

United Nations Legislative Series

**LEGISLATIVE TEXTS
AND TREATY PROVISIONS**

CONCERNING

**THE UTILIZATION OF INTERNATIONAL
RIVERS
FOR OTHER PURPOSES THAN
NAVIGATION**



Série législative des Nations Unies

**TEXTES LÉGISLATIFS
ET DISPOSITIONS DE TRAITÉS**

CONCERNANT

**L'UTILISATION DES FLEUVES
INTERNATIONAUX
A DES FINS AUTRES QUE
LA NAVIGATION**

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INTRODUCTION

On 21 November 1959 the General Assembly adopted resolution 1401 (XIV), in which it expressed the opinion that it was desirable to initiate preliminary studies on the legal problems relating to the utilization and use of international rivers with a view to determining whether the subject was appropriate for codification. To that end, it requested the Secretary-General to prepare and circulate to Member States a report containing, among other things, information provided by Member States regarding their laws and legislation in force in the matter and, when necessary, a summary of such information, together with a summary of existing bilateral and multilateral treaties relating to the subject.

Since the report, in accordance with the General Assembly resolution, contains only summaries of the legislative texts and treaty provisions, the Secretariat has decided to publish the full texts in this volume of the Legislative Series.

The legislative texts were provided by Governments in response to two notes verbales sent to them on 18 February and 2 November 1960 by the Secretary-General.

The treaty texts were collected by the Codification Division of the Office of Legal Affairs of the Secretariat during its research in preparation for the Secretary-General's report mentioned above. As a rule the treaties included are in force, or came into force at some time. A few of them, however, were signed recently but had not come into force by the time this volume went to press. Since they are of interest in this connexion, they have been included in this volume and their status has been indicated in notes.

INTRODUCTION

L'Assemblée générale a, en date du 21 novembre 1959, adopté la résolution 1401 (XIV) par laquelle elle a exprimé l'avis qu'il est souhaitable d'entreprendre des études préliminaires sur les problèmes juridiques que posent l'exploitation et l'utilisation des fleuves internationaux, afin de déterminer si la question se prête à codification. A cette fin, elle a prié le Secrétaire général de préparer et de communiquer aux Etats Membres un rapport contenant, entre autres, les renseignements fournis par ces Etats au sujet de leur législation en vigueur dans ce domaine ou, le cas échéant, un résumé de ces renseignements, ainsi qu'un résumé des traités multilatéraux et bilatéraux en vigueur qui ont trait à la question.

Comme ce rapport¹ ne reproduit, conformément à la résolution de l'Assemblée générale, qu'un résumé des textes législatifs et des dispositions de traités, le Secrétariat a décidé d'en publier dans le présent volume de la Série législative le texte intégral.

Les textes législatifs ont été fournis par les Gouvernements en réponse à deux notes verbales que le Secrétaire général leur a adressées respectivement en date des 18 février et 2 novembre 1960.

Quant aux textes des traités, ils ont été rassemblés par la Division de la Codification du Service juridique du Secrétariat à l'occasion des recherches qu'elle a effectuées en préparation du susdit rapport du Secrétaire général. En principe, les traités retenus sont en vigueur ou sont entrés en vigueur à un moment donné. Cependant, un petit nombre d'entre eux ont été récemment signés mais ne sont pas encore entrés en vigueur à la date de la mise sous presse du présent volume. Etant donné l'intérêt qu'ils présentent en la matière, ces traités ont été inclus dans le présent volume avec des notes indiquant leur statut.

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FIRST PART
LEGISLATIVE TEXTS

PREMIÈRE PARTIE
TEXTES LÉGISLATIFS

Mexico ¹

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 ²

(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

¹ 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.

² 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 [over-treding].

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

. . . .

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.

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- (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")

. . . .

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.

Norway¹

. . . .

- (a) ACT OF 12 JUNE 1931 RELATING TO THE CONVENTION OF 11 MAY 1929 BETWEEN NORWAY AND SWEDEN² ON CERTAIN QUESTIONS RELATING TO THE LAW ON WATERCOURSES

. . . .

CHAPTER I

SCOPE OF THE ACT

Article 1

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

¹ 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.

² 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 ¹

(a) ACT NO. 405, OF 20 DECEMBER 1929, CONTAINING REGULATIONS RELATING TO THE APPLICATION IN SWEDEN OF THE SWEDISH-NORWEGIAN CONVENTION OF 11 MAY 1929² 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

¹ 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.

² 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 1949¹ 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 America²

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

(a) UNITED STATES CODE, TITLE 22³

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

¹ See *infra*, Treaty No. 172, p. 630.

² 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.

³ 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, 1944,¹ 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

¹ 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, 1944,¹ 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

¹ 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, 1944.¹ (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

¹ 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 ACT¹ 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, 1906,² 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.,

¹ 49 Stat. 961.

² 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 ACT¹ 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, 1906,² 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

¹ 49 Stat. 1463.

² 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 ACT¹ 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

¹ 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, 1945¹

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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

¹ 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 ACT¹ TO AUTHORIZE THE CARRYING OUT OF THE PROVISIONS OF ARTICLE 7 OF THE TREATY OF FEBRUARY 3, 1944,² 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.

¹ 63 Stat. 701.

² 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, 1944.¹ APPROVED 13 SEPTEMBER 1950²

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.

¹ See *infra*, Treaty No. 77, p. 236.

² 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 ACT¹ 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,

¹ 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 ACT¹ 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

¹ 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 ACT¹ 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

¹ 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 ACT¹ 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

¹ 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, 1944,¹ 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, 1954² [EXTRACT]

. . .

Construction

For detailed plan preparation and construction of projects authorized by the Convention concluded February 1, 1933,³ 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, 1944,⁴ \$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 ACT⁵ 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, 1944,⁶ between the

¹ See *infra*, Treaty No. 77, p. 236.

² 67 Stat. 367.

³ See *infra*, Treaty No. 76, p. 230.

⁴ See *infra*, Treaty No. 77, p. 236.

⁵ 68 Stat. 255.

⁶ 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, 1954¹

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

¹ 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 ACT¹ 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

¹ 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 ACT¹ 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, 1944,² 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

¹ 74 Stat. 360.

² 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 22¹

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

¹ 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, 1909,¹ 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 33¹

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

¹ 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 ACT²

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

¹ See *infra*, Treaty No. 79, p. 260.

² 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^{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, 1953¹

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,

¹ *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 1956¹

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, 1909²

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

² 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, 1952¹

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-

¹ 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 ACT¹ 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

¹ 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, 1950,¹ 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.

¹ See *infra*, Treaty No. 59, p. 194.

SECOND PART
TREATY PROVISIONS
DEUXIÈME PARTIE
DISPOSITIONS DE TRAITÉS

I. GENERAL CONVENTIONS

I. CONVENTIONS GÉNÉRALES

1. CONVENTION¹ ET STATUT SUR LE RÉGIME DES VOIES NAVIGABLES D'INTÉRÊT INTERNATIONAL, SIGNÉS À BARCELONE, LE 20 AVRIL 1921²

. . .

ARTICLE 1. — Les Hautes Parties contractantes déclarent accepter le Statut ci-annexé relatif au régime des voies navigables d'intérêt international, adopté par la Conférence de Barcelone, le 19 avril 1921.

Ce Statut sera considéré comme faisant partie intégrante de la présente Convention. En conséquence, elles déclarent accepter les obligations et engagements du dit statut, conformément aux termes et suivant les conditions qui y figurent.

. . .

¹ La Convention est entrée en vigueur le 31 octobre 1922, le quatre-vingt-dixième jour après la réception par le Secrétaire général de la Société des Nations de la cinquième ratification, conformément à l'article 6.

² *42 Etats ont été représentés à la Conférence de Barcelone* : l'Albanie, l'Autriche, la Belgique, la Bolivie, le Brésil, la Bulgarie, le Chili, la Chine, la Colombie, le Costa-Rica, Cuba, le Danemark, l'Empire Britannique (avec la Nouvelle-Zélande et les Indes), l'Espagne, l'Estonie, la Finlande, la France, la Grèce, le Guatemala, Haïti, le Honduras, l'Italie, le Japon, la Lettonie, la Lithuanie, le Luxembourg, la Norvège, le Panama, le Paraguay, les Pays-Bas, la Perse, la Pologne, le Portugal, la Roumanie, la Yougoslavie, la Suède, la Suisse, la Tchécoslovaquie, l'Uruguay et le Venezuela; *27 Etats ont signé la Convention* : l'Albanie, l'Autriche, la Belgique, la Bolivie, la Bulgarie, le Chili, la Chine, le Danemark, l'Empire Britannique, la Nouvelle-Zélande, l'Inde, l'Espagne, l'Estonie, la Finlande, la France, la Grèce, le Guatemala, l'Italie, la Lithuanie, le Luxembourg, la Norvège, le Panama, la Pologne, le Portugal, la Suède, la Tchécoslovaquie et l'Uruguay. L'Empire Britannique a signé sous réserve de la déclaration insérée au procès-verbal de la séance du 19 avril 1921, relative aux Dominions Britanniques non représentés à la Conférence de Barcelone; *21 Etats ont ratifié la Convention ou y ont adhéré ou accédé* : l'Albanie, le 28 octobre 1921; la Bulgarie, le 11 juillet 1922; l'Empire Britannique (inclus Terre-Neuve) avec la Nouvelle-Zélande et l'Inde, le 2 août 1922 (pour les Etats Malais fédérés et les Etats Malais non fédérés en 1923; pour le Territoire sous mandat de Palestine, le 28 janvier 1924); l'Italie, le 5 août 1922; le Danemark, le 13 novembre 1922; la Thaïlande, le 29 novembre 1922; la Finlande, le 29 janvier 1923; la Colombie, le 7 avril 1923; la Roumanie, le 19 juin 1923; la Norvège, le 4 septembre 1923; la Tchécoslovaquie, le 8 septembre 1924; le Pérou, le 15 septembre 1924; la France, le 19 septembre 1924; la Suède, le 15 septembre 1927; la Grèce, le 3 janvier 1928; le Chili, le 19 mars 1928; la Hongrie, le 18 mai 1928; le Luxembourg, le 19 mars 1930, et la Turquie, le 27 juin 1933; *1 Etat a dénoncé la Convention* : l'Inde (pour prendre effet le 26 mars 1957) [Société des Nations, *Recueil des Traités*, vol. VII, p. 35; XI, p. 406; XV, p. 306; XIX, p. 280; XXIV, p. 156; L, p. 160; LIX, p. 344; LXIX, p. 71; XCVI, p. 182; et CXXXIV, p. 393; et Nations Unies, *Recueil des Traités*, vol. 230, p. 448].

² Société des Nations, *Recueil des Traités*, vol. VII, p. 36.

STATUT RELATIF AU RÉGIME DES VOIES NAVIGABLES
D'INTÉRÊT INTERNATIONAL

ARTICLE 10. — Tout Etat riverain est tenu, d'une part, de s'abstenir de toutes mesures susceptibles de porter atteinte à la navigabilité ou de diminuer les facilités de la navigation, et, d'autre part, de prendre le plus rapidement possible toutes dispositions utiles, afin d'écarter tous obstacles et dangers accidentels pour la navigation.

2. Si cette navigation exige un entretien régulier, chacun des Etats riverains a, à cet effet, l'obligation envers les autres de prendre les mesures et d'exécuter les travaux nécessaires sur son territoire le plus rapidement possible, compte tenu, à toute époque, de l'état de la navigation, ainsi que de l'état économique des régions desservies par la voie navigable.

Sauf convention contraire, chacun des Etats riverains aura le droit, en invoquant des motifs valables, d'exiger des autres riverains une équitable participation aux frais de cet entretien.

3. Sauf motif légitime d'opposition d'un des Etats riverains, y compris l'Etat territorialement intéressé, fondé soit sur les conditions mêmes de la navigabilité en son territoire, soit sur d'autres intérêts tels que, entre autres, le maintien du régime normal des eaux, les besoins de l'irrigation, l'utilisation de la force hydraulique ou la nécessité de la construction d'autres voies de communication plus avantageuses, un Etat riverain ne pourra se refuser à exécuter, à la demande d'un autre Etat riverain, les travaux nécessaires d'amélioration de la navigabilité, si celui-ci offre d'en payer les frais, ainsi qu'une part équitable de l'excédent des frais d'entretien. Néanmoins, il est entendu que ces travaux ne pourront être entrepris tant que l'Etat sur le territoire duquel ils doivent être exécutés s'y oppose du chef d'intérêts vitaux.

4. Sauf convention contraire, l'Etat tenu d'exécuter les travaux d'entretien pourra se libérer de cette obligation, si, avec l'accord de tous les Etats co-riverains, un ou plusieurs d'entre eux acceptent de les exécuter à sa place; pour les travaux d'amélioration, l'Etat tenu de les exécuter sera libéré de cette obligation s'il autorise l'Etat demandeur à les exécuter à sa place; l'exécution des travaux par des Etats autres que l'Etat territorialement intéressé, ou la participation de ces Etats aux frais de ces travaux, seront assurés sans préjudice, pour l'Etat territorialement intéressé, de ses droits de contrôle et d'administration sur ces travaux et des prérogatives de sa souveraineté ou autorité sur la voie navigable.

5. Sur les voies navigables visées à l'article 2, les dispositions du présent article sont applicables sous réserve des stipulations des traités, conventions ou actes de navigation qui déterminent les pouvoirs et la responsabilité de la Commission internationale à l'égard des travaux.

Sous réserve des dispositions spéciales des dits traités, conventions ou actes de navigation, existants ou à conclure:

- (a) Les décisions concernant les travaux appartiennent à la Commission;
- (b) Le règlement, dans les conditions prévues à l'article 22 ci-après, de tout différend qui surgirait du chef de ces décisions pourra, dans tous les cas, être demandé pour motif d'incompétence ou de violation des conventions internationales régissant les voies navigables. Pour tout autre motif, la requête en vue d'un règlement dans les dites conditions ne pourra être formée que par l'Etat territorialement intéressé.

Les décisions de la Commission devront être conformes aux règles du présent article.

6. Nonobstant les dispositions du premier paragraphe du présent article, un Etat riverain pourra, sauf convention contraire, désaffecter totalement ou partiellement une voie navigable moyennant accord de tous les Etats riverains ou de tous les Etats représentés à la Commission internationale dans le cas des voies navigables visées à l'article 2.

Exceptionnellement, une voie navigable d'intérêt international non visée à l'article 2 pourra être désaffectée par l'un des Etats riverains, si la navigation y est très peu développée et si cet Etat justifie d'un intérêt économique manifestement supérieur à celui de la navigation. Dans ce cas, la désaffectation ne pourra avoir lieu qu'au bout d'une année après préavis et sauf recours d'un autre Etat riverain dans les conditions prévues à l'article 22. La décision fixera, le cas échéant, les conditions dans lesquelles la désaffectation pourra être faite.

7. Dans les cas où une voie navigable d'intérêt international donne accès à la mer par plusieurs bras situés dans le territoire d'un même Etat, les dispositions des paragraphes 1, 2 et 3 du présent article s'appliquent seulement aux bras principaux jugés nécessaires pour donner un plein accès à la mer.

ARTICLE 11. — Dans le cas où un ou plusieurs des Etats riverains d'une voie navigable d'intérêt international ne sont pas parties au présent Statut, les obligations financières assumées par chacun des Etats contractants en vertu de l'article 10 ne peuvent excéder les obligations qu'ils auraient assumées au cas où tous les Etats riverains seraient parties au Statut.

2. CONVENTION¹ RELATIVE À L'AMÉNAGEMENT DES FORCES HYDRAULIQUES INTÉRESSANT PLUSIEURS ÉTATS ET PROTOCOLE DE SIGNATURE, SIGNÉS À GENÈVE, LE 9 DÉCEMBRE 1923²

¹ Entrée en vigueur le 30 juin 1925, le quatre-vingt-dixième jour après la réception, par le Secrétaire général de la Société des Nations, de la troisième ratification, conformément à l'article 18.

17 Etats ont participé à la Conférence et signé la Convention: l'Autriche, la Belgique, l'Empire Britannique, la Nouvelle-Zélande, la Bulgarie, le Chili, le Danemark, la Ville Libre de Dantzig, la France, la Grèce, la Hongrie, l'Italie, la Lithuanie, la Pologne, la Yougoslavie, le Siam et l'Uruguay; *11 Etats ont ratifié la Convention ou y ont adhéré ou accédé*: le Siam, le 9 janvier 1925; la Nouvelle-Zélande (y compris le territoire sous mandat du Samoa Occidental), le 1^{er} avril 1925; l'Empire Britannique, le 1^{er} avril 1925 (pour la Rhodésie du Sud et pour Terre-Neuve, le 28 avril 1925; pour les colonies, protectorats et territoires sous mandat suivants: Guyane britannique, Honduras britannique, Brunéi, Etats Malais fédérés, Gambie, Côte de l'Or, Hong-Kong, Kenya, Etats Malais non fédérés, Nigéria, Rhodésie du Nord, Nyassaland, Palestine, Sierra Leone, Straits Settlements et Territoire de Tanganyika, le 22 septembre 1925; et, pour le Protectorat de l'Ouganda, le 12 janvier 1927); le Danemark, le 27 avril 1926; l'Autriche, le 20 janvier 1927; la Grèce, le 14 mars 1929; la Hongrie, le 20 mars 1933; la Ville Libre de Dantzig, le 17 mai 1934; le Panama, le 7 juillet 1934; l'Irak, le 28 janvier 1936; l'Egypte, le 29 janvier 1940. [Société des Nations, *Recueil des Traités*, vol. 36, p. 36; 45, p. 170; 50, p. 166; 83, p. 395; 134, p. 405; 147, p. 322; 152, p. 295; 164, p. 367; et 200, p. 501.]

² Société des Nations, *Recueil des Traités*, vol 36, p. 76.

Désireux de faciliter la mise en valeur et d'améliorer le rendement des forces hydrauliques par une entente internationale,

Ayant accepté l'invitation de la Société des Nations de participer à une conférence réunie à Genève le 15 novembre 1923 . . .

ARTICLE PREMIER. — La présente Convention ne modifie en aucune manière la liberté pour tout Etat, dans le cadre du droit international, d'exécuter sur son territoire tous travaux d'aménagement de forces hydrauliques qu'il désire.

ARTICLE 2. — Dans le cas où la mise en valeur rationnelle de forces hydrauliques comporte une étude internationale, les Etats contractants intéressés se prêteront à cette étude. Il y sera procédé en commun, sur la demande de l'un d'entre eux, afin de rechercher la solution la plus favorable à l'ensemble de leurs intérêts, et, compte tenu des ouvrages existants, entrepris ou projetés, d'arrêter si possible un programme d'aménagement.

Tout Etat contractant qui désirerait modifier un programme d'aménagement ainsi arrêté provoquerait, s'il y a lieu, une nouvelle étude, dans les conditions prévues à l'alinéa précédent.

L'exécution d'un programme d'aménagement n'est obligatoire pour chaque Etat que si cette obligation est formellement acceptée.

ARTICLE 3. — Lorsqu'un Etat contractant désire exécuter des travaux d'aménagement de forces hydrauliques en partie sur son propre territoire, en partie sur le territoire de tout autre Etat contractant, ou comportant une modification de l'état des lieux sur le territoire de tout autre Etat contractant, les Etats intéressés négocieront en vue de la conclusion d'accords destinés à permettre l'exécution de ces travaux.

ARTICLE 4. — Lorsqu'un Etat contractant désire exécuter des travaux d'aménagement de forces hydrauliques dont il pourrait résulter, pour tout autre Etat contractant, un préjudice grave, les Etats intéressés négocieront en vue de la conclusion d'accords destinés à permettre l'exécution de ces travaux.

ARTICLE 5. — Les solutions techniques adoptées dans les accords visés aux articles précédents tiendront compte, dans le cadre de chaque législation nationale, exclusivement des considérations qui s'exerceraient légitimement des cas analogues d'aménagement de forces hydrauliques n'intéressant qu'un seul Etat, abstraction faite de toute frontière politique.

ARTICLE 6. — Les accords visés aux articles précédents pourront prévoir notamment, selon les cas:

(a) Les conditions générales d'établissement, d'entretien et d'exploitation des ouvrages;

(b) Les prestations équitables entre Etats intéressés pour frais, risques, dommages et charges de toute nature, occasionnés par l'établissement et l'exploitation des ouvrages, ainsi que pour le remboursement des frais d'entretien;

(c) Le règlement des questions de coopération financière;

(d) L'organisation du contrôle technique et de la surveillance de la sécurité publique;

(e) La protection des sites;

- (f) Le règlement d'eau;
- (g) La protection des droits des tiers;
- (h) Le mode de règlement des différends sur l'interprétation et l'application des accords.

