIA, AREA IN ORDER TO INSURE THE EXISTENCE OF AN ADEQUATE WATER SUPPLY FOR NAVAL INSTALLATIONS AND DEFENSE PRODUCTION PLANTS IN SUCH AREA. APPROVED 11 OCTOBER 1951

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, subject to the provisions of section 3 of this Act, the Secretary of the Navy, under the direction of the Secretary of Defense, is authorized and directed to provide for

(1) Such enlargement of the existing aqueduct extending from the west end of the San Jacinto tunnel of the Metropolitan Water District of Southern California to the San Vicente Reservoir in San Diego County, California,

<sup>1</sup> 65 Stat. 404.

as may be necessary to increase the rated capacity of such existing aqueduct from eighty-five cubic feet per second to not less than one hundred and sixty-five cubic feet per second, or

(2) The construction of a new aqueduct paralleling such existing aqueduct and having a rated capacity of not less than eighty cubic feet per second.

SECTION 2. The use of all water diverted through said works from the Colorado River shall be subject to and controlled by the Colorado River Compact, the Boulder Canyon Project Act, the California Self-limitation Statute and the Mexican Water Treaty and shall be included within and shall in no way increase the total quantity of water to the use of which the State of California is entitled and limited by said compact, statutes, and treaty.

. . .

SECTION 5. The United States and the San Diego County Water Authority and their respective permittees, licensees, and contractees and all users and appropriators of water of the Colorado River diverted or delivered through the existing aqueduct and the enlargement or addition thereto shall observe and be subject to the Colorado River Compact, the Boulder Canyon Project Act, the California Self-limitation Statute and the Mexican Water Treaty in the diversion, delivery, and use of water of the Colorado River, anything in this Act to the contrary notwithstanding, and such condition and covenant shall attach as a matter of law whether or not set out or referred to in the instrument evidencing such permit, license, or contract, and shall be deemed to be for the benefit of and be available to the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming and the users of water therein or thereunder by way of suit, defense, or otherwise in any litigation respecting the waters of the Colorado River.

(i) AN ACT<sup>1</sup> TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONSTRUCT, OPERATE, AND MAINTAIN THE COLLBRAN RECLAMATION PROJECT, COLORADO. APPROVED 3 JULY 1952

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of supplying water for the irrigation of approximately twenty-one thousand acres of land and for municipal, domestic, industrial, and stockwater uses and of producing and disposing of hydroelectric power and, as incidental to said purposes, for the further purpose of providing for the preservation and propagation of fish and wildlife, the Secretary of the Interior is authorized to construct the Collbran reclamation project, Colorado, substantially in accord with the plans set forth in the report of the Bureau of Reclamation approved by him, May 9, 1950, the estimated construction cost of which project is approximately \$16,086,000, and to operate and maintain the same.*

SECTION 2. In constructing, operating, and maintaining the Collbran project, the Secretary shall be governed by the federal reclamation laws

<sup>1</sup> 66 Stat. 325.

(Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) except so far as these laws are inconsistent with this Act: *Provided*, That any contract entered into pursuant to subsection (d) of section 9 of the Reclamation Project Act of 1939 (53 Stat. 1187) may provide that the general repayment obligation shall be spread in annual installments, in number and amounts satisfactory to the Secretary, over a period of not exceeding fifty years, exclusive of any development period as therein provided, for any project contract unit or for any irrigation block, if the project contract unit be divided into two or more irrigation blocks: *Provided further*, That, notwithstanding any provision of law to the contrary, net revenues derived from the sale of commercial power and from the furnishing of water for municipal, domestic, and industrial use shall be applied, first, to the amortization, with interest, of those portions of the actual cost of the construction of the project which are allocated, respectively, to commercial power and to municipal, domestic, and industrial water supply; and, thereafter, shall be applied to amortization of that portion of the cost allocated to irrigation which is beyond the ability of the irrigation water users to repay within the period specified above. Amortization of that portion of the construction cost allocated to commercial power shall include interest on the unamortized balance thereof at 3 per centum per annum. Repayment of that portion of the actual cost of constructing the project which is allocated to municipal, domestic, and industrial water supply and of interest on the unamortized balance thereof at a rate (which rate shall be certified by the Secretary of the Treasury) equal to the average rate paid by the United States on its long-term loans outstanding at the time the repayment contract is negotiated minus the amount of such net revenues as may be derived from temporary water supply contracts or from other sources prior to the close of the repayment period, shall be assured by a contract or contracts satisfactory to the Secretary, the term of which shall not exceed fifty years from the date of completion of the municipal and industrial water supply features of the project as determined by the Secretary.

SECTION 3. There are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, approximately \$16,086,000 to carry out the purposes of this Act.

SECTION 4. This Act and all works constructed hereunder shall be subject to and controlled by the Colorado River Compact dated November 24, 1922, and proclaimed effective by the President June 25, 1929, the Boulder Canyon Project Act approved December 2, 1928, the Upper Colorado River Basin Compact dated October 11, 1948, and the Mexican Water Treaty, and no right or claim of right to the use of the waters of the Colorado River shall be aided or prejudiced hereby.

(j) AN ACT<sup>1</sup> TO AUTHORIZE AN AGREEMENT BETWEEN THE UNITED STATES AND MEXICO FOR THE JOINT OPERATION AND MAINTENANCE BY THE INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO, OF THE NOGALES SANITATION PROJECT, AND FOR OTHER PURPOSES. APPROVED 27 JULY 1953

<sup>1</sup> 67 Stat. 195.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of State is authorized, notwithstanding any other provision of law and subject to the conditions provided in this Act, to enter into an agreement with the appropriate official or officials of the United Mexican States for the operation and maintenance by the International Boundary and Water Commission, United States and Mexico, of the Nogales sanitation project, located at Nogales, Arizona, and Nogales, Sonora, Mexico, heretofore constructed by the said Commission, which agreement shall contain such provisions relating to a division between the two governments of the costs of such operation and maintenance, or of the work involved therein, as may be recommended by said Commission and approved by the Government of Mexico and by the Secretary of State on behalf of the Government of the United States: *Provided,* That no such agreement shall be entered into until the governing body of the city of Nogales, Arizona, has given assurances satisfactory to the Secretary of State that it will, so long as such agreement remains in force, contribute an equitable proportion, as determined by the United States Section of said Commission, subject to the approval of the Secretary of State, of the costs of such operation and maintenance allocated to the United States.

SECTION 2. There is authorized to be appropriated to the United States section, International Boundary and Water Commission, United States and Mexico, such sums as may be necessary to defray such costs as may accrue to the United States arising out of any such agreement for the operation and maintenance of such project: *Provided,* That funds heretofore appropriated to the Department of State under the heading "International Boundary and Water Commission, United States and Mexico", shall be available for expenditure for the purposes of this Act: *Provided further,* That any moneys received from the United Mexican States under the terms of any such agreement shall be available for expenditure in connection with any appropriations which may be available or which may be made for the purposes of this Act: *And provided further,* That moneys received from the city of Nogales, Arizona, pursuant to the provisions of this Act shall be available for expenditure in connection with any appropriations which may be available or which may be made available for the purposes of this Act.

(k) AN ACT<sup>1</sup> TO CONSOLIDATE THE PARKER DAM POWER PROJECT AND THE DAVIS DAM PROJECT. APPROVED 28 MAY 1954

*Be it enacted by the Senate House of Representatives of the United States of America in Congress assembled,* That, for the purposes of effecting economies and increased efficiency in the construction, operation, and maintenance thereof and of accounting for the return of reimbursable costs, the Secretary of the Interior is authorized and directed to consolidate and administer as a single project to be known as the Parker-Davis project, Arizona-California-Nevada, the projects known as the Parker Dam power project, Arizona-California, and the Davis Dam project, Arizona-Nevada: *Provided,* That nothing in this Act shall be construed to alter or affect in any way the Boulder

<sup>1</sup> 68 Stat. 143.

Canyon Project Act (45 Stat. 1057), the Boulder Canyon Project Adjustment Act (54 Stat. 774), or the treaty between the United States of America and the United Mexican States, signed at Washington on February 3, 1944,<sup>1</sup> relating to the utilization of the waters of the Colorado and Tijuana Rivers and of the Rio Grande from Fort Quitman, Texas, to the Gulf of Mexico; Provided further, That nothing in this Act shall be construed to alter or affect in any way any right or obligation of the United States or any other party under contracts heretofore entered into by the United States.

SECTION 2. Funds heretofore appropriated for the Parker Dam power project, Arizona-California, and the Davis Dam project, Arizona-Nevada, shall be consolidated and shall be and remain available for the purposes for which they were appropriated.

(1) DEPARTMENT OF STATE APPROPRIATION ACT, 1954<sup>2</sup> [EXTRACT]

. . .

*Construction*

For detailed plan preparation and construction of projects authorized by the Convention concluded February 1, 1933,<sup>3</sup> between the United States and Mexico, the Acts approved August 19, 1935, as amended (22 U.S.C. 277-277f), August 29, 1935 (49 Stat. 961), June 4, 1936 (49 Stat. 1463), June 28, 1941 (22 U.S.C. 277f), September 13, 1950 (Public Law 786), and the projects stipulated in the treaty between the United States and Mexico signed at Washington on February 3, 1944,<sup>4</sup> \$6,600,000, to remain available until expended: *Provided*, That no expenditures shall be made for the lower Rio Grande flood-control project for construction on any land, site, or easement in connection with this project except such as has been acquired by donation and the title thereto has been approved by the Attorney General of the United States: *Provided further*, That the Anzalduas Diversion Dam shall not be operated for irrigation or water supply purposes in the United States unless suitable arrangements have been made with the prospective water users for repayment to the Government of such portions of the costs of said dam as shall have been allocated to such purposes by the Secretary of State.

(m) AN ACT<sup>5</sup> TO AUTHORIZE THE TRANSMISSION AND DISPOSITION BY THE SECRETARY OF THE INTERIOR OF ELECTRIC ENERGY GENERATED AT FALCON DAM ON THE RIO GRANDE. APPROVED 18 JUNE 1954

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the electric power and energy generated at Falcon Dam, an international storage reservoir project constructed on the Rio Grande pursuant to the treaty of February 3, 1944,<sup>6</sup> between the

<sup>1</sup> See *infra*, Treaty No. 77, p. 236.

<sup>2</sup> 67 Stat. 367.

<sup>3</sup> See *infra*, Treaty No. 76, p. 230.

<sup>4</sup> See *infra*, Treaty No. 77, p. 236.

<sup>5</sup> 68 Stat. 255.

<sup>6</sup> See *infra*, Treaty No. 77, p. 236.

United States and Mexico (Treaty Series 994), which is made available to the United States under the provisions of said treaty and under such special agreements as may be concluded between the two governments pursuant to the provisions of said treaty and not required in the operation of such international project, all as determined by the Commissioner of the United States Section, International Boundary and Water Commission, shall be delivered to the Secretary of the Interior (hereinafter referred to as the Secretary) who shall transmit and dispose of such power and energy in such manner to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles, the rate schedules to become effective upon confirmation and approval by the Federal Power Commission. Rate schedules shall be drawn having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of the project) of the cost of producing and transmitting such electric energy including the amortization of the capital investment allocated to power by the Secretary, in collaboration with the Secretary of State, over a reasonable period of years. Preference in the sale of such power and energy shall be given to public bodies and co-operatives. The Secretary is authorized, from funds to be appropriated by the Congress, to construct or acquire, by purchase or other agreement, only such transmission lines and related facilities as may be necessary in order to make the power and energy generated at said project available in wholesale quantities for sale on fair and reasonable terms and conditions to facilities owned by the Federal Government, public bodies, co-operatives, and privately owned companies.

SECTION 2. All receipts from the sale of electric power and energy disposed of by the Secretary pursuant to this Act shall be covered into the Treasury of the United States to the credit of miscellaneous receipts as shall also moneys received from the Government of Mexico for any energy which might be delivered to that government by the United States Section of the International Boundary and Water Commission pursuant to any special agreement concluded in accordance with article 19 of the said treaty.

SECTION 3. The Secretary is authorized to perform any and all acts, including the acquisition of rights and property, and to enter into such agreements as may be appropriate for the purpose of carrying out the provisions of this Act applicable to him; and with respect to construction and supply contracts and the acquisition, exchange, and disposition of lands and other property, and the relocation thereof, the Secretary shall have the same authority which he has under sections 12 and 14 of the Reclamation Project Act of 1939.

(n) AN ACT AUTHORIZING CONSTRUCTION OF WORKS TO REESTABLISH FOR THE PALO VERDE IRRIGATION DISTRICT, CALIFORNIA, A MEANS OF DIVERSION OF ITS IRRIGATION WATER SUPPLY FROM THE COLORADO RIVER, AND FOR OTHER PURPOSES. APPROVED 31 AUGUST, 1954<sup>1</sup>

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of re-establishing for the*

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<sup>1</sup> 68 Stat. 1045.

Palo Verde Irrigation District, a public agency of the State of California, a means of diverting its irrigation water supply from the Colorado River, the Secretary of the Interior is authorized to construct a dam across the Colorado River at or near the district's present or former intake capable of diverting water into said intake at an elevation of two hundred eighty-two and three-tenths feet above mean sea level, Bureau of Reclamation datum, and works appurtenant to said dam which are required to carry out the purposes stated.

SECTION 2. Prior to commencing construction of the works authorized in section 1 of this Act, the Palo Verde Irrigation District shall have entered into a contract with the United States, in form and content satisfactory to the Secretary, undertaking

(a) To furnish to the United States for the construction and maintenance of said dam and appurtenant works the use of all lands, easements, rights-of-way, and other interests in land required for said purposes, except those which the United States already has a full and perfect right to use or which lie within the Colorado River Indian Reservation, and to save the United States harmless from all claims arising from the use and occupancy of said lands and interests in land and the operation and maintenance of said dam and appurtenant works;

(b) To operate and maintain said dam and appurtenant works without cost to the United States upon substantial completion thereof as determined by the Secretary; and

(c) To accept title to said dam, appurtenant works, lands, and interests in land upon payment by the district (which payment shall be made over a period of not more than fifty years) of the sum of \$1,175,000, and upon repayment of any loan made pursuant to section 4, clause (c), of this Act: *Provided*, That there shall be and is hereby reserved to the United States or there shall be made available to it, as the case may require, the exclusive right to utilize, without cost to it, said dam, appurtenant works, lands, and interests in land for such development, generation, and transmission of electric power and energy as may hereafter be authorized by law: *Provided further*, That in the event it becomes practicable to develop hydroelectric energy at this site, the division of such energy between the United States and the district shall be a matter of negotiation prior to construction of any power-plant.

SECTION 3. To aid in the construction, operation, and maintenance of the works authorized by this Act, the Secretary shall have the same authority as is given him with respect to the Colorado River front work and levee system by the second sentence of the amendment to the Act of January 21, 1927 (44 Stat. 1010, 1021), which is contained in the Act of June 28, 1946 (60 Stat. 338).

SECTION 4. The Secretary is further authorized

(a) And directed to remove, or otherwise to nullify the effects of, the temporary rock weir across the Colorado River which was constructed under authority of the First Deficiency Appropriation Act, 1944 (58 Stat. 150, 157);

(b) To construct levees, ditches, and other works required to protect the lands of the Colorado River Indian Reservation up-stream from the

diversion dam authorized in section 1 of this Act against Colorado River flows of seventy-five thousand cubic feet per second and to provide a means of draining said lands;

(c) To lend to the Palo Verde Irrigation District, upon terms and conditions satisfactory to the Secretary, the sum of not more than \$500,000 for the modification of the district's existing works to accommodate them to the works authorized in section 1 of this Act, the sum loaned to be repaid over a period of not more than fifty years from the date of the loan; and

(d) To grant to the United States, upon paying the sum of \$50 per acre into the Treasury to the credit of the Colorado River Indian Tribes of the Colorado River Indian Reservation, such lands, easements, rights-of-way, or other interests in land within the Colorado River Indian Reservation, not exceeding thirty acres in all, as may be required for the construction and maintenance of the works authorized in section 1 of this Act: *Provided*, That nothing contained herein shall preclude said tribes, if they believe that such payment constitutes less than just compensation for the extinguishment or impairment of their interest in the lands and interests in land in question, from maintaining an appropriate action against the United States for such compensation.