ARTICLE 7. — L'établissement et l'exploitation des ouvrages destinés à l'utilisation des forces hydrauliques seront soumis, sur le territoire de chaque Etat, aux dispositions légales et administratives applicables à l'établissement et à l'exploitation d'ouvrages similaires dans cet Etat.

ARTICLE 8. — En ce qui concerne les voies navigables, prévues comme devant être soumises à la Convention générale sur le régime des voies navigables d'intérêt international, les droits et obligations qui pourraient résulter des accords conclus en conformité de la présente Convention ne devront être entendus que sous réserve des droits et obligations résultant de la Convention générale et des actes particuliers conclus ou à conclure, régissant les dites voies navigables.

ARTICLE 9. — La présente Convention ne fixe pas les droits et les devoirs des belligérants et des neutres en temps de guerre. Néanmoins, elle subsistera en temps de guerre dans la mesure compatible avec ces droits et ces devoirs.

ARTICLE 10. — La présente Convention ne comporte aucunement le retrait de facilités plus grandes que celles résultant de ses dispositions, et qui auraient été accordées, dans des conditions compatibles avec ses principes, à l'aménagement des forces hydrauliques. Elle ne comporte pas davantage l'interdiction d'en accorder à l'avenir de semblables.

ARTICLE 11. — La présente Convention n'affecte en rien les droits et obligations des Etats contractants, en vertu de conventions ou traités antérieurs sur les matières faisant l'objet de la présente Convention, ou de dispositions sur les mêmes matières de traités généraux, notamment des Traités de Versailles, Trianon et autres traités ayant mis fin à la guerre de 1914-1918.

ARTICLE 12. — Si un différend surgit entre Etats contractants, au sujet de l'application ou de l'interprétation de la présente Convention, et si ce différend ne peut être réglé soit directement entre les Parties, soit par tout autre moyen de règlement amiable, les Parties pourront soumettre ce différend pour avis consultatif à l'organe qui se trouverait institué par la Société des Nations comme organe consultatif et technique des Membres de la Société en ce qui concerne les communications et le transit, à moins qu'elles n'aient décidé ou ne décident d'un commun accord de recourir à une autre procédure, soit consultative, soit arbitrale, soit judiciaire.

Les dispositions de l'alinéa précédent ne sont pas applicables au regard de tout Etat qui invoquerait, pour s'opposer à l'aménagement de forces hydrauliques, des motifs fondés sur des préjudices graves à son économie ou à sa sécurité nationales.

ARTICLE 13. — Il est entendu que la présente Convention ne doit pas être interprétée comme réglant en quoi que ce soit les droits et obligations

inter se de territoires faisant partie ou placés sous la protection d'un même Etat souverain, que ces territoires pris individuellement soient ou non Etats contractants.

ARTICLE 14. — Rien, dans les précédents articles, ne pourra être interprété comme affectant en quoi que ce soit les droits et obligations de tout Etat contractant en tant que Membre de la Société des Nations.

ARTICLE 15. — La présente Convention, dont les textes français et anglais feront également foi, portera la date de ce jour, et sera, jusqu'au 31 octobre 1924, ouverte à la signature de tout Etat représenté à la Conférence de Genève, de tout Membre de la Société des Nations et de tout Etat à qui le Conseil de la Société des Nations aura, à cet effet, communiqué un exemplaire de la présente Convention.

ARTICLE 16. — La présente Convention est sujette à ratification. Les instruments de ratification seront transmis au Secrétaire général de la Société des Nations, qui en notifiera le dépôt à tous Etats signataires ou adhérents.

ARTICLE 17. — A partir du 1^{er} novembre 1924, tout Etat représenté à la Conférence de Genève, tout Membre de la Société des Nations et tout Etat auquel le Conseil de la Société des Nations aura, à cet effet, communiqué un exemplaire, pourra adhérer à la présente Convention.

Cette adhésion s'effectuera au moyen d'un instrument communiqué au Secrétaire général de la Société des Nations, aux fins de dépôt dans les archives du Secrétariat. Le Secrétaire général notifiera ce dépôt immédiatement à tous Etats signataires ou adhérents.

ARTICLE 18. — La présente Convention n'entrera en vigueur qu'après avoir été ratifiée au nom de trois Etats. La date de son entrée en vigueur sera le quatre-vingt-dixième jour après la réception, par le Secrétaire général de la Société des Nations, de la troisième ratification. Ultérieurement, la présente Convention prendra effet, en ce qui concerne chacune des Parties, quatre-vingt-dix jours après la réception de la ratification ou de la notification de l'adhésion.

Conformément aux dispositions de l'article 18 du Pacte de la Société des Nations, le Secrétaire général enregistrera la présente Convention le jour de l'entrée en vigueur de cette dernière.

ARTICLE 19. — Un recueil spécial sera tenu par le Secrétaire général de la Société des Nations, indiquant, compte tenu de l'article 21, quelles Parties ont signé ou ratifié la présente Convention, y ont adhéré ou l'ont dénoncée. Ce recueil sera constamment ouvert aux Membres de la Société et publication en sera faite aussi souvent que possible, suivant les indications du Conseil.

ARTICLE 20. — Sous réserve des dispositions de l'article 11 de la présente Convention, celle-ci peut être dénoncée par l'une quelconque des Parties, après l'expiration d'un délai de cinq ans à partir de la date de son entrée en vigueur pour ladite Partie. La dénonciation sera faite sous forme de notification écrite, adressée au Secrétaire général de la Société des Nations. Copie de cette notification, informant toutes les autres Parties de la date à laquelle elle a été reçue, leur sera immédiatement transmise par le Secrétaire général.

La dénonciation prendra effet un an après la date à laquelle elle aura été reçue par le Secrétaire général, et ne sera opérante qu'en ce qui concerne l'État qui l'aura notifiée.

ARTICLE 21. — Tout Etat signataire de la présente Convention ou y adhérant peut déclarer, soit au moment de sa signature, soit au moment de sa ratification ou de son adhésion, que son acceptation de la présente Convention n'engage pas, soit l'ensemble, soit tel de ses protectorats, colonies, possessions ou territoires d'outre-mer soumis à sa souveraineté ou à son autorité, et peut, ultérieurement et conformément à l'article 17, adhérer séparément au nom de l'un quelconque de ses protectorats, colonies, possessions ou territoires d'outre-mer exclus par cette déclaration.

La dénonciation pourra également s'effectuer séparément pour tout protectorat, colonie, possession ou territoire d'outre-mer; les dispositions de l'article 20 s'appliqueront à cette dénonciation.

ARTICLE 22. — La révision de la présente Convention pourra être demandée à toute époque par un tiers des États contractants.

PROTOCOLE DE SIGNATURE DE LA CONVENTION RELATIVE À L'AMÉNAGEMENT
DES FORCES HYDRAULIQUES INTÉRESSANT PLUSIEURS ÉTATS

Au moment de procéder à la signature de la Convention relative à l'aménagement des forces hydrauliques intéressant plusieurs États, conclue à la date de ce jour, les soussignés, dûment autorisés, sont convenus de ce qui suit:

Les dispositions de la Convention ne modifient en aucune manière le droit international en ce qui concerne la responsabilité et les obligations de tout État à l'égard d'un préjudice de quelque nature qu'il soit, qui résulterait de l'exécution de travaux d'aménagement de forces hydrauliques.

Le présent Protocole aura les mêmes force, valeur et durée que la Convention conclue à la date de ce jour, et dont il doit être considéré comme faisant partie intégrante.

En foi de quoi, les Plénipotentiaires susnommés ont signé le présent Protocole.

Fait à Genève, le neuf décembre mil neuf cent vingt-trois, en simple expédition qui sera déposée dans les archives du Secrétariat de la Société des Nations; copie conforme en sera remise à tous les États représentés à la Conférence.

II. TREATIES RELATING TO AFRICAN RIVERS

II. TRAITÉS SE RAPPORTANT AUX FLEUVES AFRICAINS

Belgium—Portugal

3. CONVENTION¹ ENTRE LA BELGIQUE ET LE PORTUGAL CONCERNANT DIVERSES QUESTIONS D'INTÉRÊT ÉCONOMIQUE DANS LES COLONIES DU CONGO BELGE ET DE L'ANGOLA, SIGNÉE À SAINT-PAUL DE LOANDA, LE 20 JUILLET 1927²

. . . .

Article 2. Barrage de la M'Pozo.

Le Gouvernement portugais donne au Gouvernement belge son consentement à ce que, par suite de la construction d'un barrage à établir sur le cours d'eau en territoire congolais, le niveau de la rivière M'Pozo soit relevé dans la partie de celle-ci située en territoire angolais.

Ce consentement est donné aux conditions suivantes acceptées par les deux gouvernements:

1. Le concessionnaire de l'utilisation dudit barrage aura l'obligation de tenir à la disposition du Gouvernement portugais, ou des ressortissants désignés par celui-ci en territoire angolais, une quantité d'énergie électrique égale à 15 p. c. de l'énergie totale produite par le barrage;

2. Lorsque la construction du barrage sera imminente, notification en sera donnée par le gouverneur général du Congo belge au Haut Commissaire de la République, Gouverneur général de l'Angola, qui indiquera la quantité de l'énergie électrique dont il entendra immédiatement disposer, dans les limites fixées ci-dessus;

A défaut de l'avoir fait avant le commencement des travaux, le haut commissaire pourra, à tout époque, adresser au Gouverneur général du Congo belge la même communication, mais celle-ci n'aura d'effet qu'après un délai de deux ans;

3. L'énergie électrique à fournir au Gouvernement portugais sera prise aux bornes de la centrale. Elle sera transportée à destination par des installations de raccordement qui, en territoire congolais, seront établies, aux frais des bénéficiaires, par les soins du concessionnaire de l'utilisation du barrage;

4. Dans les territoires traversés, l'établissement des lignes de transport et les installations destinées à assurer ce transport seront soumis aux dispositions des lois et des règlements locaux;

5. L'énergie électrique en question sera livrée au Gouvernement portugais au prix coûtant. Le prix coûtant comprendra tous les frais de production quelconques et la somme nécessaire à l'amortissement des installations.

Les comptes se régleront périodiquement.

. . . .

¹ L'échange des instruments de ratification a eu lieu à Lisbonne le 2 mars 1928.

² Société des Nations, *Recueil des Traités*, vol. 71, p. 432.

Il est entendu que le Gouvernement portugais ne pourra pas céder le courant en territoire belge, ni le céder en Angola à un prix inférieur à celui que le concessionnaire de l'exploitation du barrage fera à ses propres clients.

Article 5 Toutes les contestations entre les Parties, dérivées de l'interprétation de cette convention, seront résolues par voie d'arbitrage.

. . .

Belgium—United Kingdom

4. AGREEMENT¹ BETWEEN THE BELGIAN GOVERNMENT AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND REGARDING WATER RIGHTS ON THE BOUNDARY BETWEEN TANGANYIKA AND RUANDA-URUNDI, SIGNED AT LONDON, 22 NOVEMBER 1934²

. . .

Desiring to define the water rights in respect of the use of the water of those rivers and streams which form a portion of that part of the boundary between the Tanganyika Territory and Ruanda-Urundi as defined in the Protocol concluded at Kigoma on the 5th August, 1924, and in the Treaty modifying the boundary between the Tanganyika Territory and Ruanda-Urundi signed at London on the 22nd November, 1934, or of any river or stream which flows from the Tanganyika Territory into Ruanda-Urundi and *vice versa*;

Have agreed as follows:

Article 1

Water diverted from a part of a river or stream wholly within the Tanganyika Territory or Ruanda-Urundi shall be returned without substantial reduction to its natural bed at some point before such river or stream flows into the other territory, or at some point before such river or stream forms the common boundary between the two territories.

Article 2

No operations of a mining or industrial nature shall be permitted by either of the Contracting Governments in Tanganyika or Ruandi-Urundi respectively which may in any way lessen or otherwise interfere with existing navigable waters in any other river or stream, part of which forms the common boundary, or with waters in any such river or stream which may become navigable after the completion of this Agreement.

Article 3

No operations of a mining or industrial nature shall be permitted by either of the Contracting Governments in Tanganyika or Ruanda-Urundi respec-

¹ Came into force May 19, 1938, date of the exchange of ratifications which took place at London.

² League of Nations, *Treaty Series*, vol. 190, p. 104.

tively which may pollute or cause the deposit of any poisonous, noxious or polluting substance in the waters of any river or stream forming part of the boundary, between the Tanganyika Territory and Ruanda-Urundi or any tributary river or stream thereof, or in any river or stream flowing from one territory into the other.

Article 4

Each Contracting Government shall have the right to divert, for operations of a mining or industrial nature, at any point along any river or stream where such river or stream forms a common boundary between the two territories, up to a maximum of half the volume of water flowing at such point measured during the season of low water, provided that such water after use shall without substantial reduction be returned to its natural bed.

Article 5

In the event of the exercise of the right of diversion under Article 4, the method for the determination of the flow of water in any river or stream on the aforesaid boundary shall be by sounding and by the use of the current meter, and the point of determination in the said waters shall be the nearest point upstream to the proposed intake where conditions permit of determination by the aforesaid method.

Article 6

In the event of either Contracting Government desiring to utilise the waters of any river or stream on the aforesaid boundary or to permit any person to utilise such water for irrigation purposes, such Contracting Government shall give to the other Contracting Government notice of such desire six months before commencing operations for the utilisation of such waters, in order to permit of the consideration of any objections which the other Contracting Government may wish to raise.

Article 7

All grants of water rights on the aforesaid boundary by either Contracting Government shall be conditional on the grantees installing at or near the point of intake a standard measurement weir or gauge which shall be open to inspection by officials of both Contracting Governments appointed for the purpose of inspecting such weirs and gauges.

Article 8

The officials of either Contracting Government and any of the inhabitants of Tanganyika or Ruanda-Urundi shall be permitted to have access to any point on any river or stream forming the common boundary for any domestic or industrial purpose.

Article 9

Any of the inhabitants of the Tanganyika Territory or of Ruanda-Urundi shall be permitted to navigate any river or stream forming the common boundary and take therefrom fish and aquatic plants and water for domestic purposes and for any purposes conforming with their customary rights.

Article 10

In the event of any dispute arising between the Contracting Governments in respect of any matter covered by this Agreement, the Contracting Gov-

ernments shall refer such matter to such arbitrator or court of arbitration as may be mutually agreed upon.

. . . .

Congo (Independent State of the)—United Kingdom

5. AGREEMENT BETWEEN GREAT BRITAIN AND THE INDEPENDENT STATE OF THE CONGO, MODIFYING THE AGREEMENT SIGNED AT BRUSSELS, MAY 12, 1894, RELATING TO THE SPHERES OF INFLUENCE OF GREAT BRITAIN AND THE INDEPENDENT STATE OF THE CONGO IN EAST AND CENTRAL AFRICA, SIGNED AT LONDON, MAY 9, 1906¹

. . . .

Article III. The Government of the Independent State of the Congo undertake not to construct, or allow to be constructed, any work on or near the Semliki or Isango River, which would diminish the volume of water entering Lake Albert, except in agreement with the Soudanese Government.

. . . .

Article VIII. All disputes which may occur hereafter in connection with the limits of the frontiers of the Independent State of the Congo, including the boundary laid down in the first paragraph of Article II of the present Agreement shall, in the event of the Parties not being able to come to an amicable understanding, be submitted to the arbitration of the Hague Tribunal, whose decision shall be binding on both Parties. . . .

Egypt—Italy

6. ACCORD² ENTRE L'ÉGYPTE ET L'ITALIE CONCERNANT L'ÉTABLISSEMENT DES FRONTIÈRES ENTRE LA CYRÉNAÏQUE ET L'ÉGYPTE, SIGNÉ AU CAIRE, LE 6 DÉCEMBRE 1925³

. . . .

Article 5. L'Italie, en vue de permettre l'approvisionnement d'eau potable aux populations de Sollum, cède à l'Égypte la propriété du puits de Ramla actuellement mis en activité par le Gouvernement italien, ainsi qu'une zone autour du dit puits et une bande de territoire qui, ayant pour direction l'axe de l'Uadi Ramla, suffise à relier ce puits à la frontière égyptienne. . . .

¹ *British and Foreign State Papers*, vol. 99, p. 173.

² Les instruments de ratification ont été échangés à Rome le 25 avril 1933.

³ *British and Foreign State Papers*, vol. 133, p. 976.

Article 6. Il demeure entendu qu'en utilisant l'eau du puits de Ramla, le Gouvernement égyptien devra réserver une quantité d'eau suffisante pour les besoins des populations locales, ressortissantes italiennes, et qui sera déterminée par la commission mixte prévue à l'article 3.

. . .

Egypt—United Kingdom

7. EXCHANGE OF NOTES¹ BETWEEN HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM AND THE EGYPTIAN GOVERNMENT IN REGARD TO THE USE OF THE WATERS OF THE RIVER NILE FOR IRRIGATION PURPOSES. CAIRO, 7 MAY, 1929²

No. 1

MOHAMED MAHMOUD PASHA TO LORD LLOYD

PRÉSIDENCE
DU CONSEIL DES MINISTRES

CAIRO, *May 7, 1929*

EXCELLENCY,

In confirmation of our recent conversations, I have the honour to communicate to your Excellency the views of the Egyptian Government in regard to those irrigation questions which have been the subject of our discussions.

The Egyptian Government agree that a settlement of these questions cannot be deferred until such time as it may be possible for the two Governments to come to an agreement on the status of the Sudan, but, in concluding the present arrangements, expressly reserve their full liberty on the occasion of any negotiations which may precede such an agreement.

2. It is realised that the development of the Sudan requires a quantity of the Nile water greater than that which has been so far utilised by the Sudan. As your Excellency is aware, the Egyptian Government has always been anxious to encourage such development, and will therefore continue that policy, and be willing to agree with His Majesty's Government upon such an increase of this quantity as does not infringe Egypt's natural and historical rights in the waters of the Nile and its requirements of agricultural extension, subject to satisfactory assurances as to the safeguarding of Egyptian interests as detailed in later paragraphs of this note.

3. The Egyptian Government therefore accept the findings of the 1925 Nile Commission, whose report is annexed hereto, and is considered an integral part of the present agreement. They propose, however, that, in view of the delay in the construction of the Gebel Aulia Dam, which, under paragraph 40 of the Nile Commission's Report, is regarded as a counterpart of the Gezira scheme, the dates and quantities of gradual with-

¹ Came into force on 7 May 1929, by exchange of notes.

² League of Nations, *Treaty Series*, vol. 93, p. 44.

drawals of water from the Nile by the Sudan in flood months as given in article 57 of the Commission's Report be modified in such a manner that the Sudan should not withdraw more than 126 cubic metres per second before 1936, it being understood that the schedule contained in the above-mentioned article will remain unaltered until the discharge of 126 cubic metres per second is reached. These quantities are based on the Nile Commission's Report, and are therefore subject to revision as foreseen therein.

4. It is further understood that the following arrangements will be observed in respect of irrigation works on the Nile:

(a) The Inspector-General of the Egyptian Irrigation Service in the Sudan, his staff, or any other officials whom the Minister of Public Works may nominate, shall have the full liberty to co-operate with the Resident Engineer of the Sennar Dam in the measurement of discharges and records to satisfy the Egyptian Government that the distribution of water and the regulation of the dam are carried out in accordance with the agreement reached. Detailed working arrangements agreed upon between the Minister of Public Works and the Irrigation Adviser to the Sudan Government will take effect as from the date of the confirmation of this note.

(b) Save with the previous agreement of the Egyptian Government, no irrigation or power works or measures are to be constructed or taken on the River Nile and its branches, or on the lakes from which it flows, so far as all these are in the Sudan or in countries under British administration, which would, in such a manner as to entail any prejudice to the interests of Egypt, either reduce the quantity of water arriving in Egypt, or modify the date of its arrival, or lower its level.

(c) The Egyptian Government, in carrying out all the necessary measures required for the complete study and record of the hydrology of the River Nile in the Sudan, will have all the necessary facilities for so doing.

(d) In case the Egyptian Government decide to construct in the Sudan any works on the river and its branches, or to take any measures with a view to increasing the water supply for the benefit of Egypt, they will agree beforehand with the local authorities on the measures to be taken for safeguarding local interests. The construction, maintenance and administration of the above-mentioned works shall be under the direct control of the Egyptian Government.