SECTION 5. The use of all water diverted for the district through said works from the Colorado River shall be subject to and controlled by the Colorado River Compact, the Boulder Canyon Project Act (45 Stat. 1057), the California Limitation Act (Stats. Cal. 1929, ch. 16), contract dated February 7, 1933, between the United States and Palo Verde Irrigation District, and the Mexican Water Treaty (Treaty Series 994), and shall be included within and shall in no way increase the total use of water to which the State of California is entitled as limited by said compact, statutes, contract and treaty.

SECTION 6. Neither the enactment of this Act nor anything contained in it nor any action taken pursuant to it shall be deemed a recognition or admission of any obligation or liability whatsoever to the Palo Verde Irrigation District on the part of the United States.

SECTION 7. All costs incurred under authority of this Act, except those to be repaid by the Palo Verde Irrigation District, shall be nonreimbursable.

SECTION 8. There are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of \$7,099,000.

(o) AN ACT<sup>1</sup> TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONSTRUCT, OPERATE, AND MAINTAIN THE COLORADO RIVER STORAGE PROJECT AND PARTICIPATING PROJECTS, AND FOR OTHER PURPOSES.  
APPROVED 11 APRIL, 1956

SECTION 14. In the operation and maintenance of all facilities, authorized by federal law and under the jurisdiction and supervision of the Secretary

<sup>1</sup> 70 Stat. 105.

of the Interior, in the basin of the Colorado River, the Secretary of the Interior is directed to comply with the applicable provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, and the Treaty with the United Mexican States, in the storage and release of water from reservoirs in the Colorado River Basin. In the event of the failure of the Secretary of the Interior to so comply, any State of the Colorado River Basin may maintain an action in the Supreme Court of the United States to enforce the provisions of this section, and consent is given to the joinder of the United States as a party in such suit or suits, as a defendant or otherwise.

(p) AN ACT<sup>1</sup> TO AUTHORIZE THE CONCLUSION OF AN AGREEMENT FOR THE JOINT CONSTRUCTION BY THE UNITED STATES AND MEXICO OF A MAJOR INTERNATIONAL STORAGE DAM ON THE RIO GRANDE IN ACCORDANCE WITH THE PROVISIONS OF THE TREATY OF FEBRUARY 3, 1944,<sup>2</sup> WITH MEXICO, AND FOR OTHER PURPOSES. APPROVED 7 JULY 1960

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is hereby authorized to conclude with the appropriate official or officials of the Government of Mexico an agreement for the joint construction, operation, and maintenance by the United States and Mexico, in accordance with the provisions of the treaty of February 3, 1944, with Mexico of a major international storage dam on the Rio Grande at the site and having substantially the characteristics described in minute numbered 207 adopted June 19, 1958, by the said Commission, and in the "Rio Grande International Storage Dams Project—Report on Proposed Dam and Reservoir" prepared by the United States Section of the said Commission and dated September 1958.

SECTION 2. If agreement is concluded pursuant to section 1 of this Act for the construction of a major international storage dam the Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized to conclude with the appropriate official or officials of Mexico an agreement consistent with article 7 of the treaty of February 3, 1944, for the construction, operation, and maintenance on a self-liquidating basis, for the United States share, of facilities for generating hydroelectric energy at said dam.

If agreement for the construction of separate facilities for generating hydroelectric energy is concluded, the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is directed to construct, operate, and maintain such self-liquidating facilities for the United States.

SECTION 3. If a dam is constructed pursuant to an agreement concluded under the authorization granted by section 1 of this Act, its operation for

<sup>1</sup> 74 Stat. 360.

<sup>2</sup> See *infra*, Treaty No. 77, p. 236.

conservation and release of United States share of waters shall be integrated with other United States water conservation activities on the Rio Grande below Fort Quitman, Texas, in such manner as to provide the maximum feasible amount of water for beneficial use in the United States with the understandings that (a) releases of United States share of waters from said dam for domestic, municipal, industrial, and irrigation uses in the United States shall be made pursuant to order by the appropriate authority or authorities of the State of Texas and (b) the State of Texas having stipulated that the amount of water that will be available for use in the United States below Falcon Dam after the proposed dam is placed in operation will be not less than the amount available under existing conditions of river development, and to carry out such understandings and said stipulation the conservation storage of said dam shall be used, and it shall be the exclusive responsibility of the appropriate authority or authorities of said State to distribute available United States share of waters of the Rio Grande in such manner as will comply with said stipulation.

SECTION 4. There is hereby authorized to be appropriated to the Department of State for the use of the United States Section, International Boundary and Water Commission, United States and Mexico, such sums as may be necessary to carry out the provisions of this Act.

## II. INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

### UNITED STATES CODE, TITLE 22<sup>1</sup>

#### 267b. *International Joint Commission; invitation to establish; personnel; duties*

The President of the United States is requested to invite the Government of Great Britain to join in the formation of an international commission, to be composed of three members from the United States and three who shall represent the interests of the Dominion of Canada, whose duty it shall be to investigate and report upon the conditions and uses of the waters adjacent to the boundary lines between the United States and Canada, including all of the waters of the lakes and rivers whose natural outlet is by the River Saint Lawrence to the Atlantic Ocean; also upon the maintenance and regulation of suitable levels; and also upon the effect upon the shores of these waters and the structures thereon, and upon the interests of navigation, by reason of the diversion of these waters from or change in their natural flow; and further, to report upon the necessary measures to regulate such diversion, and to make such recommendations for improvements and regulations as shall best subserve the interests of navigation in said waters. The said commissioners shall report upon the advisability of locating a dam at the outlet of Lake Erie, with a view to determining whether such dam will benefit navigation, and if such structure is deemed advisable, shall make recommendations to their respective Governments looking to an agreement or treaty which shall provide for the construction

<sup>1</sup> 1958 edition.

of the same, and they shall make an estimate of the probable cost thereof. The President, in selecting the three members of said Commission who shall represent the United States, is authorized to appoint one officer of the Corps of Engineers of the United States army, one civil engineer well versed in the hydraulics of the Great Lakes and one lawyer of experience in questions of international and riparian law, and said Commission shall be authorized to employ such persons as it may deem needful in the performance of the duties hereby imposed; and for the purpose of paying the expenses and salaries of said Commission the Secretary of the Army is authorized to expend from the amounts heretofore appropriated for the Saint Marys River at the Falls, the sum of twenty thousand dollars, or so much thereof as may be necessary to pay that portion of the expenses of said Commission chargeable to the United States. (June 13, 1902, ch. 1079, para. 4, 32 Stat. 373.)

268. *Same; salaries; powers*

The salaries of the members on the part of the United States, of the International Joint Commission, established under the treaty of January 11, 1909,<sup>1</sup> between the United States and Great Britain, relating to boundary waters between the United States and Canada, shall be fixed by the President. Said commission or any member thereof shall have power to administer oaths and to take evidence on oath whenever deemed necessary in any proceeding or inquiry or matter within its jurisdiction under said treaty, and said commission shall be authorized to compel the attendance of witnesses in any proceedings before it or the production of books and papers when necessary by application to the district court of the United States for the district within which such session is held, which court is hereby empowered and directed to make all orders and issue all processes necessary and appropriate for that purpose. (Mar. 4, 1911, ch. 285, para. 1, 36 Stat. 1364.)

### III. THE SAINT LAWRENCE SEAWAY

#### UNITED STATES CODE, TITLE 33<sup>1</sup>

#### CHAPTER 19 — SAINT LAWRENCE SEAWAY

981. *Creation of Saint Lawrence Seaway Development Corporation*

There is created, subject to the direction and supervision of the President, or the head of such agency as he may designate, a body corporate to be known as the Saint Lawrence Seaway Development Corporation (hereinafter referred to as the "Corporation"). (May 13, 1954, ch. 201, para. 1, 68 Stat. 93.)

. . .

983. *Functions of Corporation*

(a) *Construction of deep-water navigation works in Saint Lawrence River; conditions precedent*

The Corporation is authorized and directed to construct, in United

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<sup>1</sup> 1958 edition.

States territory, deep-water navigation works substantially in accordance with the "Controlled single stage project, 238-242" (with a controlling depth of twenty-seven feet in channels and canals and locks at least eight hundred feet long, eighty feet wide, and thirty feet over the sills), designated as "works solely for navigation" in the joint report dated January 3, 1941, of the Canadian Temporary Great Lakes-Saint Lawrence Basin Committee and the United States Saint Lawrence Advisory Committee, in the International Rapids section of the Saint Lawrence River together with necessary dredging in the Thousand Islands section; and to operate and maintain such works in co-ordination with the Saint Lawrence Seaway Authority of Canada, created by chapter 24 of the acts of the fifth session of the Twenty-first Parliament of Canada 15-16, George VI (assented to December 21, 1951): *Provided*, That the Corporation shall not proceed with the aforesaid construction unless and until

(1) The Saint Lawrence Seaway Authority of Canada provides assurances satisfactory to the Corporation that it will complete the Canadian portions of the navigation works authorized by section 10, chapter 24 of the acts of the fifth session of the Twenty-first Parliament of Canada 15-16, George VI, 1951, as nearly as possible concurrently with the completion of the works authorized by this section;

(2) The Corporation has received assurances satisfactory to it that the State of New York, or an entity duly designated by it, or other licensee of the Federal Power Commission, in conjunction with an appropriate agency in Canada, as nearly as possible concurrently with the navigation works herein authorized, will construct and complete the dams and power works approved by the International Joint Commission in its order of October 29, 1952 (docket 68) or any amendment or modification thereof.

(b) *Co-ordination of activities regarding power projects*

The Corporation shall make necessary arrangements to assure the co-ordination of its activities with those of the Saint Lawrence Seaway Authority of Canada and the entity designated by the State of New York, or other licensee of the Federal Power Commission, authorized to construct and operate the dams and power works authorized by the International Joint Commission in its order of October 29, 1952 (docket 68) or any amendment or modification thereof. (May 13, 1954, ch. 201, para. 3, 68 Stat. 93.)

#### IV. ELECTRIC POWER

##### (a) FEDERAL POWER ACT<sup>2</sup>

792. *Federal Power Commission; creation; number; appointment; term; qualifications; vacancies; quorum; chairman; salary; place of holding sessions.*

A commission is created and established to be known as the Federal

<sup>1</sup> See *infra*, Treaty No. 79, p. 260.

<sup>2</sup> 16 United States Code, 1958 edition (Sections 791a-825r).

Power Commission (hereinafter referred to as the "commission") which shall be composed of five commissioners who shall be appointed by the President by and with the advice and consent of the Senate, one of whom shall be designated by the President as chairman and shall be the principal executive officer of the commission. Each chairman, when so designated, shall act as such until the expiration of his term of office.

. . .

797. *General powers of commission*

The commission is authorized and empowered—

. . .

(e) *Issue of licenses for construction, and so forth, of dams, conduits, reservoirs, and so forth.*

To issue licenses to citizens of the United States, or to any association of such citizens, or to any corporation organized under the laws of the United States or any State thereof, or to any State or municipality for the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, power houses, transmission lines, or other project works necessary or convenient for the development and improvement of navigation and for the development, transmission, and utilization of power across, along, from, or in any of the streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, or upon any part of the public lands and reservations of the United States (including the Territories), or for the purpose of utilizing the surplus water~~s~~ or water power from any government dam, except as herein provided: *Provided*, That licenses shall be issued within any reservation only after a finding by the commission that the license will not interfere or be inconsistent with the purpose for which such reservation was created or acquired, and shall be subject to and contain such conditions as the secretary of the department under whose supervision such reservation falls shall deem necessary for the adequate protection and utilization of such reservations: *Provided further*, That no license affecting the navigable capacity of any navigable waters of the United States shall be issued until the plans of the dam or other structures affecting the navigation have been approved by the Chief of Engineers and the Secretary of the Army. Whenever the contemplated improvement is, in the judgment of the commission, desirable and justified in the public interest for the purpose of improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, a finding to that effect shall be made by the commission and shall become a part of the records of the commission: *Provided further*, That in case the commission shall find that any government dam may be advantageously used by the United States for public purposes in addition to navigation, no license therefor shall be issued until two years after it shall have reported to Congress the facts and conditions relating thereto, except that this provision shall not apply to any government dam constructed prior to June 10, 1920: *And provided further*, That upon the filing of any application for a license which has not been preceded by a preliminary permit under subsection (f) of this section, notice shall be given and published as required by the proviso of said subsection.

. . . .  
 824a. *Interconnection and co-ordination of facilities; emergencies; transmission to foreign countries.*  
 . . . .

(e) *Transmission of electric energy to foreign country*

After six months from August 26, 1935, no person shall transmit any electric energy from the United States to a foreign country without first having secured an order of the Commission authorizing it to do so. The Commission shall issue such order upon application unless, after opportunity for hearing, it finds that the proposed transmission would impair the sufficiency of electric supply within the United States or would impede or tend to impede the co-ordination in the public interest of facilities subject to the jurisdiction of the Commission. The Commission may by its order grant such application in whole or in part, with such modifications and upon such terms and conditions as the Commission may find necessary or appropriate, and may from time to time, after opportunity for hearing and for good cause shown, make such supplemental orders in the premises as it may find necessary or appropriate.

. . . .  
 (b) EXECUTIVE ORDER 10485 PROVIDING FOR THE PERFORMANCE OF CERTAIN FUNCTIONS HERETOFORE PERFORMED BY THE PRESIDENT WITH RESPECT TO ELECTRIC POWER AND NATURAL GAS FACILITIES LOCATED ON THE BORDERS OF THE UNITED STATES, DATED 3 SEPTEMBER, 1953<sup>1</sup>

WHEREAS section 202 (e) of the Federal Power Act, as amended, 49 Stat. 847 (16 U.S.C. 824a (e)), requires any person desiring to transmit any electric energy from the United States to a foreign country to obtain an order of the Federal Power Commission authorizing it to do so; and

WHEREAS section 3 of the Natural Gas Act, 52 Stat. 822 (15 U.S.C. 717b), requires any person desiring to export any natural gas from the United States to a foreign country or to import any natural gas from a foreign country to the United States to obtain an order from the Federal Power Commission authorizing it to do so; and

WHEREAS the proper conduct of the foreign relations of the United States requires that executive permission be obtained for the construction and maintenance at the borders of the United States of facilities for the exportation or importation of electric energy and natural gas; and

WHEREAS it is desirable to provide a systematic method in connection with the issuance and signing of permits for such purposes:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States and Commander in Chief of the armed forces of the United States, it is hereby ordered as follows:

SECTION 1. (a) The Federal Power Commission is hereby designated and empowered to perform the following-described functions:

(1) To receive all applications for permits for the construction, operation, maintenance, or connection, at the borders of the United States,

<sup>1</sup> *Code of Federal Regulations*, title 3, p. 970.

of facilities for the transmission of electric energy between the United States and a foreign country.

(2) To receive all applications for permits for the construction, operation, maintenance, or connection, at the borders of the United States, of facilities for the exportation or importation of natural gas to or from a foreign country.

(3) Upon finding the issuance of the permit to be consistent with the public interest, and, after obtaining the favorable recommendations of the Secretary of State and the Secretary of Defense thereon, to issue to the applicant, as appropriate, a permit for such construction, operation, maintenance, or connection. The Commission shall have the power to attach to the issuance of the permit and to the exercise of the rights granted thereunder such conditions as the public interest may in its judgment require.

(b) In any case wherein the Federal Power Commission, the Secretary of State, and the Secretary of Defense cannot agree as to whether or not a permit should be issued, the Commission shall submit to the President for approval or disapproval the application for a permit with the respective views of the Commission, the Secretary of State and the Secretary of Defense.

SECTION 2. The Chairman or Acting Chairman of the Federal Power Commission is hereby designated and empowered to sign any permits issued by the Federal Power Commission pursuant to section 1 (a) (3) hereof.