(e) His Britannic Majesty's Government in the United Kingdom of Great Britain and Northern Ireland shall use their good offices so that the carrying out of surveys, measurements, studies and works of the nature mentioned in the two preceding paragraphs is facilitated by the Governments of those regions under British influence.

(f) It is recognised that in the course of the operations here contemplated uncertainty may still arise from time to time either as to the correct interpretation of a question of principle or as to technical or administrative details. Every question of this kind will be approached in a spirit of mutual good faith.

In case of any difference of opinion arising as to the interpretation or execution of any of the preceding provisions, or as to any contravention thereof, which the two Governments find themselves unable to settle, the matter shall be referred to an independent body with a view to arbitration.

5. The present agreement can in no way be considered as affecting the

control of the river, which is reserved for free discussion between the two Governments in the negotiations on the question of the Sudan.

ENCLOSURE IN NO. 1

REPORT OF THE NILE COMMISSION, 1925

. . . .

The appointment of the Commission arose from an exchange of notes dated the 26th January, 1925, between His Britannic Majesty's High Commissioner for Egypt and the President of the Egyptian Council of Ministers, in which it was agreed that a Commission should be appointed "for the purpose of examining and proposing the basis on which irrigation can be carried out with full consideration of the interests of Egypt and without detriment to her natural and historic rights."¹

. . . .

10. The greater part of the culturable land of the Sudan either possesses an adequate rainfall or is inaccessible by canals. The only considerable area suitable for canal irrigation is the triangular tract between the Blue and White Niles with its apex at Khartum and extending as far south as the Sennar-Kosti Railway. From 1905 onwards the possibility of irrigating some portion of this area had been under consideration; and in 1913 a scheme was prepared for the irrigation of 100,000 feddans by means of a canal fed from the natural flow of the Blue Nile, the required levels being given by a barrage at Makwar. It was then believed that such a scheme would permit of the cotton crop being matured without detriment to Egyptian interests. Further experience of agricultural conditions, however, and the occurrence of the exceptionally low river of 1913-14, showed that this was impossible, and that the scheme should comprise a storage dam, and not merely a diversion barrage. With the addition of a reservoir for the storage of water abstracted from the natural flow during the flood season, it was calculated that the area could be increased to 300,000 feddans without the need for taking water from the river at low stage, and that such an increase of area was necessary to off-set the extra cost of the dam. The scheme was recast on these lines, but progress was interrupted by the war.

11. Simultaneously, the Egyptian Government had been considering the construction of a dam on the White Nile at Gebel Aulia, near Khartum, for the dual purpose of controlling high floods which threatened damage to Egypt, and of storing water for use during the summer season in Egypt. This scheme was also delayed by the war, though some work was actually executed during the years 1917-20.

12. The resumption of progress on both of these projects after the war was accompanied by vigorous public discussion and criticism in Egypt, directed chiefly against the accuracy of the data on which they were based. As a result of this the Egyptian Government in January 1920 appointed a Commission of Enquiry, known as the Nile Projects Commission, composed of three members, nominated by the Government of India, the University of Cambridge and the Government of the United States. The terms of reference to the Commission were as follows:

The Commission is requested to give to the Egyptian Government its opinion of the projects prepared by the Ministry of Public Works with a view to the further regulation of the Nile supply for the benefit of Egypt and the Sudan. . .

The projects were those described in a publication of the Egyptian Government entitled "Nile Control", and comprised the two dams already mentioned, a barrage in Upper Egypt, conservation works in the "Sadd" region and storage reservoirs in the Great Lakes.

13. The report of the Nile Projects Commission, which was published in 1921, found that the projects were based on reliable data, and advocated their execution. In view, however, of the estimated heavy cost of the Gebel Aulia Dam and its complementary works, the Egyptian Government decided in May 1921 to suspend all operations in connexion with this project. The Sudan Government, on the other hand, in view of the favourable report, decided to continue work on the Gezira Irrigation Scheme.

. . .

16. The immediate programme of works outlined in "Nile Control" consisted of the following items:

- (a) The Gebel Aulia Dam to provide additional water for Egypt.
- (b) The Makwar Dam, or, as it is now called, the Sennar Dam, with a canal system to irrigate 600,000 feddans in the Sudan Gezira.
- (c) A barrage at Nag-Hamadi in Upper Egypt.

For various reasons, first the war, and then financial and other difficulties, no progress has been made with items (a) and (c). On the other hand, item (b) has been carried to completion, and came into operation in July 1925. The cost of this work has greatly exceeded the original estimates, and the Sudan Government, who are responsible for its financial results, desire to extend the area so as to reduce the risk of financial failure, and generally to develop still further the resources of the country.

. . .

19. The Nile Projects Commission of 1920 had been requested to examine and to give its opinion on certain projects then under construction or under consideration by the Ministry of Public Works. A less specific charge has been laid upon the present Commission, which has been asked only to propose a basis for irrigation in which full consideration should be given to the rights and interests of Egypt. The Commission was thus left free to choose its own ground, to decide how far and in what direction its investigations should be carried, and the form which its proposals should take.

. . .

21. Precedents in this matter of water allocation are rare and practice varied; and the Commission is aware of no generally adopted code or standard practice upon which the settlement of a question of inter-communal water allocation might be based. Moreover, there are in the present case special factors, historical, political and technical, which might render inappropriate too strict an application of principles adopted elsewhere.

The Commission, having regard to the previous history of the question, the present position as regards development, and the circumstances attending its own appointment, decided to approach its task with the object of devising a practical working arrangement which would respect the needs of established irrigation, while permitting such programme of extension as might be feasible under present conditions and those of the near future, without at the same time compromising in any way the possibilities of the more distant future.

22. The arrangement contemplated aims at interpreting in definite and technical terms the intentions of the note quoted in the opening paragraph of this Report, wherein it was explained that in authorising extensions of irrigation in the Sudan "the British Government, however solicitous for the prosperity of the Sudan, have no intention of trespassing upon the natural and historic rights of Egypt in the waters of the Nile, which they recognise to-day no less than in the past." The Commission has every hope that its proposals, framed in this spirit, and after full study of the technical aspects of the problem, may form an acceptable basis upon which, by harmonious and co-operative effort, the irrigation development of the future may be founded, and by which all existing rights may be perpetually safeguarded.

37. There is another matter which the Commission had to consider in connexion with the method of handling the problem submitted to it. The greater part of Upper Egypt is under basin irrigation, largely dependent on natural flood levels in the river, and only partially protected by barrages. Any abstraction of water in flood time in the Sudan must affect these levels to the detriment of the basin irrigation, and therefore to admit that the lands in question have an absolute right to undiminished natural levels must preclude any abstraction of water by the Sudan.

38. The Commission felt that in the circumstances it was impossible either, on the one hand, to postpone indefinitely all progress in the Sudan, or, on the other, to damage seriously, by precipitate action or by excessive abstraction, the basins of Upper Egypt. It was accordingly decided to take the line that consideration of levels could not be carried to the point of precluding development in the Sudan, but only to the point of setting a limit to the extent and rate of this development.

41. Finally, the Commission considered whether it must regard the completed Gezira Scheme as having an irrevocable right to take water to the extent and under the conditions provided for in "Nile Control". There was the possibility that the Commission's examination of the statistics, including those of the years which had elapsed since the scheme was initiated, might lead to conclusions other than those of "Nile Control". At the same time, the scheme had been undertaken and practically completed after full examination of the question, not only by the Egyptian authorities, but by the Nile Projects Commission; and the Sudan Government had entered into certain commitments on the basis of the original water allotment. The Commission felt that in these circumstances any reduction in the volumes available for this scheme would raise issues with which, as a

technical body, it would not be concerned. The detailed investigation of the basis of the original scheme by the methods adopted by the Commission has, however, shown, as will be seen later, that no serious divergence exists between the results of the present investigations and those previously arrived at.

. . .

56. It has always been recognised that a lowering of levels in Upper Egypt, with consequent increased difficulty of filling the basins, must result from the working of the Gebel Aulia and Gezira schemes. The basins in the Sudan will be similarly affected. The present Commission is not disposed to enter into an argument on general principles as to how far the maintenance of levels can be regarded as an established right.

Approaching the matter as a body of engineers invited to advise on a practical question, the Commission considers that development or conservation works in the upper part of the river should not be indefinitely restricted by considerations of the natural levels lower down, but that the Sudan should accept a limited rate of progress, so as to afford Egypt the opportunity to overtake the effect of development in the Sudan by construction of the works which formed her part of the original programme.

. . .

Summary

88. The Commission's main findings may be summarised as follows:

(a) The natural flow of the river should be reserved for the benefit of Egypt from the 19th January to the 15th July (at Sennar), subject to the pumping in the Sudan as defined below.

(b) The Gezira Canal may begin to draw on the natural flow of the river on the 16th July, the canal being gradually raised to full supply level by the 31st July, according to the scale fixed in "Nile Control", contained in Appendix D, provided that a mean total discharge of 160 million cubic metres a day must have been reached at Sennar and Malakal during the preceding five days, allowing for ten days' lag in the case of the latter.

(c) From the 1st August to the 31st December the Gezira Canal may, subject to the progressive scale laid down in paragraph 57 of this Report, draw the following volumes from the river:

The 1st August to 30th November, 168 cubic metres a second;

The 1st to 31st December, 160 cubic metres a second, provided that, in any year in which the total flow of the natural river in December as at Aswan is less than 4,700 million cubic metres, 80 cubic metres a second shall be taken from the natural river during the whole of December, and the balance shall be taken from the natural river up to a date preceding the end of the month by three days for every 400 million cubic metres by which the actual total December natural river in that year falls short of 4,700 million cubic metres.

(d) The Gezira Canal may not draw during the month of January more than the volumes provided in "Nile Control", i.e., 80 cubic metres a second from the 1st to 15th, and 52 cubic metres a second from the 16th to 18th, a total of 117 million cubic metres.

(e) The final filling of the Sennar Reservoir from the level required to give full supply in the canal to the full storage level of the reservoir should be carried out in November, as provided in " Nile Control ".

(f) Any further flood pumping carried out in the Sudan up to the end of February should be considered as drawing its supply from the Sennar Reservoir after the 31st December. In other words, a volume equal to that consumed on these areas after the 31st December, according to ascertained data, should be discharged from the reservoir as compensation to Egypt, and the Sennar Reservoir should be worked so as to provide the additional storage required to cover the compensation volumes as above.

(g) After the end of February only perennial pumping, as referred to in paragraph 81, should be carried out in the Sudan.

Conclusion

89. The Commission foresees that it will be necessary from time to time to review the questions discussed in this Report. It regards it as essential that all established irrigation should be respected in any future review of the question. In particular, the Sudan should only take from the natural river in January, exclusive of pumping rights as now existing, the " Nile Control " volume of 117 million cubic metres. All other requirements till July should be provided by the Sudan from storage or other conservation works.

90. The Commission has been impressed by the fact that future development in Egypt may require the construction of works in the Sudan and neighbouring territories, such as Uganda, Kenya and Tanganyika, and it feels that Egypt should be able to count on receiving all assistance from the administrative authorities in the Sudan in respect of schemes undertaken in the Sudan, as well as from the British Government in any questions concerning the neighbouring territories.

91. The Commission has endeavoured to find a practical and workable basis for irrigation, and to foresee, and, as far as possible, to provide for, any difficulties that may arise in the future. But it is aware that doubtful points may well arise in the interpretation of any document, and that differences of opinion as to fact cannot fail to occur from time to time in such matters as the volumes of water flowing in a river or canal, discharged through sluices, or lost by evaporation or seepage. It does not feel called upon to make proposals with regard to special arrangements for dealing with such doubts and differences, which seem to be outside the sphere of a technical commission. It does, however, desire to record emphatically the view that neither the elaborate drafting of an agreement nor the provision of special machinery for adjudication should be allowed to obscure the importance of mutual confidence and co-operation in all matters concerning the river and its waters.

92. Finally, the Commission desires to draw attention to the very great importance of continued study of the river and systematic record of the statistics. A very good hydrological organisation has been built up, and its continued efficiency is absolutely essential, not only to fresh development work, but also to the correct working of the arrangements proposed in this Report, or, indeed, of any other arrangements that could be devised.

CAIRO, *March 21, 1926.*

No. 2

LORD LLOYD TO MOHAMED MAHMOUD PASHA

THE RESIDENCY, CAIRO, *May 7, 1929*

SIR,

I have the honour to acknowledge receipt of the note which your Excellency has been good enough to address to me to-day.

2. In confirming the arrangements mutually agreed upon as recited in your Excellency's note, I am to express the gratification of His Britannic Majesty's Government in the United Kingdom of Great Britain and Northern Ireland that these discussions have led to a settlement which cannot fail to facilitate development and to promote prosperity in Egypt and the Sudan.

3. His Majesty's Government in the United Kingdom concur in your Excellency's view that this agreement is, and should be, essentially directed towards the regulation of irrigation arrangements on the basis of the Nile Commission Report, and has no bearing on the *status quo* in the Sudan.

4. In conclusion, I would remind your Excellency that His Majesty's Government in the United Kingdom have already acknowledged the natural and historical rights of Egypt in the waters of the Nile. I am to state that His Majesty's Government in the United Kingdom regard the safeguarding of those rights as a fundamental principle of British policy, and to convey to your Excellency the most positive assurances that this principle and the detailed provisions of this agreement will be observed at all times and under any conditions that may arise.

7. TREATY OF ALLIANCE¹ BETWEEN HIS MAJESTY, IN RESPECT OF THE UNITED KINGDOM, AND HIS MAJESTY THE KING OF EGYPT, SIGNED AT LONDON ON 26 AUGUST, 1936²

LETTER ATTACHED TO THE TREATY

Sir Miles Lampson to Moustapha El-Nahas Pacha

The Residency, Ramleh,
August 12, 1936

SIR,

In the course of discussions on questions of detail, arising out of paragraph 2 of Article 11, the suggestion for the secondment of an Egyptian economic expert for service at Khartum, and the Governor-General's wish to appoint an Egyptian officer to his personal staff as military secretary, were noted and considered acceptable in principle. It was also considered

¹ Ratifications exchanged at Cairo, December 22, 1936.

² *American Journal of International Law*, Supplement, vol. 31, 1937, p. 77.

desirable and acceptable that the Inspector-General of the Egyptian Irrigation Service in the Sudan should be invited to attend the Governor-General's Council when matters relating to his departmental interests were before the Council.

I avail, etc.

Miles W. Lampson,
High Commissioner

9. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF EGYPT REGARDING THE CONSTRUCTION
OF THE OWEN FALLS DAM, UGANDA, CAIRO, 30 AND
31 MAY 1949²

I

*His Majesty's Ambassador at Cairo to the Egyptian Minister for Foreign Affairs
ad interim*

BRITISH EMBASSY

Cairo, 30th May, 1949

Monsieur le Président du Conseil,

I have the honour to recapitulate below the points on which His Majesty's Government in the United Kingdom and the Royal Egyptian Government have reached agreement concerning the construction and administration of the dam to be erected at Owen Falls in Uganda:

"The Royal Egyptian Government and His Britannic Majesty's Government, in accordance with the spirit of the Nile Waters Agreement of 1929, have agreed to the construction of a dam at Owen Falls in Uganda for the production of hydro-electric power and for the control of the waters of the Nile.

"2. Plans and specifications for this work have been prepared in full consultation between and approved by the Egyptian Ministry of Public Works and Uganda authorities. The Royal Egyptian Government and His Britannic Majesty's Government have accordingly agreed to entrust to the Uganda Electricity Board the issue of an invitation for tenders and the placing of contracts in agreement with these plans and specifications.

"3. The contracts will be submitted to the two Governments who will examine them promptly and indicate their joint approval of them by formal Notes exchanged between each other and notify at once the Government of Uganda.

"4. The two Governments have also agreed that though the construction of the dam will be the responsibility of the Uganda Electricity

¹ Came into force on 31 May 1949, by the exchange of the said notes.

² United Nations, *Treaty Series*, vol. 226, p. 274.

Board, the interests of Egypt will, during the period of construction, be represented at the site by an Egyptian resident engineer of suitable rank and his staff stationed there for the purpose by the Royal Egyptian Government, to whom all facilities will be given for the accomplishment of their duties. Furthermore, the two Governments have agreed that although the dam when constructed will be administered and maintained by the Uganda Electricity Board, the latter will regulate the discharges to be passed through the dam on the instructions of the Egyptian resident engineer to be stationed with his staff at the dam by the Royal Egyptian Government for this purpose in accordance with arrangements to be agreed between the Egyptian Ministry of Public Works and the Uganda authorities pursuant to the provisions of agreements to be concluded between the two Governments.

“ 5. The two Governments also recognise that during and after the construction of the dam, the Uganda Electricity Board may take any action at Owen Falls which it may consider desirable provided that this action does not entail any prejudice to the interests of Egypt in accordance with the Nile Waters Agreement of 1929 and does not adversely affect the discharges of water to be passed through the dam in accordance with the arrangements to be agreed between the two Governments. The Egyptian Ministry of Public Works and the Uganda Electricity Board will consult together on matters of mutual interest. Any difference of opinion which may arise, however, in connexion with the control of the water or with the generation of hydro-electric power will be a matter for discussion and settlement in a spirit of friendly co-operation between them. If these authorities find themselves unable to settle it, the matter will be referred to arbitration in accordance with arrangements to be agreed between the two Governments.”

I have the honour to propose that if the Royal Egyptian Government agrees, this Note and your Excellency's reply should constitute a formal agreement between our two Governments, regarding the dam at Owen Falls and the works connected therewith.

. . .

II

The Egyptian Minister for Foreign Affairs ad interim to His Majesty's Ambassador at Cairo

MINISTRY OF FOREIGN AFFAIRS

Cairo, 31st May, 1949

Your Excellency,

I have the honour to acknowledge receipt of your Excellency's letter of the 30th of May, 1949, which recapitulates the points on which the Royal Egyptian Government and His Britannic Majesty's Government have agreed on the subject of the construction and administration of the dam to be built at the Owen Falls in Uganda. These points, in the English text, are as follows:

[See note I]

In reply, I have the honour to inform your Excellency that the Royal Egyptian Government agrees that the exchange of the two Notes, that under reference and the present one, constitute a formal agreement between our two Governments on the subject of the Owen Falls dam.

. . .

10. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF EGYPT REGARDING THE CONSTRUCTION OF THE OWEN FALLS DAM, UGANDA. CAIRO, 5 DECEMBER 1949²

I

*His Majesty's Ambassador at Cairo to the Egyptian Minister for Foreign Affairs
ad interim*

BRITISH EMBASSY

Cairo, 5th December, 1949

Monsieur le Ministre,

I have the honour to refer to my Note of the 30th May, and to the reply of the then Minister for Foreign Affairs *ad interim* of the 31st May which Notes constituted a formal agreement between our two Governments regarding the proposed dam at Owen Falls and the works connected therewith.

The third point of this agreement provided that the Royal Egyptian Government and His Majesty's Government in the United Kingdom would examine promptly contracts placed by the Uganda Electricity Board and would indicate their joint approval of them by formal Notes exchanged between each other.

As your Excellency is aware, the Uganda Electricity Board has now awarded the contract for the construction of the dam and hydro-electric power station at Owen Falls to a group headed by Christiani and Nielsen, Limited, comprising:

Dorman, Long and Company, Limited;
Edmund Nuttall, Sons and Company (London), Limited;
Hollandsche Beton Maatschappij, N/V;
Internationale Gewapendbeton Bouw, N/V;
K. L. Kier and Company (London), Limited;
Nederlandsche Aanneming Maatschappij, N/V, late firm, H. F. Boersma;
Nederlandsche Beton Maatschappij, "Bato," N/V.

The amount of the contract is £3,639,540 5s. 0d.

As your Excellency is also aware, the Uganda Electricity Board has

¹ Came into force on 5 December 1949, by the exchange of the said notes.

² United Nations, *Treaty Series*, vol. 226, p. 280.

further awarded a contract for ironwork to Messrs. Glenfield and Kennedy, to the amount of £124,866.

On instructions from His Majesty's Principal Secretary of State for Foreign Affairs, I now have the honour to inform your Excellency that His Majesty's Government in the United Kingdom approve these contracts. If the Royal Egyptian Government also approve them, your Excellency's reply in that sense and this Note will constitute the exchange of formal Notes referred to in paragraph 2 above. I should be happy to arrange for the Government of Uganda to be notified accordingly.