SECTION 3. The Federal Power Commission is authorized to issue such rules and regulations, and to prescribe such procedures, as it may from time to time deem necessary or desirable for the exercise of the authority delegated to it by this order.

SECTION 4. All Presidential Permits heretofore issued pursuant to Executive Order No. 8202 of July 13, 1939, and in force at the time of the issuance of this order, and all permits issued hereunder, shall remain in full force and effect until modified or revoked by the President or by the Federal Power Commission.

SECTION 5. Executive Order No. 8202 of July 13, 1939, is hereby revoked.

(c) ORDER OF APPROVAL (I.J.C. DOCKET NO. 68) ISSUED ON 29 OCTOBER 1952 BY THE INTERNATIONAL JOINT COMMISSION TO THE GOVERNMENTS OF UNITED STATES AND CANADA, AS AMENDED BY ORDER OF 2 JULY 1956<sup>1</sup>

WHEREAS the Government of Canada and the Government of the United States of America under date of 30 June, 1952, have submitted Applications to the International Joint Commission (hereinafter referred to as the "Commission") for its approval of the construction, jointly by entities to be designated by the respective Governments, of certain works for the development of power in the International Rapids Section of the St. Lawrence River, these being boundary waters within the meaning of the Preliminary Article of the Boundary Waters Treaty of 11 January, 1909<sup>2</sup>

<sup>1</sup> United States, Department of State, *Bulletin*, Vol. XXVII, July 7-December 29, 1952, p. 1019.

<sup>2</sup> See *infra*, Treaty No. 79, p. 260.

(hereinafter referred to as the "Treaty"), and of the construction, maintenance and operation of such works subject to and under conditions specified in the Applications, and have requested that the Applications be considered by the Commission as in the nature of a joint application; and

WHEREAS pursuant to the aforementioned request of the two Governments, the Commission is considering the two Applications as in the nature of a joint application; and

WHEREAS notices that the Applications had been filed were published in accordance with the Rules of Procedure of the Commission; and

WHEREAS Statements in Response to the Applications and Statements in Reply thereto by both Applicants were filed in accordance with the Rules of the Commission; and

WHEREAS pursuant to published notices, hearings were held by the Commission at Toronto, Ontario, on 23 July, 1952; at Ogdensburg, New York, on 24 July, 1952; at Cornwall, Ontario, on 25 July, 1952; at Albany, New York, on 3 September, 1952; at Montreal, Quebec, on 8 September, 1952; and at Washington, D.C., on 20 October, 1952; and

WHEREAS by reason of the said notices of the said applications and hearings, all persons interested were afforded convenient opportunities of presenting evidence to and being heard before the Commission; and

WHEREAS, pursuant to the said Applications, the hearings before, the evidence given, and material filed with the Commission, the Commission is satisfied that the proposed works and uses of the waters of the International Rapids Section comply with the principles by which the Commission is governed as adopted by the High Contracting Parties in Article VIII of the Treaty; and

WHEREAS the Commission has been informed that the Government of Canada has designated The Hydro-Electric Power Commission of Ontario as the entity to construct, maintain and operate the proposed works in Canada, and that the Government of the United States intends in due course to designate the entity to construct, maintain and operate the works in the United States; and

WHEREAS the program of construction of the works, as proposed by the Applicants, includes the removal of Gut Dam from the International Rapids Section and the Government of Canada has informed the Commission that it is its intention to take steps for the early removal of Gut Dam as soon as the construction of the proposed works is approved and as soon as river conditions and the protection of down river and other interests that will be affected during its removal will permit, thereby advancing the time of removal of Gut Dam; and

WHEREAS the Commission finds that suitable and adequate provision is made by the laws in Canada and by the Constitution and laws in the United States for the protection and indemnity of all interests on either side of the International Boundary which may be injured by reason of the construction, maintenance and operation of the works; and

WHEREAS the Commission finds that it has jurisdiction to hear and dispose of the Applications by approval thereof in the manner and subject to the conditions hereinafter set out;

NOW, THEREFORE, IT IS ORDERED that the construction, maintenance and operation jointly by the Hydro-Electric Power Commission of Ontario and

an entity to be designated by the Government of the United States of America of certain works (hereinafter called "the works") in accordance with the "Controlled Single Stage Project (238-242)," which was part of the joint report dated 3 January, 1941, of the Canadian Temporary Great Lakes-St. Lawrence Basin Committee and the United States St. Lawrence Advisory Committee, containing the features described in Appendix "A" to this Order and shown in Appendix "B" to this Order, be and the same are hereby approved subject to the conditions enumerated below, namely,

(a) All interests on either side of the International Boundary which are injured by reason of the construction, maintenance and operation of the works shall be given suitable and adequate protection and indemnity in accordance with the laws in Canada or the Constitution and laws in the United States respectively, and in accordance with the requirements of Article VIII of the Treaty.

(b) The works shall be so planned, located, constructed, maintained and operated as not to conflict with or restrain uses of the waters of the St. Lawrence River for purposes given preference over uses of water for power purposes by the Treaty, namely, uses for domestic and sanitary purposes and uses for navigation, including the service of canals for the purposes of navigation, and shall be so planned, located, constructed, maintained and operated as to give effect to the provisions of this Order.

(c) The works shall be constructed, maintained and operated in such manner as to safeguard the rights and lawful interests of others engaged or to be engaged in the development of power in the St. Lawrence River below the International Rapids Section.

(d) The works shall be so designed, constructed, maintained and operated as to safeguard so far as possible the rights of all interests affected by the levels of the St. Lawrence River upstream from the Iroquois regulatory structure and by the levels of Lake Ontario and the lower Niagara River; and any change in levels resulting from the works which injuriously affects such rights shall be subject to the requirements of paragraph (a) relating to protection and indemnification.

(e) The hydro-electric plants approved by this Order shall not be subjected to operating rules and procedures more rigorous than are necessary to comply with the provisions of the foregoing paragraphs (b), (c) and (d).

(f) Before the Hydro-Electric Power Commission of Ontario commences the construction of any part of the works, it shall submit to the Government of Canada, and before the entity designated by the Government of the United States commences the construction of any part of the works, it shall submit to the Government of the United States, for approval in writing, detailed plans and specifications of that part of the works located in their respective countries and details of the program of construction thereof or such details of such plans and specifications or programs of construction relating thereto as the respective Governments may require. If after any plan, specification or program has been so approved, The Hydro-Electric Power Commission of Ontario of the entity designated by the Government of the United States wishes to make any change therein, it shall, before adopting such change, submit the changed plan, specification or program for approval in a like manner.

(g) In accordance with the Applications, the establishment by the Governments of Canada and of the United States of a Joint Board of Engineers to be known as the St. Lawrence River Joint Board of Engineers (hereinafter referred to as the "Joint Board of Engineers") consisting of an equal number of representatives of Canada and the United States to be designated by the respective Governments, is approved. The duties of the Joint Board of Engineers shall be to review and co-ordinate, and, if both Governments so authorize, approve the plans and specifications of the works and the programs of construction thereof submitted for the approval of the respective Governments as specified above, and to assure the construction of the works in accordance therewith as approved. The Joint Board of Engineers shall consult with and keep the Board of Control, hereinafter referred to, currently informed on all matters pertaining to the water levels of Lake Ontario and the International Rapids Section and the regulation of the discharge of water from Lake Ontario and the flow of water through the International Rapids Section, and shall give full consideration to any advice or recommendations received from the Board of Control with respect thereto.

(h) A Board of Control to be known as the International St. Lawrence River Board of Control (herein referred to as the "Board of Control") consisting of an equal number of representatives of Canada and of the United States, shall be established by this Commission. The duties of the Board of Control shall be to give effect to the instructions of the Commission as issued from time to time with respect to this Order.

During construction of the works the duties of the Board of Control shall be to keep itself currently informed of the plans of the Joint Board of Engineers in so far as these plans relate to water levels and the regulation of the discharge of water from Lake Ontario and the flow of water through the International Rapids Section, and to consult with and advise the Joint Board of Engineers thereon.

Upon completion of the works, the duties of the Board of Control shall be to ensure that the provisions of this Order relating to water levels and the regulation of the discharge of water from Lake Ontario and the flow of water through the International Rapids Section as herein set out are complied with, and The Hydro-Electric Power Commission of Ontario and the entity designated by the Government of the United States shall duly observe any direction given them by the Board of Control for the purpose of ensuring such compliance. The Board of Control shall report to the Commission at such times as the Commission may determine.

In the event of any disagreement amongst the members of the Board of Control which they are unable to resolve, the matter shall be referred by them to the Commission for decision. The Board of Control may, at any time, make representations to the Commission in regard to any matter affecting or arising out of the terms of this Order with respect to water levels and the regulation of the said discharge and flow.

(i) Upon the completion of the works, the discharge of water from Lake Ontario and the flow of water through the International Rapids Section shall be regulated to meet the requirements of paragraphs (b), (c) and (d) hereof, and, subject as hereinafter provided, shall be regulated in accordance with Method of Regulation No. 5 as prepared by the Department of Transport, Canada, dated September, 1940, and shall be based on the rule-curves forming part of that Method of Regulation. The flow of

water through the International Rapids Section in any period shall equal the discharge of water from Lake Ontario as determined for that period in accordance with such Method of Regulation and shall be maintained as uniformly as possible throughout that period.

Subject to the requirements of paragraphs (b), (c) and (d) hereof, the Board of Control, after obtaining the approval of the Commission, may temporarily modify or change the restrictions as to discharge of water from Lake Ontario and the flow of water through the International Rapids Section set out in this paragraph, for the purpose of determining what modifications or changes therein may be advisable. The Board of Control shall report to the Commission the results of such experiments together with its recommendations as to any changes or modifications in said restrictions. Recommendations as to any changes or modifications which the Commission desires should be made permanent will be referred by the Commission to the two Governments, and if the two Governments thereafter agree, they shall be given effect as if contained in this Order.

(j) Subject as hereinafter provided, upon completion of the works, the works shall be operated initially for a test period of ten years, or such shorter period as may be approved by the Commission with the forebay water level at the powerhouses held at a maximum elevation of 238.0 feet, sea level datum. Subject to the requirements of paragraphs (b), (c) and (d) hereof, the Board of Control, after obtaining the approval of the Commission, may temporarily modify or change the said forebay water level in order to carry out experiments for the purpose of determining whether it is advisable to increase the forebay water level at the powerhouses to a maximum elevation exceeding 238.0 feet. If the Board of Control, as a result of these experiments, considers that operation during this test period at a maximum elevation exceeding 238.0 feet would be advisable, and so recommends, the Commission will consider authorizing operation during this test period at a maximum elevation exceeding 238.0 feet. At the end of this test period, the Commission will make such recommendations to the two Governments with respect to a permanent forebay water level as it deems advisable or it may recommend an extension of the test period. Such of these recommendations as the two Governments thereafter agree to adopt shall be given effect as if contained in this Order.

(k) The Hydro-Electric Power Commission of Ontario and the entity designated by the Government of the United States shall maintain and supply for the information of the Board of Control accurate records relating to water levels and the discharge of water through the works and the regulation of the flow of water through the International Rapids Section, as the Board of Control may determine to be suitable and necessary, and shall install such gauges, carry out such measurements, and perform such other services as the Board may deem necessary for these purposes.

(l) The Board of Control shall report to the Commission as of 31 December each year on the effect, if any, of the operation of the downstream hydro-electric power plants and related structures on the tailwater elevations at the hydro-electric power plants approved by this Order.

(m) The Government of Canada shall proceed forthwith to carry out its expressed intention to remove Gut Dam.

AND IT IS FURTHER ORDERED that the allocation set out in Appendix "C" of the costs of constructing, maintaining and operating the works approved

by this order between the Hydro-Electric Power Commission of Ontario and the entity to be designated by the Government of the United States be and the same is hereby approved but such approval shall not preclude the applicants from submitting to the Commission for approval any variation in the said allocation that may be agreed upon between them as being appropriate or advisable.

AND IT IS FURTHER ORDERED that the Commission retains jurisdiction over the subject matter of these Applications, and may, after giving such notice and opportunity to all interested parties to make representations as the Commission deems appropriate, make such further Order or Orders relating thereto as may be necessary in the judgment of the Commission.

Signed at Montreal, this 29th day of October, 1952.

#### APPENDIX A

##### *Features of the works approved by this order*

###### *(A) Channel Enlargements*

Channel Enlargements will be undertaken from above Chimney Point to below Lotus Island, designed to give a maximum mean velocity in any cross-section of the channel which will be used for navigation not exceeding four feet per second at any time, also between Lotus Island and Iroquois Point and from above Point Three Points to below Ogden Island designed to give a maximum mean velocity in any cross-section not exceeding two and one-quarter feet per second with the flow and at the stage to be permitted on the first of January of any year, under regulation of outflow and levels of Lake Ontario in accordance with Method of Regulation No. 5, as prepared by the General Engineering Branch, Department of Transport, Canada, dated Ottawa, September, 1940. Downstream from the power houses channel enlargements will be carried out for the purpose of reducing the tail water level at the power houses.

Final locations and cross-section of these channel enlargements will be determined from further studies.

###### *(B) Control Facilities*

Adequate control facilities will be constructed for the regulation of the outflow from Lake Ontario.

###### *(C) Power House Structures*

The power house structures will be constructed in the north channel extending from the lower end of Barnhart Island to the Canadian shore, and so located that one structure will be on each side of the International Boundary. Each power house structure will include the main generating units to utilize economically the river flows available to it, with provision for ice handling and discharge sluices.

###### *(D) Dams and Associated Structures*

A control dam will be constructed extending from Iroquois Point on the Canadian side of the river in an easterly direction to the United States mainland above Point Rockway.

A dam will be constructed in the Long Sault Rapids at the head of Barnhart Island.

Dykes and associated works will be provided as may be necessary in both the Province of Ontario and the State of New York.

All the works in the pool below the control dam will be designed to provide for full Lake Ontario level.

(E) *Highway Modifications*

In both the Province of Ontario and the State of New York provincial and state highways, and other roads, will be relocated in those portions subject to flooding, and reconstructed to standards at least equal to those now in existence.

(F) *Railway Modifications*

Such railway relocations as may be required as a result of the works herein described will be made in the Province of Ontario and the State of New York to standards at least equal to those now in existence.

(G) *Navigation Facilities*

Provision will be made for the continuance of 14-foot navigation throughout the International Rapids Section during the construction period.

(H) *Flooded Areas*

Lands and buildings in both the Province of Ontario and the State of New York will be acquired or rehabilitated as required. Inundated wooded areas will be cleared.

[Appendix B is a map.]

#### APPENDIX C

1. The power development works under this Application are those specified in Section 8 of the Application.

2. Total costs of the works described in Section 8 shall be based on Canadian costs and United States costs and the total shall be equally divided between the two constructing entities.

3. The costs to be divided should be based on actually experienced and audited expenses.

4. In relation to the three principles above, the three following provisions apply:

(A) The amount to be paid to Canada, as specified in the Agreement of December 3, 1951, between Canada and Ontario, in lieu of the construction by the power-developing entities of facilities required for the continuance of 14-foot navigation, shall be excluded from the total cost of the power project to be divided between the Canadian and United States power-developing entities, in consideration of the fact that actual replacement of 14-foot navigational facilities will be rendered unnecessary by reason of the concurrent construction of the deep waterway in Canada.

(B) The Authority to be established pursuant to the provisions of the St. Lawrence Seaway Authority Act, Chapter 24 of the Statutes of Canada, 1951 (Second Session), shall contribute an agreed sum of money towards the cost of the channel enlargement which the power-developing entities must undertake in the St. Lawrence River, as set out in paragraph 4 of the Annex to the Canada-Ontario Agreement of December 3, 1951, and in section 8 of the Application to the International Joint Commission, in consideration of the benefits which will accrue to navigation from such channel enlargement.

(C) All costs for construction, maintenance and operation of the project except machinery and equipment in the respective power houses shall be borne equally by the two entities. All costs for construction, maintenance and operation of machinery and equipment in their respective power houses shall be paid by the respective entities and shall be deemed to satisfy the principle of an equal division between the two entities.