II

The Egyptian Minister for Foreign Affairs ad interim to His Majesty's Ambassador at Cairo

MINISTRY OF FOREIGN AFFAIRS

Cairo, 5th December, 1949

Your Excellency,

I have the honour to acknowledge receipt of your Excellency's Note of the 5th of December, in which you inform me that His Majesty's Government has approved the award of two contracts, viz:—

(1) The first concerns the building of the dam and the hydro-electric power station at the Owen Falls which the Uganda Electricity Board has awarded to the group led by Christiani & Nielsen, Limited, to the amount of £3,639,540 5s. 0d. This group comprises:

Dorman, Long and Company, Limited;
 Edmund Nuttall, Sons & Company (London), Limited;
 Hollandsche Beton Maatschappij, N/V;
 Internationale Gewapendbeton Bouw, N/V;
 K. L. Kier & Company (London), Limited;
 Nederlandsche Aanneming Maatschappij, N/V, late firm N. F. Boersma;
 Nederlandsche Beton Maatschappij, "Bato," N/V.

(2) The other concerns the iron-work for the sluices of the said dam awarded to Glenfield & Kennedy to the amount of £124,866.

In accordance with the terms of the third clause in the formal Agreement between our two Governments, constituted by the Exchange of Notes, that of your Excellency of the 30th of May 1949, and that of his Excellency the Egyptian Minister for Foreign Affairs *ad interim* of the 31st May, 1949, I have the honour to inform your Excellency that the Royal Egyptian Government approve the above mentioned award of these two contracts and I therefore request you to be kind enough to consider the exchange of my present Note and yours under reference as constituting on the part of our two Governments the necessary formal approval. I also note that your Excellency will be good enough to notify the Government of Uganda of this agreement.

11. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND (ON BEHALF OF THE GOVERNMENT OF UGANDA) AND OF THE GOVERNMENT OF EGYPT REGARDING CO-OPERATION IN METEOROLOGICAL AND HYDROLOGICAL SURVEYS IN CERTAIN AREAS OF THE NILE BASIN. CAIRO, 19 JANUARY, 28 FEBRUARY AND 20 MARCH 1950²

I

The Egyptian Minister for Foreign Affairs to His Majesty's Ambassador at Cairo

MINISTRY OF FOREIGN AFFAIRS

Cairo, 19th January, 1950

Your Excellency,

I have the honour to inform your Excellency that during last November official discussions took place in Uganda between the representatives of the Egyptian Ministry of Public Works and the appropriate departments of the Uganda Government with a view to organising the recording of meteorological and hydrological information about the Equatorial Lakes.

In view of the importance and the ever-growing need for Egypt to collate all possible data about the Lakes the Ministry of Public Works intends to take urgent measures to draw up a plan for research, observation, and meteorological and hydrological recording on a much more comprehensive scale than has been undertaken so far.

As a result of these discussions the Government of Uganda, which has already set up a special Department to collect and record hydrological data in Uganda, intends to extend this work and to include both the collection of hydrological data from all the areas of the basin which feeds the Nile, whether in the East African territories or in the Belgian Congo and which are marked on the attached map and the gathering of certain additional data concerning Lake Victoria which are not at present collected by any other organisation.

In addition, the Royal Egyptian Government will be pleased to co-operate in this field with the Government of Uganda in accordance with the following conditions:—

1. The Egyptian Government agree that the Government of Uganda should take on the services of M. Winny, as well as make use of the equipment at present in Uganda.

2. All the meteorological and hydrological data and information collected by the Hydrological Department of Uganda for the observation posts marked on the attached map will be supplied to the Egyptian Government.

¹ Came into force on 20 March 1950, with effect from 1 March 1950, in accordance with the terms of the said notes.

² United Nations, *Treaty Series*, vol. 226, p. 288.

Moreover, these posts may be changed and their number increased or reduced from time to time after consultation with the Ministry of Public Works.

3. The Resident Egyptian Engineer at the Owen Falls Dam and his assistants, who will be established at Jinja, shall have access to all the posts which are in Uganda in order to undertake periodical inspections to assure themselves that the posts are being satisfactorily maintained and the observations regularly collected.

4. The Royal Egyptian Government agree to contribute to the expenses incurred in obtaining and calculating the meteorological and hydrological data and information mentioned above an annual sum of £E.4,200 which, if the circumstances warrant it, shall be subject to a revision to be mutually agreed and may be increased to a maximum figure of £E.4,500.

5. In due course an evaluating station will be established similar to that existing by the Delta Barrage.

Until this can be done, the measurements of the current will continue to be sent to Egypt, preferably by air courier, for purposes of evaluation.

6. The 1st of March, 1950, is proposed as a suitable date for the entry into force of the new arrangement.

7. The official Exchange of Notes to this effect shall constitute an Agreement between the two Governments.

. . . .

II

His Majesty's Ambassador at Cairo to the Egyptian Minister for Foreign Affairs

BRITISH EMBASSY

Cairo, 28th February, 1950

Monsieur le Ministre,

I have the honour to refer to your Excellency's Note of 19th January in which you requested me to advise the Government of Uganda that the Royal Egyptian Government would be prepared to co-operate with that Government in meteorological and hydrological surveys in certain specified areas of the Nile Basin on the following conditions:

[See note I]

At the request of the Governor of Uganda, and on instructions from His Majesty's Principal Secretary of State for Foreign Affairs, I now have the honour to inform your Excellency that the Government of Uganda agree to co-operate in this matter with the Royal Egyptian Government on the conditions as set out above. If the Royal Egyptian Government confirm that they are also in agreement, your Excellency's reply in that sense and this Note will constitute the exchange of formal notes referred to in subparagraph 7 of your Excellency's Note under reference.

. . . .

III

The Egyptian Minister for Foreign Affairs to His Majesty's Ambassador at Cairo

MINISTRY OF FOREIGN AFFAIRS

Cairo, March 20, 1950

Your Excellency,

I have the honour to acknowledge receipt of your Excellency's Note of the 28th of February, 1950, in which you were kind enough to convey to me the agreement of the Government of Uganda to co-operate with the Royal Egyptian Government for the purpose of organising the collation of meteorological and hydrological data concerning the Equatorial Lakes in accordance with the conditions described in our Note of January 19, 1950.

In reply, I have the honour to inform your Excellency that the Royal Egyptian Government agree that the Exchange of the two Notes, that under reference and the present one, constitute a formal agreement to this effect between the Royal Egyptian Government and the Government of Uganda.

. . .

12. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF EGYPT REGARDING THE CONSTRUCTION OF THE OWEN FALLS DAM IN UGANDA. CAIRO, 16 JULY 1952 AND 5 JANUARY 1953²

I

The Egyptian Minister for Foreign Affairs to Her Majesty's Chargé d'Affaires at Cairo

MINISTRY FOR FOREIGN AFFAIRS

Cairo, July 16, 1952

M. le Ministre,

I have the honour to transmit herewith a draft agreement on the subject of the construction of the Owen Falls Dam in Uganda, and to propose, subject to approval, that the present draft agreement and your reply thereto constitute a formal agreement between our two Governments.

. . .

ENCLOSURE

The Royal Egyptian Government

- (i) Will bear that part of the cost of the dam at Owen Falls which is neces-

¹ Came into force on 5 January 1953, by the exchange of the said notes.

² United Nations, *Treaty Series*, vol. 207, p. 278.

situated by the raising of the level of Lake Victoria and by the use of Lake Victoria for the storage of water;

(ii) Will bear the cost of compensation in respect of interests affected by the implementation of the scheme or, in the alternative, the cost of creating conditions which shall afford equivalent facilities and amenities to those at present enjoyed by the organisations and persons affected, and the cost of such works of reinstatement as are necessary to ensure a continuance of the conditions obtaining before the scheme comes into operation, such costs to be calculated in accordance with arrangements to be agreed between our two Governments;

(iii) Will pay to the Uganda Electricity Board the sum of £980,000 as compensation for the consequential loss of hydro-electric power, such payment to be made on the date when power for commercial sale is first generated at the Owen Falls;

(iv) Agrees that, for the purpose of the calculation of the compensation under the provisions of sub-paragraph (ii), all new flooding around Lake Victoria within the agreed range of three metres shall be deemed to be due to the implementation of the scheme.

II

Her Majesty's Ambassador at Cairo to the Egyptian Minister for Foreign Affairs

BRITISH EMBASSY

Cairo, January 5, 1953

Monsieur le Ministre,

With reference to the letter of July 16 addressed to Mr. M. J. Creswell by Maître Hussein Sirry concerning financial arrangements which will arise out of participation by the Royal Egyptian Government in the Owen Falls Scheme in Uganda, I have the honour to confirm that the text proposed by the Royal Egyptian Government is acceptable to Her Majesty's Government in the United Kingdom and that Maître Sirry's letter under reference and this reply will constitute a formal accord between our two Governments.

2. I also confirm that the text should read as follows:—

[*As in enclosure to No. I*]

. . .

Ethiopia—United Kingdom

13. TREATY¹ BETWEEN ETHIOPIA AND THE UNITED KINGDOM, RELATIVE TO THE FRONTIERS BETWEEN THE ANGLO-EGYPTIAN SUDAN, ETHIOPIA, AND ERITREA, SIGNED AT ADDIS ABABA, MAY 15, 1902²

. . .

¹ Came into force at Addis Ababa on 28 October 1902, by the exchange of ratifications.

² *British and Foreign State Papers*, vol. 95, p. 467.

Article III. His Majesty the Emperor Menelek II, King of Kings of Ethiopia, engages himself towards the Government of His Britannic Majesty not to construct, or allow to be constructed, any work across the Blue Nile, Lake Tsana, or the Sobat which would arrest the flow of their waters into the Nile except in agreement with His Britannic Majesty's Government and the Government of the Sudan.

. . .

14. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF ETHIOPIA AMENDING THE DESCRIP-
TION OF THE KENYA-ETHIOPIA BOUNDARY. ADDIS
ABABA, 29 SEPTEMBER 1947²

I

Mr. H. L. Farquhar to Blatta Zeoudie Belaineh

BRITISH LEGATION

Addis Ababa, 29th September, 1947

Your Excellency,

In accordance with instructions from His Majesty's Principal Secretary of State for Foreign Affairs, I have the honour to inform Your Excellency that His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland have considered the *Procès-Verbal* of the Fifth Meeting between Delegations from Ethiopia and Kenya held at Addis Ababa on 14th May, 1947, embodying the agreed recommendations of the two Delegations for the amended description of the boundary between Ethiopia and Kenya as originally described in the Agreement signed at Addis Ababa on 6th December, 1907.

. . .

3. His Majesty's Government in the United Kingdom also confirm their acceptance of the following understandings agreed by the Delegations:

(i) *Malka Murri*.—As stated in the minutes of the fourth meeting of the Delegates on 13th May, the Boundary Commissioners, in making their decision with regard to the demarcation of the boundary at Malka Murri, will take into account the most suitable arrangements for the supply of water to the Police Posts on both sides, and for the watering of the stock of the tribesmen from both Ethiopian and British territory.

. . .

(iv) *Grazing and Watering*.—In accordance with the understanding expressed at the meeting of the Delegations on 10th May, the provisions of

¹ Came into force on 29 September 1947, by the exchange of the said notes.

² United Nations, *Treaty Series*, vol. 82, p. 192.

the 1907 Agreement with regard to grazing and watering shall be abrogated.

. . .

5. I have the honour to request that Your Excellency will inform me whether the Ethiopian Government likewise approve and confirm their acceptance of the understandings set forth in paragraph 3 and of the proposals in paragraph 4 of this Note. In that event, the present Note and Your Excellency's reply in this sense will be regarded as constituting an agreement between His Majesty's Government in the United Kingdom and the Government of Ethiopia to this effect. . . .

II

Blatta Zeoudie Belaineh to Mr. H. L. Farquhar

MINISTRY OF FOREIGN AFFAIRS

Addis Ababa, 29th September 1947

Excellency,

I have the honour to acknowledge the receipt of your Note of even date, in which you inform me that His Majesty's Government in the United Kingdom have considered the *Procès-Verbal* of the Fifth Meeting between the Delegations of Ethiopia and of Kenya held at Addis Ababa on 14th May, 1947, and approve the recommendations of the Delegations which are set forth in the initialled annex hereto as replacing the description of the boundary line embodied in the Agreement signed at Addis Ababa on 6th December, 1907.

. . .

[See note I, paragraph 3]

. . .

5. It is, therefore, understood that the present Exchange of Notes constitutes an agreement between the Imperial Ethiopian Government and His Majesty's Government in the United Kingdom. . . .

. . .

France—Spain

15. CONVENTION¹ ENTRE LA FRANCE ET L'ESPAGNE POUR LA DÉLIMITATION DES POSSESSIONS FRANÇAISES ET ESPAGNOLES SUR LA CÔTE DU SAHARA ET SUR LA CÔTE DU GOLFE DE GUINÉE, SIGNÉE À PARIS, LE 27 JUIN 1900²

. . .

¹ Les instruments de ratification ont été échangés à Paris, le 22 mars 1901.

² *British and Foreign State Papers*, vol. 92, p. 1014.

Article V. . . . La navigation et la pêche seront libres pour les ressortissants français et espagnols dans les rivières Mouni et Outemboni.

La police de la navigation et de la pêche dans ces rivières, dans les eaux territoriales françaises et espagnoles aux abords de l'entrée de la rivière Mouni, ainsi que les autres questions relatives aux rapports entre frontaliers, les dispositions concernant l'éclairage, le balisage, l'aménagement et la jouissance des eaux, feront l'objet d'arrangements concertés entre les deux Gouvernements. . .

. . .

France—United Kingdom

16. AGREEMENT¹ BETWEEN THE GOVERNMENTS OF GREAT BRITAIN AND FRANCE WITH REGARD TO THE SOMALI COAST. LONDON, FEBRUARY 2 AND 9, 1888²

No. 1

M. Waddington to the Marquess of Salisbury

Londres, le 2 février 1888

Monsieur le Marquis,

Le Gouvernement de la République Française et le Gouvernement de Sa Majesté Britannique étant désireux d'arriver à un accord relativement à leurs droits respectifs dans le Golfe de Tadjourah et sur la Côte Somali, j'ai eu l'honneur d'entretenir votre Seigneurie à plusieurs reprises de cette question. Après un échange amical de vues nous sommes tombés d'accord hier sur les Arrangements suivants:

1. Les Protectorats exercés ou à exercer par la France et la Grande-Bretagne seront séparés par une ligne droite partant d'un point de la côte situé en face des puits d'Hadou et dirigée sur Abassouën en passant à travers les dits puits; . . .

. . . Il est expressément convenu que l'usage des puits d'Hadou sera commun aux deux parties. . . .

No. 2

The Marquess of Salisbury to M. Waddington

FOREIGN OFFICE

February 9, 1888

Monsieur l'Ambassadeur,

I have the honour to acknowledge the receipt of your Excellency's note of the 2nd instant, reciting the Arrangement upon which we have agreed with regard to the respective rights of Great Britain and France in the Gulf of Tadjourra and on the Somali Coast.

¹ Came into force on 9 February 1888, by the exchange of the notes.

² *British and Foreign State Papers*, vol. 83, p. 672.

The provisions of this Arrangement are as follows:

1. The Protectorates exercised, or to be exercised, by Great Britain and France shall be separated by a straight line starting from a point on the coast opposite to the wells of Hadou, and passing through the said wells to Abassouen; . . .

. . . It is expressly agreed that the use of the wells of Hadou shall be common to both parties. . . .

17. ARRANGEMENT¹ BETWEEN GREAT BRITAIN AND FRANCE,
FIXING THE BOUNDARY BETWEEN THE BRITISH AND
FRENCH POSSESSIONS ON THE GOLD COAST, SIGNED
AT PARIS, JULY 12, 1893²

. . . .

Article 5. It is agreed that the inhabitants of French villages who, previously to the conclusion of this Agreement, enjoyed the right of fishing on the Tanoë or Tendo River shall continue to enjoy that right subject to local regulations.

. . . .

18. EXCHANGE OF NOTES³ BETWEEN THE UNITED KINGDOM
AND FRANCE WITH REFERENCE TO THE AGREEMENT
OF THE 21st JANUARY 1895⁴ FIXING THE BOUNDARY
BETWEEN THE BRITISH AND FRENCH POSSESSIONS TO
THE NORTH AND EAST OF SIERRA LEONE, SO FAR AS
CONCERNS THE NAVIGATION AND USE OF THE GREAT
SKARCIES RIVER. PARIS, JANUARY 22, FEBRUARY 4, 1895⁵

No. 1

The Marquess of Dufferin to M. Hanotaux

Paris, January 22, 1895

Monsieur le Ministre,

During the course of the recent negotiations relative to the delimitation of the British and French territories and possessions situated to the north and east of Sierra Leone, the Commissioners named by the two Powers were led to examine the situation created to the riverain inhabitants of a certain portion of the Great Skarcies by the execution of the Agreement of the 10th August, 1889.

Although by Article I of the Agreement of the 21st January 1895, the British frontier follows the right bank of the Great Skarcies from a point

¹ Came into force upon signature.

² *British and Foreign State Papers*, vol. 85, p. 31.

³ Came into force on 4 February 1895, by the exchange of the said notes.

⁴ *British and Foreign State Papers*, vol. 87, p. 4.

⁵ *Ibid.*, p. 17.

on the right bank 500 metres south of the road leading from Wulia to Wossu, via Lusenja, to the point where that river is joined by the Little Mola, Her Majesty's Government is, nevertheless, disposed to permit the riverain inhabitants dwelling on the right bank within the above-mentioned limits to continue to use the river to the same extent as heretofore.

It is, however, understood that the inhabitants of these villages will be subject to such Laws or Ordinances as may from time to time be promulgated by the authorities of the Colony of Sierra Leone with a view to regulating the navigation of the river or in connection with the control of its waters, due notice of the same being given by the Governor of Sierra Leone to the Governor of French Guinea. . .

No. 2

M. Hanotaux to the Marquess of Dufferin

Paris, le 4 février 1895

Monsieur l'Ambassadeur,

J'ai reçu la lettre que votre Excellence m'a fait l'honneur de m'adresser le 22 janvier dernier, au sujet de l'échange de vues qui a eu lieu entre les Commissaires des deux pays au cours des récentes négociations relatives à la délimitation des possessions Françaises et Britanniques au nord et à l'est de Sierra-Leone, touchant la situation qui serait faite par la mise à exécution de l'Arrangement du 10 août 1889, aux riverains d'une certaine partie de la Grande Scarcie.

Votre Excellence veut bien me faire connaître que bien qu'aux termes de l'Article I de l'Arrangement du 21 janvier, 1895, la frontière Britannique suive la rive droite de la Grande Scarcie d'un point situé sur la rive droite à 500 mètres au sud de la route qui conduit de Wulia (Ouelia) à Wossu (Ouossou) par Lucenia jusqu'au point où la Petite Mola se jette dans ce fleuve, le Gouvernement de Sa Majesté est néanmoins disposé à permettre aux riverains qui habitent les villages situés sur la rive droite, dans les limites ci-dessus spécifiées, de continuer à se servir de ce fleuve dans les mêmes conditions qu'autrefois.

Il est entendu, toutefois, que les habitants de ces villages seront soumis aux Lois et aux Ordonnances qui pourront être promulguées par la Colonie de Sierra-Leone, en vue de réglementer la navigation de ce fleuve ou la police de ses eaux, après qu'il en aura été dûment donné avis par le Gouverneur de Sierra-Leone au Gouverneur de la Guinée Française.

. . . .

19. CONVENTION¹ BETWEEN GREAT BRITAIN AND FRANCE,
RESPECTING NEWFOUNDLAND, AND WEST AND CENTRAL
AFRICA, SIGNED AT LONDON, APRIL 8, 1904²

. . . .

¹ Ratifications exchanged at London, December 8, 1904.

² *British and Foreign State Papers*, vol. 97, p. 31.

Article VII. In that portion of the River Komadugu which is common to both Parties, the populations on the banks shall have equal rights of fishing.

. . .