(d) SUPPLEMENTARY ORDER OF 2 JULY 1956 TO ORDER OF APPROVAL  
DATED 29 OCTOBER, 1952<sup>1</sup>

WHEREAS the Commission, by Order dated 29 October 1952 (Docket 68), approved the construction, maintenance and operation jointly by the Hydro-Electric Power Commission of Ontario and an entity to be designated by the Government of the United States of America of certain works for the development of power in the International Rapids Section of the St. Lawrence River, subject to the conditions enumerated in the said Order; and

WHEREAS the Commission has been informed that the President of the United States of America by Executive Order No. 10,500, dated 4 November 1953, designated the Power Authority of the State of New York as the United States entity to construct, maintain and operate the proposed works in the United States; and

WHEREAS Appendix A to the said Order describes the features of the works so approved and provides that channel enlargements will be undertaken in specified areas, designed to give stated maximum mean velocities in any cross-section of the channel, under regulation of outflow and levels of Lake Ontario in accordance with Method of Regulation No. 5, as prepared by the General Engineering Branch, Department of Transport, Canada, dated Ottawa, September 1940; and

WHEREAS, condition (i) of said Order provides that, upon completion of the works, the discharge of water from Lake Ontario and the flow of water through the International Rapids Section shall be regulated to meet the requirements of conditions (b), (c) and (d) thereof, and subject to possible modifications and changes to be recommended subsequently by the International St. Lawrence River Board of Control, in accordance with the said Method of Regulation No. 5; and

WHEREAS, by the said Order of 29 October 1952, the Commission specifically retained jurisdiction to make such further Order or Orders relating to the subject matter of the Applications of the United States of America and Canada (Docket 68) as may be necessary in the judgment of the Commission; and

WHEREAS the Commission, as a result of its investigations under the Reference from the Governments of Canada and the United States of America, dated 25 June 1952, regarding the levels of Lake Ontario (Docket 67), has determined that it would not be practicable to base the regulation of flows from Lake Ontario on the said Method of Regulation No. 5; and

WHEREAS, pursuant to published notices, hearings were held by the Commission at Detroit, Michigan, on 4 June 1953, Rochester, New York, on 17 November 1953 and 12 April 1955, Hamilton, Ontario, on 18 Novem-

<sup>1</sup> United States, Department of State, *Bulletin*, Vol. XXXV, July-December, 1956, p. 227.

ber 1953, and Toronto, Ontario, on 14 April 1955, at which all persons interested were afforded convenient opportunity of presenting evidence to and being heard before the Commission; and at the said hearings held at Toronto and Rochester in April 1955 all interested persons were given convenient opportunity to express their views upon the criteria and range of stage which had been tentatively proposed by the Commission; and

WHEREAS the Commission, on 9 May 1955, by letters addressed to the Secretary of State for External Affairs of Canada and the Secretary of State of the United States of America, respectively, recommended adoption by the two Governments of the following:

(i) A range of mean monthly elevations for Lake Ontario of 244 feet (navigation season) to 248.0 feet as nearly as may be; and

(ii) Criteria for a method of regulation of outflows and levels of Lake Ontario applicable to the works in the International Rapids Section of the St. Lawrence River; and

(iii) Plan of Regulation No. 12-A-9, subject to minor adjustments that may result from further detailed study and evaluation by the Commission; and

WHEREAS, by letters dated 3 December 1955, the Secretary of State for External Affairs of Canada and the Under Secretary of State of the United States of America advised the Commission that the Government of Canada and the Government of the United States of America, respectively, approved the range of mean monthly elevations for Lake Ontario and the criteria recommended in the Commission's said letters of 9 May, 1955; and

WHEREAS, in the said letters dated 3 December 1955, the Commission was advised further that the Government of Canada and the Government of the United States of America approved Plan of Regulation No. 12-A-9 for the purpose of calculating critical profiles and the design of channel excavations in the International Rapids Section of the St. Lawrence River; and

WHEREAS, in the said letters dated 3 December 1955, the two Governments urged the Commission to continue its studies with a view to perfecting a plan of regulation so as best to meet the requirements of all interests both upstream and downstream, within the range of elevations and criteria therein approved; and

WHEREAS, by letter dated 3 December 1955, the Secretary of State for External Affairs, on behalf of the Government of Canada, has informed the Commission of the arrangements that have been made for the re-design of a portion of the St. Lawrence Seaway Canal in the vicinity of Montreal, between Lake St. Louis and the Laprairie Basin; and

WHEREAS condition (i) of the said Order of Approval dated 29 October 1952 makes provision for adjustments and progressive improvements in the plan of regulation, subject to requirements and procedures specified therein.

NOW, THEREFORE, THIS COMMISSION DOTH ORDER AND DIRECT that the Order of Approval issued by the International Joint Commission on 29 October 1952, be and the same is hereby amended as follows:

(1) Paragraph (a) of Appendix A to the said Order is amended by deleting the words, " Method of Regulation No. 5, as prepared by the General Engineering Branch, Department of Transport, Canada, dated Ottawa,

September, 1940", and substituting the words, "Plan of Regulation No. 12-A-9, as prepared by the International Lake Ontario Board of Engineers, dated 5 May 1955"; and by adding the following sub-paragraph, "As approved by the Government of Canada and the Government of the United States of America in similar letters dated 3 December 1955, the said Plan of Regulation No. 12-A-9 shall be the basis for calculating critical profiles and designing channel excavations." The said paragraph (a) will then read as follows:

"(a) Channel enlargements will be undertaken from above Chimney Point to below Lotus Island, designed to give a maximum mean velocity in any cross-section of the channel which will be used for navigation not exceeding four feet per second at any time, also between Lotus Island and Iroquois Point and from above Point Three Points to below Ogden Island designed to give a maximum mean velocity in any cross-section not exceeding two and one-quarter feet per second with the flow and at the stage to be permitted on the first of January of any year, under regulation of outflow and levels of Lake Ontario in accordance with Plan of Regulation No. 12-A-9, as prepared by the International Lake Ontario Board of Engineers, dated 5 May 1955. Downstream from the power houses channel enlargements will be carried out for the purpose of reducing the tail water level at the power houses.

"Final locations and cross-sections of these channel enlargements will be determined from further studies.

"As approved by the Government of Canada and the Government of the United States of America in similar letters dated 3 December 1955, the said Plan of Regulation No. 12-A-9 shall be the basis for calculating critical profiles and designing channel excavations."

(2) Condition (i) of the said Order of 29 October 1952 is deleted and the following substituted therefor:

"(i) Upon the completion of the works, the discharge of water from Lake Ontario and the flow of water through the International Rapids Section shall be regulated to meet the requirements of conditions (b), (c), and (d) hereof: shall be regulated within a range of stage from elevation 244.0 feet (navigation season) to elevation 248.0 feet, as nearly as may be; and shall be regulated in accordance with the criteria set forth in the Commission's letters of 17 March 1955 to the Governments of Canada and the United States of America and approved by the said governments in their letters of 3 December 1955 and qualified, by the terms of separate letters from the Government of Canada and the Government of the United States of America dated 11 April 1956 and 1 May 1956, respectively, to the extent that these letters agree that the criteria are intended to establish standards which would be maintained with the minimum variation. The project works shall be operated in such a manner as to provide no less protection for navigation and riparian interests downstream than would have occurred under pre-project conditions and with supplies of the past as adjusted, as defined in criterion (a) herein. The Commission will indicate in an appropriate fashion, as the occasion may require, the inter-relationship of the criteria, the range of elevations and the other requirements.

The criteria are as follows:

(a) The regulated outflow from Lake Ontario from 1 April to 15 December shall be such as not to reduce the minimum level of Montreal Harbour below that which would have occurred in the past with the supplies

to Lake Ontario since 1860 adjusted to a condition assuming a continuous diversion out of the Great Lakes Basin of 3,100 cubic feet per second at Chicago and a continuous diversion into the Great Lakes Basin of 5,000 cubic feet per second from the Albany River Basin (hereinafter called the 'supplies of the past as adjusted').

(b) The regulated winter outflows from Lake Ontario from 15 December to 31 March shall be as large as feasible and shall be maintained so that the difficulties of winter power operation are minimized.

(c) The regulated outflow from Lake Ontario during the annual spring break-up in Montreal Harbour and in the river downstream shall not be greater than would have occurred assuming supplies of the past as adjusted.

(d) The regulated outflow from Lake Ontario during the annual flood discharge from the Ottawa River shall not be greater than would have occurred assuming supplies of the past as adjusted.

(e) Consistent with other requirements, the minimum regulated monthly outflow from Lake Ontario shall be such as to secure the maximum dependable flow for power.

(f) Consistent with other requirements, the maximum regulated outflow from Lake Ontario shall be maintained as low as possible to reduce channel excavations to a minimum.

(g) Consistent with other requirements, the levels of Lake Ontario shall be regulated for the benefit of property owners on the shores of Lake Ontario in the United States and Canada so as to reduce the extremes of stage which have been experienced.

(h) The regulated monthly mean level of Lake Ontario shall not exceed elevation 248.0 with the supplies of the past as adjusted.

(i) Under regulation, the frequency of occurrences of monthly mean elevations of approximately 247.0 and higher on Lake Ontario shall be less than would have occurred in the past with the supplies of the past as adjusted and with present channel conditions in the Galops Rapids Section of the Saint Lawrence River.

(j) The regulated level of Lake Ontario on 1 April shall not be lower than elevation 244.0. The regulated monthly mean level of the lake from 1 April to 30 November shall be maintained at or above elevation 244.0.

(k) In the event of supplies in excess of the supplies of the past as adjusted, the works in the International Rapids Section shall be operated to provide all possible relief to the riparian owners upstream and downstream. In the event of supplies less than the supplies of the past as adjusted, the works in the International Rapids Section shall be operated to provide all possible relief to navigation and power interests.

The flow of water through the International Rapids Section in any period shall equal the discharge of water from Lake Ontario as determined for that period in accordance with a plan of regulation which, in the judgment of the Commission, satisfies the afore-mentioned requirements, range of stage and criteria and when applied to the channels as determined in accordance with Appendix A hereto produces no more critical governing velocities than those specified in that appendix, nor more critical governing water surface profiles than those established by Plan of Regulation 12-A-9, when applied to the channels as determined in accordance with Appendix A hereto, and shall be maintained as uniformly as possible throughout that period.

Subject to the requirements of conditions (b), (c) and (d) hereof, and of the range of stage, and criteria, above written, the Board of Control, after obtaining the approval of the Commission, may temporarily modify or change the restrictions as to discharge of water from Lake Ontario and the flow of water through the International Rapids Section for the purpose of determining what modifications or changes in the plan of regulation may be advisable. The Board of Control shall report to the Commission the results of such experiments, together with its recommendations as to any changes or modifications in the plan of regulation. When the plan of regulation has been perfected so as best to meet the requirements of all interests, within the range of stage and criteria above defined, the Commission will recommend to the two Governments that it be made permanent and, if the two Governments thereafter agree, such plan of regulation shall be given effect as if contained in this Order.”

Signed at Montreal this second day of July, 1956.

- (e) AN ACT<sup>1</sup> TO AUTHORIZE THE CONSTRUCTION OF CERTAIN WORKS OF IMPROVEMENT IN THE NIAGARA RIVER FOR POWER, AND FOR OTHER PURPOSES. APPROVED 21 AUGUST, 1957

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Federal Power Commission is hereby expressly authorized and directed to issue a license to the Power Authority of the State of New York for the construction and operation of a power project with capacity to utilize all of the United States share of the water of the Niagara River permitted to be used by international agreement.*

(b) The Federal Power Commission shall include among the licensing conditions, in addition to those deemed necessary and required under the terms of the Federal Power Act, the following:

(1) In order to assure that at least 50 per centum of the project power shall be available for sale and distribution primarily for the benefit of the people as consumers, particularly domestic and rural consumers, to whom such power shall be made available at the lowest rates reasonably possible and in such manner as to encourage the widest possible use, the licensee in disposing of 50 per centum of the project power shall give preference and priority to public bodies and nonprofit co-operatives within economic transmission distance. In any case in which project power subject to the preference provisions of this paragraph is sold to utility companies organized and administered for profit, the licensee shall make flexible arrangements and contracts providing for the withdrawal upon reasonable notice and fair terms of enough power to meet the reasonably foreseeable needs of the preference customers.

(2) The licensee shall make a reasonable portion of the project power subject to the preference provisions of paragraph (1) available for use within reasonable economic transmission distance in neighboring States, but this paragraph shall not be construed to require more than 20 per centum of the project power subject to such preference provisions to be made available for use in such States. The licensee shall co-operate with the appropriate agencies in such States to insure compliance with this requirement. In the event of disagreement between the licensee and the power-marketing

<sup>1</sup> 71 Stat. 401.

agencies of any of such States, the Federal Power Commission may, after public hearings, determine and fix the applicable portion of power to be made available and the terms applicable thereto: *Provided*, That if any such State shall have designated a bargaining agency for the procurement of such power on behalf of such State, the licensee shall deal only with such agency in that State. The arrangements made by the licensee for the sale of power to or in such States shall include observance of the preferences in paragraph (1) of this subsection.

(3) The licensee shall contract, with the approval of the Governor of the State of New York, pursuant to the procedure established by New York law, to sell to the licensee of Federal Power Commission project 16 for a period ending not later than the final maturity date of the bonds initially issued to finance the project works herein specifically authorized, four hundred and forty-five thousand kilowatts of the remaining project power, which is equivalent to the amount produced by project 16 prior to June 7, 1956, for resale generally to the industries which purchased power produced by project 16 prior to such date, or their successors, in order as nearly as possible to restore low power costs to such industries and for the same general purposes for which power from project 16 was utilized: *Provided*, That the licensee of project 16 consents to the surrender of its license at the completion of the construction of such project works upon terms agreed to by both licensees and approved by the Federal Power Commission which shall include the following: (a) the licensee of project 16 shall waive and release any claim for compensation or damages from the Power Authority of the State of New York or from the State of New York, except just compensation for tangible property and rights-of-way actually taken, and (b) without limiting the generality of the foregoing, the licensee of project 16 shall waive all claims to compensation or damages based upon loss of or damage to riparian rights, diversionary rights, or other rights relating to the diversion or use of water whether founded on legislative grant or otherwise.

(4) The licensee shall, if available on reasonable terms and conditions, acquire by purchase or other agreement, the ownership or use of, or if unable to do so, construct such transmission lines as may be necessary to make the power and energy generated at the project available in wholesale quantities for sale on fair and reasonable terms and conditions to privately owned companies, to the preference customers enumerated in paragraph (1) of this subsection, and to the neighboring States in accordance with paragraph (2) of this subsection.

(5) In the event project power is sold to any purchaser for resale, contracts for such sale shall include adequate provisions for establishing resale rates, to be approved by the licensee, consistent with paragraphs (1) and (3) of this subsection.

(6) The licensee, in co-operation with the appropriate agency of the State of New York which is concerned with the development of parks in such State, may construct a scenic drive and park on the American side of the Niagara River, near the Niagara Falls, pursuant to a plan the general outlines of which shall be approved by the Federal Power Commission; and the cost of such drive and park shall be considered a part of the cost of the power project and part of the licensee's net investment in said project: *Provided*, That the maximum part of the cost of such drive and park to be borne by the power project and to be considered a part of the licensee's net investment shall not exceed \$15,000,000.

(7) The licensee shall pay to the United States and include in its net investment in the project herein authorized the United States share of the cost of the construction of the remedial works, including engineering and economic investigations, undertaken in accordance with article II of the treaty between the United States of America and Canada concerning uses of the waters of the Niagara River signed February 27, 1950,<sup>1</sup> whenever such remedial works are constructed.

SECTION 2. The license issued under the terms of this Act shall be granted in conformance with Rules of Practice and Procedure of the Federal Power Commission, but in the event of any conflict, the provisions of this Act shall govern in respect of the project herein authorized.

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<sup>1</sup> See *infra*, Treaty No. 59, p. 194.