20. EXCHANGES OF NOTES¹ BETWEEN THE UNITED-KINGDOM AND FRANCE CONSTITUTING AN AGREEMENT RELATING TO THE BOUNDARY BETWEEN THE GOLD COAST AND THE FRENCH SOUDAN. LONDON, MARCH 18 APRIL 25, 1904²

No. 1

The Marquis of Lansdowne to M. Cambon

FOREIGN OFFICE

March 18, 1904

Your Excellency,

I have the honour to acknowledge the receipt of your Excellency's note of the 25th ultimo, in which you state that the French Government agree to the description of the Anglo-French boundary between the Gold Coast and the French Soudan, which was embodied in the Memorandum inclosed in my note of the 13th January last, but that they suggest modifications in the wording of sections 27 and 35 of Article I of the Agreement.

His Majesty's Government accept these modifications and I have the honour to transmit herewith a Memorandum of Articles of Agreement in which the suggestions made in your Excellency's note have been adopted.

. . .

Inclosure in No. 1.—Memorandum

. . .

Article III. The villages situated in proximity to the frontier shall retain the right to use the arable and pasture lands, springs, and watering places, which they have heretofore used, even in cases in which such arable and pasture lands, springs, and watering places are situated within the territory of the one Power, and the village within the territory of the other. . .

No. 2

M. Cambon to the Marquess of Lansdowne

AMBASSADE DE FRANCE

Londres, le 25 avril 1904

Monsieur le Marquis,

J'ai l'honneur de vous accuser réception de votre note du 18 mars dernier constatant que l'entente est définitivement établie entre nos deux Gou-

¹ Came into force on 25 April 1904, by the exchange of the said notes.

² *British and Foreign State Papers*, vol. 99, p. 203.

vernements en ce qui concerne le tracé de la frontière entre la Côte d'Or et le Soudan, et pour répondre au désir exprimé par votre Seigneurie je lui adresse ci-inclus un Mémoire exactement conforme à celui qu'elle a bien voulu me faire parvenir à ce sujet, ainsi qu'une copie de la carte qui y était annexée . . .

Inclosure in No. 2—Memorandum
[French version of the enclosure in No. 1]

21. ÉCHANGE DE NOTES¹ CONSTITUANT UN ACCORD ENTRE LA FRANCE ET LE ROYAUME-UNI POUR FIXER LA FRONTIÈRE ENTRE LA CÔTE D'OR ET LA CÔTE D'IVOIRE. LONDRES, LES 11 ET 15 MAI 1905²

Des notes échangées entre le Marquis de Lansdowne et M. Paul Cambon constatent l'entente établie entre les deux Gouvernements en ce qui concerne le tracé de la frontière entre la Côte d'Or et la Côte d'Ivoire, selon les termes du Mémoire ci-après, annexé auxdites notes:

MÉMOIRE

IV. Les villages situés à proximité de la frontière conserveront le droit d'user des terrains de culture, des pâturages, des sources et points d'eau dont ils ont joui jusqu'à présent, même au cas où ces terrains de culture, pâturages, sources et points d'eau seraient situés sur le territoire de l'une des Puissances et les villages sur le territoire de l'autre.

22. EXCHANGE OF NOTES³ BETWEEN THE UNITED KINGDOM AND FRANCE CONSTITUTING AN AGREEMENT RELATING TO THE FRONTIER BETWEEN THE BRITISH AND FRENCH POSSESSIONS FROM THE GULF OF GUINEA TO THE NIGER (SOUTHERN NIGERIA AND DAHOMEY). PARIS, OCTOBER 19, 1906⁴

No. 1

The French Minister for Foreign Affairs to Sir F. Bertie

Paris, le 19 octobre 1906

Monsieur l'Ambassadeur,

A la suite des communications verbales échangées entre mon Département et votre Ambassade, il a été reconnu que la version Française et la

¹ Entré en vigueur le 15 mai 1905.

² J. Basdevant, *Traité et Conventions en vigueur entre la France et les puissances étrangères*, tome deuxième, p. 429.

³ Came into force on 19 October 1906, by the exchange of the said notes.

⁴ *British and Foreign State Papers*, vol. 99, p. 217.

version Anglaise du mémorandum définissant le tracé de la frontière entre les possessions Françaises et Anglaises du Golfe de Guinée au Niger présentaient une concordance absolue.

Aucune correction ultérieure ne paraissant désormais nécessaire, j'ai l'honneur d'adresser, ci-joint, à Votre Excellence le texte du mémorandum en question constatant l'entente à laquelle sont arrivés les deux Gouvernements au sujet de la dite frontière. . .

No. 2

Sir F. Bertie to the French Minister for Foreign Affairs

Paris, October 19, 1906

Monsieur le Ministre,

I have the honour to acknowledge the receipt of your Excellency's note of to-day's date, in which you were so good as to inclose the text of a Memorandum recording the understanding arrived at by the Governments of Great Britain and of France in regard to the frontier between the British and French possessions from the Gulf of Guinea to the Niger, together with a map in two sheets showing the line of demarcation.

As a result of verbal communications exchanges between this Embassy and the Ministry for Foreign Affairs, it has been ascertained that the English and French versions of the Memorandum defining the line of demarcation between the British and French possessions from the Gulf of Guinea to the Niger are in complete agreement. . . .

*Annex 1.—Délimitation entre les possessions
Françaises et Anglaises du Golfe de Guinée au Niger*

Article III. Les villages situés à proximité de la frontière conserveront le droit d'user des terres arables, des pâturages, des sources et des abreuvoirs, dont ils ont usé jusqu'à présent, même dans le cas où ces terres arables, ces pâturages, ces sources et ces abreuvoirs seraient situés sur le territoire d'une des Puissances et le village sur le territoire de l'autre Puissance.

23. EXCHANGE OF NOTES¹ BETWEEN THE BRITISH AND FRENCH GOVERNMENTS RESPECTING LICENCES TO DREDGE IN THE TANOË RIVER, IN COMPLETION OF THE ANGLO-FRENCH AGREEMENT OF AUGUST 10, 1889. LONDON, 16/25 JUNE, 1907²

No. 1

The French Ambassador to the Secretary of State for Foreign Affairs

¹ Came into force 25 June 1907, by the exchange of notes.

² *British and Foreign State Papers*, vol. 100, p. 498.

AMBASSADE DE FRANCE

Londres, le 16 juin 1907

Monsieur le Secrétaire d'Etat,

Je suis chargé de faire savoir à votre Excellence que le Gouvernement de la République est d'accord avec le Gouvernement Britannique pour compléter l'Arrangement Franco-Anglais du 10 août 1889, en décidant que les autorisations de dragages dans la rivière «Tanoe» devront être soumises à l'agrément des deux Gouvernements locaux de la Côte d'Ivoire Française et de la Côte d'Or Anglaise.

Si votre Excellence veut bien m'accuser réception de la présente communication en me confirmant son adhésion à cette disposition additionnelle à la Convention du 10 août 1889, cet échange de notes constatera l'entente entre les deux Gouvernements. . .

No. 2

The Secretary of State for Foreign Affairs to the French Ambassador

FOREIGN OFFICE

June 25, 1907

Your Excellency,

I have the honour to acknowledge the receipt of your Note of the 16th instant, in which your Excellency informs me that the French Government assent to an addition being made to the Anglo-French Convention of August 10, 1889, providing that licences to dredge in the neutral waters of the Tanoe River should be submitted to the common consent of the Governments of the Ivory Coast and the Gold Coast.

I have the honour to inform your Excellency that His Majesty's Government accept the addition of this provision and that they agree to consider the present exchange of notes as giving effect to it. . . .

24. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN GREAT BRITAIN AND FRANCE RESPECTING THE
BOUNDARY BETWEEN SIERRA LEONE AND FRENCH
GUINEA. LONDON, SEPTEMBER 4, 1913²

No. 1

The French Chargé d'Affaires to Sir Edward Grey

AMBASSADE DE FRANCE

Londres, le 4 septembre 1913

Monsieur Le Secrétaire d'Etat,

En exécution d'un accord intervenu entre eux, le 20 septembre 1911, le Gouvernement de la République française et le Gouvernement de Sa Majesté britannique ont chargé le Capitaine Schwartz et le Capitaine Le Mesurier de procéder à l'abornement définitif de la frontière entre la Guinée française et le Sierra-Leone. Ces Commissaires délimitateurs ont signé,

¹ Came into force on 4 September 1913, by the exchange of the said notes.

² *British and Foreign State Papers*, vol. 106, p. 763.

le 1^{er} juillet 1912, un protocole déterminant une ligne frontière, qui est tracée sur une carte, également signée par eux.

Le Gouvernement de la République française m'a chargé de sanctionner en son nom, par la présente lettre, qui tiendra lieu de ratification, l'accord résultant de ce protocole et de cette carte, dont copies sont ci-annexées. . .

No. 2

Sir Edward Grey to the French Chargé d'Affaires

FOREIGN OFFICE

September 4, 1913

Sir,

I have the honour to acknowledge the receipt of your note of this day's date, in which you inform me that the Government of the French Republic confirm the agreement respecting the demarcation of the boundary between Sierra Leone and French Guinea, recorded in the Protocol and map signed by the British and French Commissioners, Captain Le Mesurier and Captain Schwartz, at Pendembu, on the 1st July, 1912.

I now have the honour to inform you that His Majesty's Government by the present note, also confirm the agreement recorded in the above-mentioned Protocol and map, copies of which are enclosed herewith.

. . .

No. 3

Protocol

. . .

Article 5. As regards the whole part of the frontier defined above thalweg of rivers Meli and Moa], and in the case of future disputes, the position of the innumerable little islets and rocks existing in the two rivers will be fixed in connection with the thalweg. Navigation and fishing are free in this part. The use of hydraulic power may only be employed after an agreement made beforehand between the two Governments.

. . .

Article 8. In the part of the Moa included between cairns XV and XVI the river and the islands belong entirely to France. The inhabitants of the two banks have, however, equal rights of fishing in this part.

. . .

25. NOTES¹ EXCHANGED BETWEEN GREAT BRITAIN AND FRANCE AGREEING TO THE RATIFICATION OF THE PROTOCOL DEFINING THE BOUNDARY BETWEEN FRENCH EQUATORIAL AFRICA AND THE ANGLO-EGYPTIAN SOUDAN, TOGETHER WITH THE PROTOCOL. LONDON, JANUARY 21, 1924²

¹ Came into force on 21 January 1924, by the exchange of the said notes.

² *British and Foreign State Papers*, vol. 119, p. 354.

No. 1

The Marquess Curzon of Kedleston to the French Ambassador

FOREIGN OFFICE

January 21, 1924

Your Excellency,

I have the honour to state that the members of the Boundary Commission designated in execution of the terms of paragraph 4 of the Declaration signed in London on the 21st March, 1899, completing the Convention between Great Britain and France signed in Paris on the 14th June, 1898, to delimit on the spot the frontier between French Equatorial Africa and the Anglo-Egyptian Soudan in accordance with the indications given in paragraph 2 of that Declaration as amplified by the Supplementary Convention signed in Paris on the 8th September, 1919, have concluded their labours and drawn up the annexed protocol signed here on the 10th instant, defining the said boundary. . . .

In forwarding to your Excellency a copy of the said protocol and maps, I have the honour to inform you that His Majesty's Government confirm the proposals of the Commission and consider the present note as being equivalent to ratification.

The necessary instructions will be sent to His Majesty's High Commissioner for Egypt and the Soudan in order that the present Agreement may take effect as from the date of the present note. . . .

No. 2

The French Ambassador to the Marquess Curzon of Kedleston

AMBASSADE DE FRANCE

Londres, le 21 janvier 1924

Monsieur le Marquis,

Les membres de la Commission de Délimitation désignés, conformément au paragraphe 4 de la Déclaration signée à Londres, le 21 mars 1899, complétant la Convention signée à Paris, entre la France et la Grande-Bretagne, le 14 juin 1898, pour déterminer sur le terrain la frontière entre l'Afrique équatoriale française et le Soudan anglo-égyptien, conformément aux indications figurant au paragraphe 2 de la Déclaration de Londres, telles qu'elles se trouvent développées par la Convention additionnelle signée à Paris, le 8 septembre 1919, ont terminé leurs travaux. Ils ont rédigé le protocole ci-annexé, signé à Londres le 10 de ce mois, qui définit ladite frontière. . . .

En remettant à votre Seigneurie un exemplaire dudit protocole . . . j'ai l'honneur de lui faire savoir que le Gouvernement de la République approuve les propositions de la Commission et considère la présente lettre comme équivalent à une ratification.

Les instructions nécessaires seront envoyées à Monsieur le Gouverneur général de l'Afrique équatoriale française pour que le présent accord puisse prendre effet à partir de la date de la présente lettre . . .

*Protocol**General clauses*

- (a) Where the frontier follows a wadi, cuts a lake or rahad or changes its

direction at either of such, the watering rights existing therein will be preserved by the inhabitants on either side.

- . . .
26. ÉCHANGE DE NOTES CONSTITUANT UN ACCORD¹ ENTRE LA FRANCE ET LA GRANDE-BRETAGNE CONCERNANT LE PROTOCOLE ET LE RAPPORT FINAL DES COMMISSAIRES NOMMÉS EN VUE DE DÉLIMITER LA FRONTIÈRE SÉPARANT LES TERRITOIRES DU TOGO SOUS MANDATS FRANÇAIS ET BRITANNIQUE, SIGNÉ À LOMÉ, LE 21 OCTOBRE 1929. LONDRES, LES 30 JANVIER ET 19 AOÛT 1930²

. . .

Protocole

. . .

Dispositions générales

. . .

(k) Il est entendu que partout où la frontière suit un cours d'eau tous les droits à l'eau et à la pêche tels qu'ils existent de chaque côté et tous les droits de passage en aval, en amont et en traverse du cours d'eau seront maintenus.

. . .

Italy—United Kingdom

27. PROTOCOLE ENTRE LES GOUVERNEMENTS DE L'ITALIE ET DU ROYAUME-UNI, POUR LA DÉMARCATIION DES SPHÈRES D'INFLUENCE RESPECTIVES DANS L'AFRIQUE ORIENTALE, SIGNÉ À ROME, LE 15 AVRIL 1891³

. . .

Désirant compléter, dans la direction du nord, jusqu'à la mer Rouge, la démarcation des sphères d'influence respective, entre l'Angleterre et l'Italie, que les deux Parties ont déjà arrêtée, par le Protocole du 24 mars dernier, depuis l'embouchure du Juba, dans l'océan Indien, jusqu'à l'intersection du 35° longitude est Greenwich avec le Nil Bleu, les Sous-signés:

Marquis de Dufferin et Ava, Ambassadeur de Sa Majesté la Reine du Royaume-Uni de la Grande-Bretagne et d'Irlande, Impératrice des Indes;

¹ Entré en vigueur à la date de l'échange desdites notes.

² De Martens, *Recueil général de Traités*, 3^e série, tome XXV, p. 452.

³ *British and Foreign State Papers*, vol. 83, p. 19.

Marquis de Rudini, Président du Conseil et Ministre des Affaires Etrangères de Sa Majesté le Roi d'Italie;
Sont convenus de ce qui suit:

III. Le Gouvernement Italien s'engage à ne construire sur l'Atbara, en vue de l'irrigation, aucun ouvrage qui pourrait sensiblement modifier sa défluence dans le Nil.

28. EXCHANGE OF NOTES¹ BETWEEN THE BRITISH AND ITALIAN GOVERNMENTS RESPECTING THE REGULATION OF THE UTILISATION OF THE WATERS OF THE RIVER GASH. ROME, JUNE 12 AND 15, 1925²

No. 1

Signor Mussolini to Sir R. Graham

MINISTRY FOR FOREIGN AFFAIRS

Rome, June 12, 1925

Sir,

I have the honour to inform your Excellency that the Italian Government approves the agreement arrived at between His Excellency Jacopo Gasparini, Governor of the Colony of Eritrea, and Mr. Wasey Sterry, Acting Governor-General of the Sudan, both duly authorised and met at Khartum on the 12th December, 1924, to proceed to the regulation of the utilisation of the waters of the River Gash.

This agreement is the result of the following documents, duly certified and annexed to the present note, of which they form an integral part:

1. Letter addressed by the Governor of Eritrea to the Acting Governor-General of the Sudan, dated the 12th December, 1924 (with a report and document attached, dated the 25th November, 1924, and signed by the experts, Mr. MacGregor and Signor Tornielli).
2. Letter addressed by the Acting Governor-General of the Sudan to the Governor of Eritrea, dated the 12th December, 1924 (with a report and document attached, dated the 25th November, 1924, and signed by the experts, Mr. MacGregor and Signor Tornielli).
3. Letter addressed by the Governor of Eritrea to the Acting Governor-General of the Sudan, dated the 12th December, 1924.
4. Letter addressed by the Acting Governor-General of the Sudan to the Governor of Eritrea, dated the 12th December, 1924.

In begging your Excellency to inform me whether His Britannic Majesty's Government on its part approves the above mentioned agreement and is disposed to put it into execution. . . .

¹ Came into force on 15 June 1925, by the exchange of the said notes.

² League of Nations, *Treaty Series*, Vol. 38, p. 190.

No. 2

Sir R. Graham to Signor Mussolini

BRITISH EMBASSY

Rome, June 15, 1925

Your Excellency,

I have the honour to acknowledge the receipt of your Excellency's note of the 12th instant, to the effect that the Royal Government approve the agreement reached between His Excellency Jacopo Gasparini, Governor of the Colony of Eritrea, and Mr. Wasey Sterry, Acting Governor-General of the Sudan, both properly authorised, who met at Khartum on the 12th December, 1924, to proceed to the regulation of the utilisation of the waters of the River Gash.

This agreement is shown in the following documents, properly certified and annexed to the present note, of which they form an integral part:

1. Letter addressed by the Governor of Eritrea to the Acting Governor-General of the Sudan, dated the 12th December, 1924 (with a report and document attached, dated the 25th November, 1924, and signed by the experts, Mr. MacGregor and Signor Torielli).

2. Letter addressed by the Acting Governor-General of the Sudan to the Governor of Eritrea, dated the 12th December, 1924 (with a report and document attached, dated the 25th November, 1924, and signed by the experts, Mr. MacGregor and Signor Torielli).

3. Letter addressed by the Governor of Eritrea to the Acting Governor-General of the Sudan, dated the 12th December, 1924.

4. Letter addressed by the Acting Governor-General of the Sudan to the Governor of Eritrea, dated the 12th December, 1924.

I have the honour to inform your Excellency that His Majesty's Government approve on their side the above-mentioned agreement and are disposed also to put it into effect. . . .

ENCLOSURE No. 1

The Governor of Eritrea to the Acting Governor-General of the Sudan

Khartum, December 12, 1924

Sir,

In execution of the principles laid down by the Prinetti-Currie exchange of notes of November-December 1901, I have the honour to inform your Excellency that, with regard to the works in progress for the utilisation of the waters of the Gash at Tessenci, the Government of Eritrea adopt the conclusions at which the British and Italian experts jointly arrived on the questions formulated in the Erkowit document of the 25th May, 1924.

These conclusions are shown in the report dated the 25 November, 1924, signed by Mr. MacGregor and Signor Torielli, which is attached to the present note and forms an integral part of it.

In consequence of the acceptance of the experts' proposals, the use of the waters of the Gash at Tessenci will be regulated in the following manner:

1. The supply of water up to the discharge of 5 metres cube remains

entirely at the disposal of the Government of Eritrea for the works at Tessenei.

2. The discharge of water above the aforesaid 5 metres cube will be utilised for the works at Tessenei in such proportionately progressive manner, in conformity with the proposals contained in the experts' report attached, that when 20 metres cube is reached, 10 will be used for the above-mentioned works, the other 10 being allowed to flow on for the benefit of the Province of Kassala.

3. The discharge in excess of 20 metres cube will be utilised as regards one-half by the works at Tessenei up to the quantity necessary for the irrigation of the plain of Tessenei.

SUB-ENCLOSURES IN ENCLOSURE NO. I

Utilisation of the waters of the Gash

Report of the experts . . .

Questions Nos. 4 and 5

. . . In the first place, we do not consider it to be technically practicable to have a single system which would serve for the irrigation of both territories. In consequence, the projects relating to the territories of Eritrea and Kassala must be independent, except for certain arrangements for the division of the water, necessary to safeguard the interests of both territories.

The works of Tessenei will not, so far as the barrage itself is concerned, have any influence on the wells of Kassala, which are fed by inundation and not by subsoil flow. So far as concerns the extraction of the water, according to the project of Nobile, the interests of Kassala will not be injured during the periods of normal flood. But, on the other hand, during certain periods of prolonged scarcity, the water remaining available below the dam might not be sufficient for the needs of Kassala if a discharge of 10 cubic metres per second were taken continuously from the river as provided for in the project in question. Therefore, to safeguard in the best possible manner the interests of the two territories, it will be desirable to divide the water in the following manner:

Since it would not be for the practical advantage of either territory to divide the very small supplies, we would leave the first 5 cubic metres per second at the complete disposal of Tessenei. The division of the supply from 5 up to 20 cubic metres per second should be made in such proportionately progressive manner that, when 20 cubic metres per second is reached, the partition will be 10 cubic metres per second to each.

The discharge above 20 cubic metres per second should be divided in equal parts until the discharge required for the irrigation of the plain of Tessenei is reached. Above that, the water will be passed freely below the barrage. . . .

ENCLOSURE No. 2

The Acting Governor-General of the Sudan to the Governor of Eritrea

Khartum, December 12, 1924

Excellency,

I have the honour to acknowledge receipt of your Excellency's note, dated to-day, in which you inform me of your acceptance of the conclusions of the British and Italian experts contained in their report, dated the 25th November, 1924, of which I attach the English text.

I also accept their conclusions, and I take note of the fact that the use of the water of the Gash at Tessenei will be regulated in the following manner:

1. The discharge up to 5 metres cube per second will be entirely at the disposal of the Government of Eritrea for the works at Tessenei.
2. The discharge from 5 metres cube per second up to 20 metres cube per second will be divided in the manner defined in the report of the experts, so that, when a discharge of 20 metres cube per second is reached, 10 metres cube per second will be taken by the works at Tessenei and 10 metres cube per second will be passed on for the Province of Kassala.
3. The flow in excess of 20 metres cube per second will be divided in equal parts up to the discharge required for Tessenei.

I accept these proposals, but I should be glad to know what total quantity of water and what maximum discharge will be taken from the Gash for irrigation in Eritrea.

I understand that the Italian authorities will take all necessary precautions to prevent the river being diverted from its course.

. . .

ENCLOSURE No. 3

The Governor of Eritrea to the Acting Governor-General of the Sudan

Khartum, December 12, 1924

Sir,

In reply to your Excellency's note of to-day's date, I have the honour to inform you that the quantity of water from the River Gash, which the Government of Eritrea will utilise for the irrigation works, amounts altogether to 65 million cubic metres, and that the total discharge of the waters derived from the river will not exceed 17 cubic metres per second, it being agreed that the water in excess of this quantity will be allowed to flow on for the benefit of the Province of Kassala.

With reference to the conversations which have taken place on the subject, I shall be grateful if your Excellency will be good enough to determine the manner in which the Government of the Sudan would be willing to recognise the position established by the present negotiations in respect of the quantity of water in excess of the 65 million cubic metres which the Government of Eritrea undertake to allow to pass on for the benefit of the Province of Kassala.

. . .

ENCLOSURE NO. 4

The Acting Governor-General of the Sudan to the Governor of Eritrea.

Khartum, December 12, 1924

Excellency,

I have the honour to acknowledge receipt of your Excellency's note, dated to-day.

In reply to your question as to the method in which the Government of the Sudan would be willing to recognise the situation which comes to be determined by the present negotiations as regards the quantity of water exceeding 65 million cubic metres, which the Government of Eritrea pledges itself to allow to flow down for the benefit of the Province of Kassala, I beg to confirm the agreement reached at our conversation of this morning, which is as follows:

The Sudan Government will make payment to the Government of Eritrea each year a share of the sum which it receives in respect of cultivation by irrigation of land in the Gash delta, amounting to 20 per cent of such sum received by the Sudan Government in excess of a fixed amount of £50,000 annually.

The sums referred to above, to which the Sudan Government is entitled, are fixed according to its agreement with the Kassala Cotton Company, and I shall be glad to give you full statements each year showing how the amount payable to you under this agreement is arrived at.

. . . .

Portugal—South Africa

29. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNION OF SOUTH AFRICA AND THE GOVERNMENT OF THE REPUBLIC OF PORTUGAL REGULATING THE USE OF THE WATERS OF THE KUNENE RIVER FOR THE PURPOSES OF GENERATING HYDRAULIC POWER AND OF INUNDATION AND IRRIGATION IN THE MANDATED TERRITORY OF SOUTH WEST AFRICA. SIGNED AT CAPE TOWN, 1 JULY 1926²

Whereas by Agreement entered into at Cape Town and dated the 22nd day of June, 1926, between the Plenipotentiaries of the Government of the Union of South Africa in its capacity as Mandatory of the Territory of South West Africa (hereinafter referred to as the Mandated Territory) and the Plenipotentiaries of the Government of the Republic of Portugal it has been finally settled that the boundary between the Mandated Territory and Angola is the middle line of the Kunene River from its mouth up to a point on the great Rua Cana Falls above its lip or crest, and that the parallel of latitude further forming the boundary starts from that point and extends due east so as to cause the Kunene River above the Rua Cana Falls to be excluded wholly from the Mandated Territory;

¹ Came into force as from the date of signature, in accordance with article 20.

² League of Nations, *Treaty Series*, vol. 70, p. 316.

And Whereas by this final settlement the use of the waters of the Kunene River at the Rua Cana Falls is common to the Government of the Union of South Africa and the Government of the Republic of Portugal;

And Whereas the Government of the Union of South Africa may be desirous of utilising its share of the water for the purpose of generating hydraulic power;

And Whereas it is not feasible for economic reasons to construct all the works required for the aforesaid purpose within the Mandated Territory;

And Whereas the Government of the Republic of Portugal is mindful of the fact that from time immemorial portions of Ovamboland now forming part of the Mandated Territory of South West Africa have periodically been inundated by the flood waters of the Kunene River overflowing its banks at various points in Portuguese Territory;

And Whereas the Government of the Republic of Portugal is further mindful of the fact that by the silting up of the inlets of some of the natural channels of these waters into Ovamboland the volume of such overflow has greatly decreased;

And Whereas it is vital to the health and comfort if not to the very existence of the native tribes of Ovamboland to ensure that these natural channels shall be and remain open;

And Whereas the Government of the Union of South Africa has asked the Government of the Republic of Portugal for leave to undertake works for the purpose of restoring to the Mandated Territory the benefits of inundation it previously enjoyed;

And Whereas the Government of the Republic of Portugal for reasons of humanity agree, under certain conditions, to allow the diversion of the waters of the River Kunene for the benefit of the Mandated Territory; . . . whilst retaining its sovereign rights intact, the Government of the Republic of Portugal concedes to the Government of the Union of South Africa as Mandatory the right to construct and use works in the Kunene River within Portuguese Territory for drawing and conveying water from the Kunene River for use in the Mandated Territory for the purposes aforesaid:

Now *Therefore*, under and by virtue of the authority committed to them, the said Plenipotentiaries on behalf of their respective Governments, after due negotiation, agree as follows:

1. A dam, weir or barrage, for the diversion of water to be utilised for the generation of hydraulic power in the Mandated Territory, may be constructed across the Kunene River on Portuguese Territory at a distance of not more than three kilometres upstream from the point on the Rua Cana Falls at which, in terms of the Agreement dated 22nd day of June, 1926, between the two Governments, the parallel of latitude defining the boundary eastwards takes its start.

2. Such dam, weir or barrage may be constructed either by the Government of the Union of South Africa or by the Government of the Republic of Portugal. If either Government wishes to construct such dam, weir or barrage it shall give two years written notice to the other Government, and within that period the other Government may signify its intention to share in the construction, in which case plans and estimates must be approved and the construction technically and financially supervised by both Governments. If the dam, weir or barrage is jointly constructed the

cost of construction shall be equally divided between the two Governments. If the other Government does not within the period specified signify its intention of sharing in the scheme, the Government which gave the notice shall in consultation with the other Government be entitled to construct such dam, weir or barrage the cost thereof being borne by the Government constructing the works. The other Government may, however, at any time by giving ten years previous notice, and upon payment of one half the costs of construction as agreed upon at the time of completion of the said dam, weir or barrage, acquire a right to share in the scheme to the extent of one half of the water in the river. Notwithstanding the right which each Government has to one half share of the water, the Government which constructs the dam, weir or barrage shall be entitled to the use of all the water, until such time as the other Government shares in the scheme. But the Government entitled to the use of all the water, may, under contract, give a share of the power to the other Government.

3. If the said dam, weir or barrage is jointly constructed, the cost of maintenance shall be equally divided between the two Governments; if the said works be constructed by one Government, the maintenance of the works shall be a charge upon that Government until the other Government shares therein, in which case the cost of maintenance shall from that time onwards be equally divided between the two Governments.

4. The Government of the Union of South Africa shall have the right to construct intake works in the Kunene River immediately above the said dam, weir or barrage on the left bank and thus to impound and to divert into a canal to be constructed by it on the left bank of the river in Portuguese territory so much of the water of the river as it may at that point be entitled to.

5. The limits within which construction operations, in so far as the canal is concerned, may take place within Portuguese Territory shall, without any owners' rights accruing to the Government of the Union of South Africa, be bounded on the right side of the canal by the left bank of the Kunene River and on the left side of the canal by a line starting 300 metres above the intake of the canal and continuing parallel with and at a distance of 150 metres from the left edge of the canal to the said boundary.

6. The Government of the Republic of Portugal concedes to the Government of the Union of South Africa the right to use up to one half of the flood water of the Kunene River for the purposes of inundation and irrigation in the Mandated Territory provided that the report contemplated in Article nine (a) below shows the scheme to be feasible.

7. No diversion of water shall be made by either Government between the Kazambue Rapids and Naulila unless a quantity sufficient for any power works constructed at any point below the Rapids is allowed to pass down.

8. The Government of the Union of South Africa shall have the right:

(a) Subject to the provisions of Article seven above, to divert by means of diversion works of any kind the whole or part of its half share of the flood waters of the Kunene River at such point or points as may on investigation by a joint technical Commission, constituted as provided in Article nine below, prove to be the most suitable;

(b) To construct and maintain the above works on the Kunene River together with such embankments and training works as may be necessary for the protection of the diversion works and for the efficient operation of such works;

(c) From the point or points mentioned in paragraph (a) hereof, to construct and maintain a canal, channel or other aqueduct from the Kunene River across Portuguese Territory; and

(d) To construct and maintain on both sides of the river head regulators at the diversion works and canals.

9. In order to undertake the investigation mentioned in Article eight (a) above, the Government of the Union of South Africa and the Government of the Republic of Portugal shall at an early date, not being later than March, 1927, each appoint an equal number of members on a joint technical Commission which shall proceed to the locality.

Such Commission shall devise a means of supplying water for the purposes of inundation and irrigation in the Mandated Territory and with that object in view, *inter alia*:

(a) Report on the feasibility of diverting the water of the Kunene River;

(b) Fix the point or points for such diversion;

(c) Design the necessary diversion works and canals;

(d) Estimate the cost of construction and maintenance of such works; and

(e) Submit proposals regarding the operation and maintenance of the works after construction.

10. The costs of investigation by the said Commission shall be borne by the Government of the Union of South Africa.

11. The cost of construction and maintenance of any works for inundation and irrigation purposes in the Mandated Territory shall be borne solely by the Government of the Union of South Africa who shall reimburse the Government of the Republic of Portugal to the extent of any expenditure which the latter may by mutual arrangement incur in connection with or in consequence of the construction or maintenance of these works.

12. No charge shall be made for the water diverted from the Kunene River for the purpose of providing means of subsistence for the Native Tribes in the Mandated Territory; but should it be desired to utilise a portion of the water referred to in Article six above for any other purposes, being for purposes of gain, the Government of the Union of South Africa shall give to the Government of the Republic of Portugal three months' written notice of such intention and shall pay, for such portion of the water so utilised, to that Government such compensation as may be mutually agreed upon.

13. The Government of the Union of South Africa shall, subject to three months' written notice to the Government of the Republic of Portugal, have the right through its engineers, surveyors and other servants to enter upon Portuguese territory in Angola for the purpose of surveys and generally for obtaining information necessary for the proper design of any works contemplated in this Agreement. Such investigation shall be conducted in consultation with the Government of the Republic of Portugal. With reference to the inundation and irrigation works, however, the Govern-

ment of the Union of South Africa shall not be entitled to exercise this right unless a scheme for the diversion of the waters has been approved of by both Governments.

14. The Government of the Union of South Africa shall have the right:

(a) To appropriate, remove and use in the construction of any works contemplated in this agreement, free of charge, any materials lying convenient to the works on land the property of the Government of the Republic of Portugal; and

(b) Of access through its servants to the sites of the works contemplated in this agreement for construction, maintenance and operation purposes and in connection therewith, to do all that is necessary and incidental to such construction, maintenance and operation, including the erection of a permanent dwelling between the River and the Canal for a caretaker of the diversion works at the Rua Cana Falls.

15. All temporary dwellings, buildings and labour camps that it may be necessary to erect during the construction will be handed over to the Government of the Republic of Portugal after the completion of the works.

In order that no artificial swamps may be caused, the holes, trenches or excavations shall, upon the completion of the works, be filled up.

16. It is recognised and expressly declared that, notwithstanding the rights granted under this Agreement, the Government of the Republic of Portugal retains its sovereignty over the areas affected by the aforesaid works.

17. It is further recognised and expressly declared that notwithstanding the rights granted under this Agreement, the design, construction, maintenance and operation of the works contemplated in this Agreement shall be subject to the laws obtaining in the Province of Angola.

18. No hydraulic works on the Kunene or Okavango (Cubango) Rivers, except those at the Rua Cana Falls, may, where these rivers form the boundary between the Mandated Territory and Angola, be constructed by the Government of the Union of South Africa or by that of the Republic of Portugal without the previous consent of the other Government having been obtained.

19. All disputes between the Parties arising out of this Agreement shall be settled by arbitration.

. . .

Portugal—United Kingdom

30. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM AND THE PORTUGUESE GOVERNMENT REGARDING THE BOUNDARY BETWEEN TANGANYIKA TERRITORY AND MOZAMBIQUE. LISBON, MAY 11, 1936²

¹ Came into force on 1st February 1938 in accordance with sub-paragraph (7) of the Notes. The Agreement was approved by the Council of the League of Nations and thereafter came into force on the date agreed upon between the two Governments by the Exchange of Notes of 28th December 1937.

² Great Britain, *Parliament Sessional Papers, 1937-1938, Treaty Series No. 14 (1938)*.

No. 1

Sir C. Wingfield to Dr. A. Monteiro

BRITISH EMBASSY

Lisbon, May 11, 1936

Monsieur le Ministre,

In accordance with instructions from His Majesty's Principal Secretary of State for Foreign Affairs, I have the honour to inform your Excellency that, with the view of clarifying the existing position as regards sovereignty over islands situated in the River Rovuma, and of defining more clearly the boundary between the Tanganyika Territory and Mozambique as laid down in paragraph 2 of the preamble to the Mandate for East Africa, His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland are willing, subject to the approval of the Council of the League of Nations, to conclude with the Government of the Portuguese Republic an agreement in the following terms: . . .

(5) In order to supply their needs the inhabitants of both banks shall have the right over the whole breadth of the river to draw water, to fish and to remove saliferous sand for the purpose of extracting salt therefrom.

(6) The local authorities shall conclude whatever agreements may be necessary in order that the inhabitants on both banks may be granted such facilities as are possible with regard to hunting, fishing and the collection of salt in the neighbourhood of the river, without prejudice to the existing sovereign rights and in such measure as may, in the circumstances, be permissible without inconvenience to the two Administrations concerned.

. . .

No. 2

*Dr. A. Monteiro to Sir C. Wingfield*MINISTRY FOR FOREIGN AFFAIRS, GENERAL DEPARTMENT OF POLITICAL
AND ECONOMIC AFFAIRS

Lisbon, May 11, 1936

Your Excellency,

I have the honour to acknowledge receipt of your note of to-day's date regarding the islands situated in the River Rovuma, and to confirm that the Government of the Portuguese Republic and His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland, with a view to defining the boundary between the colony of Mozambique and the Tanganyika Territory, as laid down in paragraph 2 of the preamble to the Mandate for East Africa, and subject to the approval of the Council of the League of Nations, have agreed as follows:

[See provisions. Note No. 1]

31. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
 BETWEEN HER MAJESTY'S GOVERNMENT IN THE UNITED
 KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
 AND THE PORTUGUESE GOVERNMENT PROVIDING FOR
 PORTUGUESE PARTICIPATION IN THE SHIRE VALLEY
 PROJECT. LISBON, 21 JANUARY 1953²

I

Her Majesty's Ambassador at Lisbon to the Portuguese Minister for Foreign Affairs

BRITISH EMBASSY

Lisbon, January 21, 1953

Your Excellency,

I have the honour to state that Her Majesty's Government in the United Kingdom have given the most careful attention to the views expressed by the Portuguese representatives when in July 1951 they received the Governor of Nyasaland and were informed by him what his Government and the Government of the United Kingdom proposed to do with a view to regulating the level of the waters of Lake Nyasa and the flow of the River Shiré.

2. In these conversations the Portuguese delegation expressed the hope that the United Kingdom Government, in consequence of the Portuguese proposal and in harmony with the point previously mentioned in the Embassy's Note of June 27, 1951, would be prepared to consider recognising the frontier of Mozambique and Nyasaland in Lake Nyasa as running along the Median Line of its waters. The Portuguese representative stressed that on this condition the Portuguese Government, who would thus acquire a most profound interest in the problems of the Lake, would find themselves prepared to take part in the studies and execution of the technical projects devoted to the regularisation of that Lake and of the River Shiré, it being suggested that their share should in principle be fixed at the proportion of one-third.

3. I now have the honour to inform you that Her Majesty's Government in the United Kingdom are prepared to recognise in principle the Median Line of the waters of Lake Nyasa as the frontier between Mozambique and Nyasaland, it being understood that effect will be given to such recognition in an agreement concluded between the two Governments to define the line of the new frontier and to resolve the problems arising from the demarcation of the frontier in the Lake area. The United Kingdom Government wish to emphasize that this undertaking rests on the assumption that the Portuguese Government will, for their part, assume the responsibility of taking part in the studies and work in progress with the object of controlling and utilising the waters of the Lake and of the River Shiré. As to the method of determining the proportion of Portuguese co-operation in the studies and technical projects and in their execution by the means judged

¹ Came into force on 21 January 1953, by the exchange of the said notes.

² United Nations, *Treaty Series*, vol. 175, p. 14.

most convenient by the two Governments, Her Majesty's Government willingly accept the suggestion that the Portuguese share should in principle be fixed at one-third.

4. As the Portuguese Government are aware, Messrs. Sir William Halcrow and Partners have been engaged by the Governments of Nyasaland and the United Kingdom to undertake a preliminary survey of the nature and probable cost of the works entailed. It is estimated that this survey will cost £300,000 (three hundred thousand pounds). Her Majesty's Government have the honour to enquire whether the Portuguese Government are disposed to accept liability for one-third of the cost of this survey. If they are, the reports so far made by the surveyors and all subsequent reports will be made available to the Portuguese Government.

5. If, in the view of the Governments concerned, the results of this survey are such as to make it seem advantageous to proceed with the scheme, Her Majesty's Government are of opinion that a joint corporation should thereafter be established which would be responsible for (a) the construction of the dam and the stabilisation of the lake and river and (b) the production of hydro-electric energy.

6. The establishment of such a joint corporation, its constitution and articles of association, would necessarily be a matter for negotiation at a later stage. Nevertheless, Her Majesty's Government feel that it may be helpful to the Portuguese Government if they indicate forthwith, in broad outline, the main principles upon which, as at present advised, they contemplate that the corporation might rest. Those principles are:

(i) That the corporation should be established in the Nyasaland Protectorate, its Government holding the majority of the shares.

(ii) That the corporation should be concerned not with the distribution of power, but only with its production and sale, in bulk at the power station, to the Portuguese and Nyasaland Electricity Authorities. The capacity available to the Portuguese Government would then pass to their frontier by the transmission lines of the Nyasaland Electricity Authority, who would levy an agreed charge for this service, and the subsequent distribution of power within the Portuguese East Africa border would be the concern of the Portuguese Electricity Authority. In the same way, the Nyasaland Electricity Authority would be solely responsible for distribution of its share of the capacity within the Protectorate.

(iii) That the size of the Portuguese Government share-holding should be determined according to the basis of the contribution to be negotiated.

7. As for the secondary aspects of the scheme, such as the reclamation of lands in the Lower Shiré area and irrigation works, these, it is suggested, always of course with due regard for the scheme as a whole, should be undertaken by the Governments of each territory in accordance with their own requirements and at their own expense.

8. Her Majesty's Government agree to enter into negotiations with the Portuguese Government in respect of the agreements outlined above, and would ask whether the Portuguese Government are disposed to accept forthwith the liability for one-third of the cost of the preliminary survey of the lake which is now in progress.

9. If the Portuguese Government are disposed to accept the arrangements set out above, I have the honour to suggest that your Excellency's

affirmative reply, together with this Note, should constitute the preliminary accord in the matter between our two Governments.

. . .

II

The Portuguese Minister for Foreign Affairs to Her Majesty's Ambassador at Lisbon

Lisbon, January 21, 1953

Your Excellency,

I have the honour to acknowledge the reception of your Excellency's Note of to-day's date, of which the text is as follows:—

[*See Note I*]

10. The Portuguese Government is in agreement with the proposals contained in the above Note and considers the document and the present reply as constituting the preliminary accord between the Portuguese Government and Her Majesty's Government in the United Kingdom.

. . .

32. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND (ACTING ON THEIR BEHALF AND ON BEHALF OF THE GOVERNMENT OF THE FEDERATION OF RHODESIA AND NYASALAND) AND THE GOVERNMENT OF PORTUGAL REGARDING THE NYASALAND-MOZAMBIQUE FRONTIER. SIGNED AT LISBON, ON 18 NOVEMBER 1954²

. . .

Article 1

1. In execution of the preliminary agreement concluded between the Government of the United Kingdom and the Portuguese Government by an Exchange of Notes dated the 21st January, 1953, the frontier on Lake Nyasa shall run due west from the point where the frontier of Mozambique and Tanganyika meets the shore of the Lake to the median line of the waters of the same Lake and shall then follow the median line to its point of intersection with the geographical parallel of Beacon 17 as described in the Exchange of Notes of the 6th of May, 1920, which shall constitute the southern frontier.

2. The Government of the United Kingdom shall retain sovereignty over the islands of Chisamulo and Likoma, together with the exercise of

¹ Came into force on 26 October 1955, upon the exchange of the instruments of ratification at London, in accordance with article 6. The provisions of article 5 of the Treaty of the 11th June 1891, and of subsequent instruments which are contrary to the provisions of the preceding articles are hereby abrogated.

² United Nations, *Treaty Series*, vol. 325, p. 308.

all rights flowing from such sovereignty, including full, unrestricted and unconditional rights of access. The Government of the United Kingdom shall also retain sovereignty over a belt of water two sea miles in width surrounding each of these islands, except that where the distance between Likoma and the mainland is less than 4 miles the waters shall be equally divided between the two Governments. These belts of water shall be drawn as shown in the map annexed to the present Agreement.

3. The inhabitants of Nyasaland and the inhabitants of Mozambique shall have the right to use all the waters of Lake Nyasa for fishing and other legitimate purposes, provided that the methods of fishing which may be employed shall be only those which are agreed upon by the Government of Nyasaland and the Government of Mozambique. This provision shall not, however, prevent the said Governments from agreeing that different methods of fishing may be employed in the waters of one Party from those which may be employed in the waters of the other Party. There shall be no discrimination as between the inhabitants of Nyasaland and the inhabitants of Mozambique under the regulations made by the said Governments for this purpose.

In the event of a fishing concession being granted by either Party the area of the concession shall be confined to the waters of that Party.

33. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND (ON THEIR OWN BEHALF AND ON BEHALF OF THE GOVERNMENT OF THE FEDERATION OF RHODESIA AND NYASALAND) AND THE GOVERNMENT OF PORTUGAL WITH REGARD TO CERTAIN ANGOLAN AND NORTHERN RHODESIAN NATIVES LIVING ON THE KWANDO RIVER. SIGNED AT LISBON, ON 18 NOVEMBER 1954²

Having determined to conclude this day an agreement for the purpose of settling the principles to be followed in the demarcation of the frontier between Northern Rhodesia and Angola in accordance with the Award concerning the western frontier of the territory of the Barotse Kingdom given at Rome on the 30th of May, 1905, by His Majesty the King of Italy, and

Desiring at the same time to make arrangements so as to permit the temporary residence of certain tribes of the Barotse Kingdom in Angola and of certain natives of Angola in Northern Rhodesia and to grant the facilities desirable for this purpose,

Have agreed as follows:

Article 1

The natives of authorised Barotse villages (as defined in this Article) shall be accorded the following facilities in Portuguese territory:

¹ Came into force on 18 November 1954, as from the date of signature, in accordance with article 5.

² United Nations, *Treaty Series*, vol. 210, p. 280.

1. The natives of villages in the Barotse Kingdom of Northern Rhodesia situated in the Senanga and Sesheke districts between the Zambesi and the Kwando rivers shall always be permitted to camp in temporary settlements on the left bank of the Kwando river in Portuguese territory during every dry season for as long as adequate water is unobtainable within the Northern Rhodesia border. It is understood that the dry season normally extends from July to December, the months corresponding respectively to the last rains of one year and the first of the following year. The District Commissioners of the Senanga and Sesheke Districts shall before July in every year communicate to the officials to be designated for the purpose by the Portuguese Government a list of the villages whose inhabitants wish to camp on the Kwando with an indication of the approximate number of natives who will move into Portuguese territory, and of the heads of cattle which will accompany them. This permission only extends to the natives of the villages which have been included in the list for the year.

2. The natives of authorised Barotse villages, while camping in accordance with sub-paragraph 1 above, will be allowed—

(a) To fish, not more than is necessary for their own consumption during the season, it being understood that they may not employ for this purpose methods which alter the banks or the course of the water,

. . .

(d) To have access to water for themselves and their cattle.

. . .

Article 2

The natives of authorised Angolan villages (as defined in this Article) shall be accorded the following facilities in Northern Rhodesia:—

1. The natives of Angola living in villages on the left bank of the Kwando river shall always be permitted to camp in temporary settlements in Northern Rhodesian territory within 4 miles of the boundary, during every wet season for so long as the plain of Kwando is flooded. It is understood that the wet season normally extends from December to June. The local authorities of Angola shall provide every year before the month of December to an official to be designated for this purpose by the Government of the Federation of Rhodesia and Nyasaland, lists of the villages whose people desire to camp in Northern Rhodesian territory during the rainy season. The Angolan authorities competent to draw up and transmit the lists referred to above shall be indicated by the Portuguese Government in communications to be made to the British Government, the first of which shall take place at the time of signature of the present Agreement. Other communications shall be made when these are necessitated by reason of the alteration of the names of the positions held or of the areas superintended, by the above authorities.

. . .

Article 3

(a) Upon the request in writing by one Contracting Government to the other, any difference or dispute about the interpretation or application of the

present Agreement shall be referred to two arbitrators, one to be appointed by each Contracting Government within one month after the date of receipt of any such request.

(b) The two arbitrators shall give their decision within four months of the date on which they are appointed. If they cannot agree on a decision regarding the settlement of the difference or dispute within that time-limit, they shall refer the difference or dispute to a third arbitrator appointed by them, who shall himself decide it within four months from the date on which he is appointed. If the two arbitrators are unable to agree on the appointment of the third arbitrator, he shall be appointed by a third Power designated by the Contracting Governments.

(c) The decision of the two arbitrators or the third arbitrator, if appointed, shall be final and binding on the Contracting Governments.

Sudan — United Arab Republic

34. AGREEMENT¹ BETWEEN THE UNITED ARAB REPUBLIC AND THE REPUBLIC OF SUDAN FOR THE FULL UTILIZATION OF THE NILE WATERS, SIGNED AT CAIRO, NOVEMBER 8, 1959² AND PROTOCOL³ CONCERNING THE ESTABLISHMENT OF THE PERMANENT JOINT TECHNICAL COMMITTEE. SIGNED AT CAIRO, JANUARY 17, 1960⁴

Whereas the full utilization of the Nile waters for the benefit of the United Arab Republic and the Republic of Sudan requires the implementation of projects for the full control of the river and the increase of its water supply and the planning of new Working Arrangements on lines different from those followed under present conditions;

Whereas for the establishment and working of such projects complete agreement and full co-operation between the two Republics is necessary in order to make the best use of the available water in such a manner as to guarantee both their present and future requirements;

Whereas the Nile Waters Agreement concluded in 1929 has only regulated a partial use of the natural river and did not cover the future conditions of a fully controlled river supply, the two Republics have agreed to the following:

I.—*The present established rights*

1. The quantities of water actually used by the United Arab Republic until the date of signing this Agreement constitute their established right prior to the benefits accruing to them through the implementation of the

¹ Came into force on 22 November 1959.

² *Revue Egyptienne de Droit International*, vol. 15, 1959, p. 321. (Translation prepared by the Ministry of Foreign Affairs of the United Arab Republic and subject to approval of the Sudanese Government.)

³ Came into force on 17 January 1960, the date of signature, in accordance with article III.

⁴ *Revue Egyptienne de Droit International*, *ibid.*, p. 328.

control works referred to in this agreement. This established right amounts to 48 milliards of cubic metres per year measured at Aswan.

2. The quantities of water used at present by the Republic of the Sudan constitute their established right prior to the benefits accruing to them through the implementation of the afore mentioned control works. This established right amounts to 4 milliards of cubic metres per year as at Aswan.

II.—*Nile control works and the sharing of their benefits between the two Republics*

1. In order to make use of the full natural river supply and stop the flow of any excess to the sea the two Republics agree to the construction by the U.A.R. of the Sudd el Aali Reservoir at Aswan as the first of a series of over-year storage schemes on the Nile.

2. In order to enable the Republic of Sudan to exploit their share, the two Republics agree to the construction by the Sudan Republic of the Roseires Reservoir on the Blue Nile and any other works deemed necessary by the Sudan for the same purpose.

3. The net benefit from the Sudd el Aali Reservoir shall be calculated on the basis of the mean natural river supply at Aswan in the past years of this century and which amounts to 84 milliards of cubic metres per year. The established rights of the two Republics referred to in Article I as well as the mean value of the over-years storage yearly losses in the Sudd el Aali Reservoir shall be deducted from the above mentioned mean natural river in order to obtain the net yearly benefit to be shared by the two Republics.

4. The net benefit from the Sudd el Aali Reservoir referred to in the previous paragraph shall be allotted between the two Republics at the ratio of 14.5 for Sudan to 7.5 for the United Arab Republic as long as the mean natural river supply remains within the limiting value mentioned in the previous paragraph. This means that as long as the computed mean natural river supply is equal to 84 milliards of cubic metres per year and the mean value of the over-year storage losses remain equal to its present estimated value of 10 milliards of cubic metres per year then the net benefit from the Sudd el Aali Reservoir is 22 milliards of cubic metres of which 14.5 milliards shall be allotted to the Republic of Sudan and 7.5 milliards to the United Arab Republic. By adding these benefits to the respective established rights, the total shares in the net mean natural supply after the working of the complete Sudd el Aali Reservoir shall be 18.5 milliards per year for the Republic of Sudan and 55.5 milliards per year for the United Arab Republic.

If the mean natural river exceeds 84 milliards per year then the resulting increase in the net benefit due to the increase in the mean natural river shall be equally divided between the two Republics.

5. As the net benefit from the Sudd el Aali Reservoir referred to in paragraph (3) article II is calculated by deducting the established rights and the mean over-year storage yearly losses, from the mean natural river supply of the past years of the present century, it is recognized that this net benefit shall be subject to revision by both parties at reasonable intervals to be agreed upon as from the date of the operation of the complete Sudd el Aali Reservoir.

6. The Government of the United Arab Republic agree to the payment of fifteen million Egyptian pounds to the Government of the Republic

of Sudan as full compensation for the damages to present Sudanese property resulting from the storage of water in the Sudd el Aali Reservoir to a level of 182.00 metres (Survey). Such payment shall be affected as agreed upon by both parties in the Annex attached thereto.

7. The Government of the Republic of Sudan undertake to take steps to transfer the population round Halfa as well as all other Sudanese inhabitants — whose properties will be affected by the maximum storage in the Sudd el Aali Reservoir — prior to July 1963.

8. It is recognized that after the working of the complete Sudd el Aali Reservoir for over-year storage, the United Arab Republic will not require the use of Gebel Aulia Reservoir for storage. The two contracting parties shall examine all matters related to such renunciation in due time.

III.—*Projects for the exploitation of waters lost in the Upper Nile Basin*

In view of the fact that quantities of the Nile Basin waters are wasted in the swamps of Bahr el Gebel, Bahr el Zeraf, Bahr el Ghazal, River Sobat, and the conservation of these waters for increasing the present natural river supply is most vital for the future agricultural developments, the United Arab Republic and the Republic of Sudan agree to the following:

1. In agreement with the United Arab Republic, the Republic of Sudan shall carry out projects for increasing the River Nile water supply by the prevention of excess losses in the swamps of Bahr el Gebel, Bahr el Zeraf, Bahr el Ghazal and its branches, River Sobat and its branches and the White Nile.

The water benefit from such projects as well as the total costs of construction shall be shared equally by the two Republics.

The Republic of the Sudan shall defray the costs of the above mentioned projects and shall be reimbursed by the United Arab Republic on the basis of half the profits designated in these projects.

2. In case the United Arab Republic need more water to cope with their progress in the agricultural expansion programme and therefore find it necessary to take the necessary steps to carry out one of the above mentioned schemes at a time when the need of the Republic of Sudan might not have arisen, the United Arab Republic will notify the Republic of Sudan of the date on which the former intend to start the execution and in the course of two years from the date of such notification each of the two Republics shall submit their programme of expansion and the dates and quantities of their water requirements from the benefit of the scheme. Any such programme shall be binding to both parties. At the expiration of the two years, the United Arab Republic shall start the execution of the project at their own expense. When the Republic of the Sudan are ready to make use of their share according to the agreed programme they shall then reimburse to the United Arab Republic their share in the cost in the same proportion to the total cost as their share in the benefit is to the total actual benefit of the scheme. The final share of either party shall not exceed 50% of the total benefit.

IV.—*Technical Co-operation between the two Republics*

1. To insure technical co-operation between the two Republics to carry out the necessary study and research in connection with projects for the Nile Control and the increase of its supply and for the continuation of

Hydrological survey work of the River in its upper reaches, the two Republics agree to constitute a Permanent Joint Technical Committee composed of an equal number of members from both Republics. This Committee shall be formed after signing this agreement and shall have the following terms of reference:

(a) To draw the main lines of schemes aiming at the increase of the River supply and to supervise and direct the research work and investigations and collection of data necessary for the preparation of project reports to be submitted to both Governments for approval.

(b) To supervise the execution of the approved projects.

(c) To draw up the working arrangements for works implemented in the Republic of Sudan as well as for works implemented in territories outside the Sudan by agreement with their concerned authorities.

(d) To supervise the application of all aforesaid working arrangements in article (c) by means of engineers appointed for this purpose and selected from officials from the two Republics in connection with works in the Sudan and also the Sudd el Aali and Aswan Reservoir and, according to agreements with other governments, in connection with works outside the Sudan.

(e) In view of the possibility of the occurrence of a series of years of low river supply causing a continuous drop in the Sudd el Aali Reservoir levels to the stage that will not enable both Republics to draw their normal quota in any year, the Committee shall put up the necessary arrangements to be followed by both parties to face the shortage of supply in such low years in a manner that will not cause any damage to either party and shall submit their proposals for approval by both Republics.

2. To enable the Committee to carry out duties referred to in paragraph 1 above and to insure the continuation of the observation of gauges and discharges of the River in all its upper reaches, these duties shall be carried out under the supervision of the Committee within the technical field by the engineers of the Republic of Sudan and the staff of the United Arab Republic in the Sudan, and in Uganda.

3. The two Republics shall issue a joint order covering the formation of the Permanent Joint Technical Committee, the names of its members, and the necessary budget to be provided from the funds of both Republics.

The Committee shall meet either in Cairo or in Khartoum according to circumstances and shall establish its own rules of procedure subject to the approval of the two Governments and which shall include the necessary regulations in connection with meetings, technical, administrative and financial activities.

V.—*General Provisions*

1. In case any question connected with Nile waters needs negotiations with the governments of any riparian territories outside the Republic of Sudan and the United Arab Republic, the two Republics shall agree beforehand on a unified view in accordance with the investigations of the problem by the Committee. This unified view shall then form the basis of instructions to be followed by the Committee in the negotiations with the governments concerned.

Should such negotiations result in an agreement to construct works on the Nile in territories outside the two Republics, the Permanent Joint Committee shall then assume the responsibility to contact the concerned authorities in

those territories in order to lay down all the technical details in connection with the execution as well as the Working Arrangements and maintenance of the works in question. After agreement on these points with the governments concerned the Committee shall supervise the execution of the technical provisions of such agreements.

2. Since other riparian countries on the Nile besides the Republic of Sudan and the United Arab Republic claim a share in the Nile waters, both Republics agree to study together these claims and adopt a unified view thereon. If such studies result in the possibility of allotting an amount of the Nile water to one or the other of these territories, then the value of this amount as at Aswan shall be deducted in equal shares from the share of each of the two Republics.

The Permanent Joint Technical Committee shall make arrangements with the concerned authorities in other territories in connection with the control and checking of the agreed amounts of Nile water consumption.

VI.—*Transition period before the working of the complete Sudd el Aali*

Whereas both Republics shall benefit from their respective shares in the net benefit of the Sudd el Aali Reservoir only when the latter shall be complete and shall yield its benefit, both parties shall agree on their interim programme of expansion in the transition period — from now until the working of the complete Sudd el Aali — in a manner that shall not affect their present water requirements.

VIII. — Annexure 1 as well as Annexures 2 (A) and 2 (B) attached hereto shall be considered as an integral part of this agreement.

ANNEXURE I

Text Concerning the water loan requested by the United Arab Republic

The Republic of Sudan agree in principle to grant the United Arab Republic a water loan from the Sudanese share in the Sudd el Aali benefit in order to enable the latter Republic to meet the requirements of the agricultural expansion programme.

The United Arab Republic shall request such loan after the revision of the expansion programme in the course of five years from the date of signing this Agreement. If such a revision show that the United Arab Republic still need the loan, the Republic of Sudan shall grant the United Arab Republic a loan not exceeding one and a half milliards of cubic metres from their share provided that the use of such share shall cease in November 1977.

ANNEXURE II (A)

To the Chairman
of the Delegation of the
Republic of Sudan

With reference to Article II, paragraph 6, of the Agreement signed on to-day's date, concerning the full utilization of the River Nile waters,

compensation amounting to £E. 15 millions, shall be paid in pounds sterling or in a third currency to be agreed upon by both parties, calculated at a constant rate of \$2.87156 to each Egyptian pound.

As agreed, the Government of the United Arab Republic shall pay this amount in the following instalments:

£Eg. 3 millions on 1st January 1960				
„ 4	„	„	„	1961
„ 4	„	„	„	1962
„ 4	„	„	„	1963

I shall be very grateful if you would kindly confirm your agreement to the above arrangements.

ANNEXURE II (B)

To the Chairman
of the United Arab Republic Delegation

I have the honour to acknowledge receipt of your letter of to-day's date reading as follows:

[See above]

I have the honour to confirm the Agreement of the Republic of Sudan to the contents of the said letter.

PROTOCOL CONCERNING THE ESTABLISHMENT OF THE PERMANENT TECHNICAL COMMITTEE

In confirmation of the complete and continuous cooperation aimed at by the Agreement for the Complete Utilization of the Nile Waters between the United Arab Republic and the Republic of the Sudan, signed on November 8, 1959;

and in implementation of Article 4 of said agreement which provides that a technical permanent committee be set up composed of an equal number of members from each of the United Arab Republic and the Republic of the Sudan;

the two Contracting Parties have agreed upon the following articles:

Article I. The Permanent Technical Committee shall be composed of the following:

(a) *On the part of the United Arab Republic:*

Chairman: Eng. Mohamed Khalil Ibrahim, Assistant Under-secretary of State, Ministry of Public Works;

Members: Eng. Abdel Azim Ismail, Technical Expert, Ministry of Public Works; Dr. Eng. Mohamed Amin, Technical Advisor, Ministry of Public Works; Eng. Tewfik Mohamed Khalifa, Irrigation Inspector General at Khartoum;

(b) *On the part of the Republic of the Sudan:*

Chairman: Mahmoud Mohamed Gadeen, Director, Ministry of Irrigation;

Deputy Chairman: Mohamed el-Rasheed Sayed Ahmed, Deputy Advisor for Irrigation;

Members: Zaghiron el-Zein, Deputy Director for Irrigation; Yehia Abdel Meguid, Engineer-in-Chief, Water Research.

Article II. If, in future, circumstances should require the bringing about of any alteration to the Joint Committee's composition, such an alteration shall be effected pursuant to letters exchanged between the Ministers of Foreign Affairs of the United Arab Republic and the Republic of the Sudan upon the proposal of the appropriate authorities of both countries.

Article III. The present protocol shall be considered supplementing the Agreement for the Complete Utilization of the Nile Waters signed on November 8, 1959, and shall have effect as of the date of its signing.

III. TREATIES RELATING TO AMERICAN RIVERS

III. TRAITÉS SE RAPPORTANT AUX FLEUVES AMÉRICAINS

Argentina—Paraguay

35. SUPPLEMENTARY BOUNDARY TREATY¹ BETWEEN ARGENTINA AND PARAGUAY, SIGNED AT BUENOS AIRES, JULY 5, 1939²

. . . .

Article 6. As soon as this treaty is ratified, both governments shall proceed to appoint a technical commission composed of Paraguayans and Argentines to study and draw up the plan of works necessary to regulate the proportional distribution of the flow of the river Pilcomayo into its two branches on the north and on the south of the frontier line.

36. SUPPLEMENTARY BOUNDARY TREATY³ BETWEEN THE ARGENTINE REPUBLIC AND THE REPUBLIC OF PARAGUAY ON THE RIVER PILCOMAYO AND PROTOCOL³ ANNEXED TO THE TREATY, SIGNED AT BUENOS AIRES ON 1 JUNE 1945⁴

The Governments of the Argentine Republic and the Republic of Paraguay, being desirous of reaching a permanent settlement of the question of the boundaries pending between the two countries at the Pilcomayo River, in the region lying between the points known as "Horqueta" and "Salto Palmar" referred to in the Supplementary Boundary Treaty

¹ The exchange of ratifications took place at Buenos Aires on 10 November 1939.

² *British and Foreign State Papers*, vol. 143, p. 340.

³ Entered into force on 16 August 1945.

⁴ Ministry of Foreign Affairs and Public Worship of the Argentine Republic, *Instrumentos internacionales de carácter bilateral suscritos por la República Argentina* (up to 30 June 1948), 1950, vol. II, p. 1181.

of 5 July 1939 and the Special Protocol annexed thereto, in which region there is in fact no river having a single, continuous and permanent bed, since the waters of the river aforesaid, whether they constitute a watercourse or mere marshland, do not have any stability either as a watercourse or as marshland and being subject, owing to the influence of various factors, to continual shifts and changes; and being desirous of establishing a frontier line which may serve as a permanent boundary between the two countries, in accordance with the Final Proposals contained in the Final Report of the Argentine-Paraguayan Joint Frontier Commission, reproduced in its Record No. 16, dated at the city of Asunción on 16 August 1944, which Final Report is annexed to this Treaty and was duly approved by the Supreme Government of the Argentine Republic by Decree No. 27,177 M-240 of 9 October 1944 and by the Supreme Government of Paraguay by Decree No: 5,950 of 9 November 1944; and

WHEREAS:

In the aforesaid Final Report mention is made of a dividing line between the two countries in that region and of the procedure for ensuring the stability of the dividing line and the utilization of the discharge of the waters of the River Pilcomayo on the basis of the plan of hydraulic works provided for in the relative Preliminary Project, which was duly noted in the Record of the "Pilcomayo Joint Technical Commission for Surveys and Hydraulic Works", dated at Asunción on 30 November 1943,

RESOLVES:

By mutual agreement, and inspired by a constant desire for peace and concord, to conclude this Supplementary Permanent Boundary Treaty between the Argentine Republic and the Republic of Paraguay at the River Pilcomayo and:

. . .

Article 3

For the purpose of ensuring the stability of the dividing line indicated in article 1 and the utilization of the flow of the waters, the two Governments agree to the construction of the works mentioned in the Preliminary Project prepared by the "Pilcomayo Joint Technical Commission for Surveys and Hydraulic Works", as set out in the Record of 30 November 1943, signed at Asunción, and confirmed by the "Argentine-Paraguayan Joint Frontier Commission" in its Record No. 14, signed at Asunción on 4 August 1944.

The said works shall be begun not later than two years and six months after the date of exchange of ratification of this Treaty. The procedure for the financing of and award of contracts for such works is laid down in the Special Protocol annexed to this Treaty.

Article 4

For the purpose of carrying out and financing the hydraulic works specified in the preceding article, the two Governments agree to establish a "Joint Technical Commission for Hydraulic Works on the River Pil-

comayo ", composed of one technical expert for each country. The Commission shall be authorized to make, by mutual agreement and in keeping with the letter and spirit of this Treaty, such amendments of detail as it may be deemed necessary or appropriate to introduce into the Preliminary Project of Hydraulic Works in order to facilitate the construction and maintenance of the works. The Commission shall begin its work not later than three months after the date of exchange of ratifications. Within the twelve succeeding months it shall submit the definitive plan of the works and financial estimates to the two Governments, which shall reach a decision thereon within two months from the date on which they are submitted.

The "Joint Frontier Demarcation Commission" shall take into account the amendments of detail introduced into the plan of works and any changes which may occur in the main course of the waters within the dike embankments referred to in the Preliminary Works Project.

Article 5

The two Governments agree to establish a system for the control of the waters of the River Pilcomayo throughout its course from the tripartite point "Esmeralda" (geographic co-ordinates: latitude 22° 13' 44". 19 south; longitude 62° 38' 17". 10 west of Greenwich) to its point of discharge into the Paraguay River, and for the maintenance of the works constructed and the utilization of the flow of the waters, in such a manner that full supervision may be exercised and appropriate measures taken in all cases and with the necessary speed to prevent shifts and changes in the present course of the Pilcomayo River in the first and third sectors and in its permanent course in the region of the second Sector. For this purpose a "Joint Argentine-Paraguayan Commission for the Administration and Supervision of the River Pilcomayo" shall be organized as a permanent body. It shall be composed of one technical expert from each country. Until such time as the hydraulic works provided for in article 3 of this Treaty have been completed, these functions shall be exercised by the "Joint Technical Commission for Hydraulic Works" established under article 4 of this Treaty.

Article 6

For the purpose of providing the necessary finance and for awarding the contracts for the works referred to in article 3 and for the functioning and regulation of the Joint Commissions provided for in articles 2, 4 and 5 of this Treaty, a Special Protocol of the same date has been signed and is annexed to this Treaty.

. . .

SPECIAL PROTOCOL TO THE SUPPLEMENTARY TREATY ON THE PERMANENT BOUNDARY BETWEEN THE ARGENTINE REPUBLIC AND THE REPUBLIC OF PARAGUAY ON THE RIVER PILCOMAYO

. . .

Article 9

The "Joint Technical Commission for Hydraulic Works on the River Pilcomayo", set up under article 4 of the Supplementary Treaty on the

Permanent Boundary of this date, shall be responsible for the ground plan and final design of the hydraulic works provided for in article 3 of that treaty.

Article 10

This Commission shall meet first in the city of Buenos Aires within the time-limit stipulated in the treaty aforesaid for the purpose of its constitution and to draw up its Technical and Administrative Regulations, which shall be submitted for the consideration and approval of both Governments.

It shall also draw up the plans of work for the discharge of its duties.

Article 11

When the final plans for the hydraulic works have been approved by both Governments, the "Joint Technical Commission for Hydraulic Works on the River Pilcomayo" shall be responsible for supervising the execution of these works.

Article 12

The "Joint Technical Commission for Hydraulic Works on the River Pilcomayo" shall submit for the consideration of both Governments, together with the final plans for the works, details of the measures and organization necessary for the execution, maintenance and administration of these works.

Article 13

Until the hydraulic engineering works agreed on are completed, the "Joint Technical Commission for Hydraulic Works on the River Pilcomayo" shall act at the same time as the "Argentine-Paraguyan Joint Commission for the Administration and Supervision of the River Pilcomayo", for the purpose of carrying out article 5 of the Supplementary Treaty on the Permanent Boundary of this date, and shall submit for the consideration of the Governments concerned the regulations needed for that purpose.

Article 14

Within two months after the approval of the final plans and the estimates for the works described in article 4 of the Supplementary Treaty on the Permanent Frontier of this date the two Governments shall decide by agreement which of them shall undertake to execute these works, the contracts for which shall be awarded to official departments of firms of the nationality of the country chosen.

Article 15

The country which is to carry out the works, in accordance with the provisions of the previous article, shall bear all the expenditure involved.

Article 16

The field activities of the various Joint Commissions shall be recorded in a Field Journal, produced in two identical copies.

Article 17

Each country shall pay the salaries of its staff and any expenditure due in respect of its own Commissions and shall provide them with any instruments, transport, vessels or other means which they may need for the performance of their work. The common expenditure of the various Joint Commissions shall be borne equally.

Article 18

Any instruments, equipment, vehicles, baggage, provisions and all tools or articles required by the various Joint Commissions shall be exempt from customs duties in both countries and enjoy complete freedom of entry and transit. The contracting Governments undertake to grant facilities for the transport of civil or military staff, equipment, instruments, etc. belonging to the Joint Commissions, and to allow military or civil aircraft, having a mission to carry out in connexion with the work allotted to them, to fly in the frontier zone and shall grant them for that purpose all facilities for the use of landing fields and hangars.

. . .

FINAL REPORT OF THE JOINT ARGENTINE-PARAGUAYAN
FRONTIER COMMISSION¹

In accordance with article 4 of the Supplementary Boundary Treaty of 5 July 1939, the Joint Argentine-Paraguayan Frontier Commission, by agreement between the two Delegations, has drawn up the following Final Report, which each Delegation will submit to its Government for the purposes set forth in articles 8 and 9 of the Special Protocol to the said Supplementary Treaty on the Frontier:

ESTABLISHMENT OF THE JOINT COMMISSION

The Joint Frontier Commission was established under article 2 of the Supplementary Boundary Treaty between the Argentine Republic and the Republic of Paraguay, signed at Buenos Aires on 5 July 1939, to determine the frontier line in the area comprised between the following points: to the north from Horqueta along the inlets formed by the northern arm of the River Pilcomayo to the Argentine fort of Caracoles; to the south, from the same point, Horqueta along the dry bed of the Pilcomayo to the fort of Zalazar, and this point to Salto Palmar; and, to the east, the line comprised between the fort of Caracoles and Salto Palmar.

. . .

CONCLUSIONS

The preceding examination shows the unique nature of the River Pilcomayo in the Second Sector, namely the area between Salto Palmar and

¹ Ministry of Foreign Affairs and Public Worship of the Argentine Republic, *Instrumentos internacionales de carácter bilateral suscriptos por la República Argentina* up to 30 June 1948), vol. II, p. 1189, Buenos Aires, 1950.

Horqueta, which the Joint Commission was required to survey under the Supplementary Boundary Treaty of 5 July 1939, with a view to proposing the frontier line. Nevertheless this physiographical examination leads to the following fundamental conclusions as can be seen in both the aerial photographic survey and the topographical surveys on the ground.

2. In the second place the waters of the River Pilcomayo throughout the area of the Second Sector, whether they form watercourses, or only marshes, lack permanent stability both as watercourses and as marshes. On the contrary, as seen in the preceding chapter, they are liable to change and shift constantly under the influence of various forces. Hence nothing would be gained by stipulating only one frontier line between the two adjacent countries. Such a frontier line would be little more than a line on paper. Nature would very soon make it meaningless by sending a large part of the waters in one direction or another, unexpectedly and capriciously, and part of the territory of one of the bordering countries might be left completely without water or covered with useless marshes.

It is necessary, therefore, to fix the course of the waters and to stabilize them, so that they cannot wander or lie stagnant, and to allow the current itself to dig and establish its own bed when it has been increased and controlled in this way.

This aspect of the question, which is most important, has been considered by the joint technical commission set up to make a survey and to draw up plans for the works needed to ensure the proportional distribution of the waters of the River Pilcomayo, as provided in article 6 of the Supplementary Boundary Treaty.

This joint technical commission has agreed on a preliminary plan of works which is described in a Record drawn up at Asunción on 30 November 1943 (see Record No. 14 in Annex 2). These works consist of the following: (1) Two embankments extending from near Punto Horqueta eastwards to the neighbourhood of the Laguna La Bella, one on each side of the proposed frontier line and about 10 kilometres apart, in order to limit the area within which the bed described above as the most permanent one silts and changes its course, and to give this bed stability; all this should ensure that the entire volume of water flowing eastwards past Punto Horqueta enters the Laguna La Bella; (2) The building of a dam in the Laguna La Bella, with a discharge intake structure and safety spills; (3) The digging of a channel of a width of 40 metres and an average depth of one and a half metres, across the Patino inlet, from the main outlet of the Laguna La Bella at a place about 600 metres to the north-north-east of the Fort Zalazar, and continuing approximately in a straight line to Salto Palmar.

The matter to be solved is more than an affair of frontiers and more than a question of the quantitative division of territory. It is the fixing and proportional distribution between the two neighbouring countries of a large mass of water which is now lost by evaporation, overflow or lack of control, in all cases to no advantage. The completion of the works described, which is essential if the river is to be given stability in a single bed within the Second Sector, will also confer great benefits on both the bordering countries, since it will make possible the full use and proportional distribution between them of a volume of water entering at Punto Horqueta, which amounted to 3,600 million cubic metres in 1942 and which is now wasted. It will make possible the construction of roads on the embankment causeways. Finally the increase in the volume of water in a fixed bed, and its control by the dam in the Laguna La Bella, will make possible the use of

large quantities of water for irrigation and the navigation of the River Pilcomayo from the Laguna La Bella to its mouth in the River Paraguay. Apart from these very diverse and valuable advantages, the frontier question pending between the two countries will be solved permanently and amicably. There is no doubt that the cost of the works, which is estimated at 7.5 million Argentine pesos, or about 5.8 million guaraníes, is an investment which is not only fully justified but may even be considered relatively small. When carrying out the final surveys on the spot for the construction of the dikes, dams and canals referred to in the report prepared at Asunción on 30 November 1943 and even during the actual work of construction it may in certain cases be thought necessary or advisable in the opinion of the technical engineers to make certain changes of detail in the preliminary project submitted, with a view to facilitating the execution of the works and their maintenance. There can be no doubt that the joint hydraulic commission to be set up to carry out those final surveys and work of construction should be authorized to make such changes of detail, it being understood that they are adopted by mutual agreement and in every case in accordance with the letter and the spirit of the treaties, keeping as close as possible to the frontier line proposed by the undersigned Joint Commission.

It is possible, also, that when the works have been completed, particularly in the section between Punto Horqueta and the Laguna La Bella, the main watercourse may also undergo certain physical changes as it deepens and establishes its own bed between the two embankments proposed in the above mentioned Report of 30 November 1943.

For both these reasons, the Joint Commission thinks that it would be useful to provide in the Final Boundary Treaty that when the dividing line is being traced on the spot such changes of detail together with any alterations of course between the two embankments should be taken into account.

Lastly, there is no doubt that the maintenance of these works calls for constant supervision, in order to prevent deterioration and to repair any damage caused by the weather. Moreover, the whole course of the River Pilcomayo from Esmeralda to its mouth in the River Paraguay needs special supervision for the same purpose. For these reasons, the undersigned suggest that a Joint Argentine-Paraguayan Commission for the River Pilcomayo should be set up to propose to both Governments any measures which may be necessary in each case. A special protocol would determine the duties of this Commission; it would be agreed that although the Commission need not be stationed permanently in the area, it would make periodical inspections and would go to the area on every occasion when necessary.

VI

FINAL PROPOSALS

In view of the preceding account, and in accordance with articles 8 and 9 of the Special Protocol to the Supplementary Boundary Treaty of 5 July 1939, i.e. in order that both Governments may be able to conclude a Final Boundary Treaty, the Paraguayan-Argentine Joint Frontier Commission submits to the Governments of the Republic of Paraguay and the Argentine Republic, by full agreement, the following proposals, which it considers indivisible:

Second. “ In order to ensure the permanence of the dividing line described in the previous article and the proportional distribution of the volume of water mentioned in article 6 of the Treaty of 5 July 1939, both Governments should provide for the execution and financing of the works described in the preliminary draft submitted by the Joint Technical Commission for Surveys and Hydraulic Works on the River Pilcomayo, and contained in its Report drawn up at Asunción on 30 November 1943.

Third. “ The hydraulic joint commission to be set up to carry out the final surveys and the works mentioned in the previous article acting by agreement and in accordance with the letter and the spirit of the Treaties should be authorized to make any changes of detail in the preliminary draft submitted which it thinks necessary or useful, in order to facilitate the execution and maintenance of the works.

Fourth. “ The joint commission for the demarcation of the permanent frontier line shall take into account the changes of detail mentioned in the previous article, as well as any changes in the main watercourse between the embankments described in the preliminary draft which is contained in the Report drawn up at Asunción on 30 November 1943.

Fifth. “ An agreement shall also be reached on the system of administration of the waters of the River Pilcomayo, throughout its course from Esmeralda to its mouth in the River Paraguay, on the maintenance of the completed works and on the proportional distribution of the waters, all of which should be supervised, in each case and as quickly as may be considered necessary, by a joint commission for the River Pilcomayo, composed of delegates appointed by both Governments.”

. . .

The members of the Joint Argentine-Paraguayan Frontier Commission are happy to declare that they sign the present report in full agreement, and they are most happy to note once more that, both in the completion of their work and their surveys on the ground, and in their deliberations, the greatest cordiality, harmony and mutual understanding have always prevailed among them.

Since, by completing the present report, the undersigned delegates have fulfilled the task with which the Governments of the Republic of Paraguay and the Argentine Republic have honoured them, they hope that it will soon be possible to base the determination and final demarcation of the boundaries between the two brother countries on the contents of this report.

Asunción del Paraguay, 16 August 1944

37. AGREEMENT¹ BETWEEN THE ARGENTINE REPUBLIC AND THE REPUBLIC OF PARAGUAY CONCERNING A STUDY OF THE UTILIZATION OF THE WATER POWER OF THE APIPE FALLS, SIGNED AT BUENOS AIRES ON 23 JANUARY 1958²

The Government of the Argentine Republic and the Government of the Republic of Paraguay,

¹ Entered into force on 16 June 1958.

² Text provided by the Ministry of Foreign Affairs and Public Worship of the Argentine Republic (Translated from Spanish by United Nations Secretariat).

Considering the possibility of obtaining hydro-electric energy from the rapids in the River Paraná at the islands of Yacyretá and Apipé;

Convinced of the need for loyal international co-operation to make technical surveys on the possible utilization of this source of energy, and

Taking into account the fact that joint action in a new field of activity will promote closer ties and economic links and will strengthen the friendship between the two nations,

Have decided to conclude this Agreement creating a Joint Argentine-Paraguayan Technical Commission for the utilization of the water-power from and the improvement of the navigability of the River Paraná at the islands of Yacyretá and Apipé . . .

Article I

The object of this Agreement is the making of a study by a Joint Argentine-Paraguayan Technical Commission of the utilization of the water-power of the river Paraná at the islands of Yacyretá and Apipé and, in addition, of the improvement of the navigability of the said river.

Surveys shall also cover other advantageous uses of the waters of the Paraná and possibly the improvement of communications between the two countries through the works to be carried out.

Article II

This Agreement establishes a Joint Argentine-Paraguayan Technical Commission, composed of two representatives, one from each party, and such advisers as may be considered necessary for the accomplishment of their task.¹

The surveys to be made shall consist principally of:

(a) Exploration and inspection of the above-mentioned region, determining all the technical characteristics of the waters which are relevant to hydraulic utilization.

(b) A hydrographic and hydrological survey of the River Paraná in the said region.

(c) A geological and hydrological survey of the said region.

(d) A plan of the works needed for hydraulic utilization, including cost estimates.

(e) A survey of the possibilities for financing the proposed projects.

¹ Following the exchange of views which took place between the Ministry of Foreign Affairs of Paraguay and the Special Mission of the Government of the Argentine Republic at Asunción, it was agreed on 26 September 1960, that: "Considering that the Government of the Republic of Paraguay has appointed its representative to the Joint Paraguayan-Argentine Technical Commission for the study of the utilization of the water-power of the Apipé falls, and that the Argentine delegation has likewise been appointed, it is decided that the above-mentioned Joint Technical Commission shall commence its work in the city of Buenos Aires during the second half of the month of October of this year". [*Joint Paraguayan-Argentine Communiqué* on 26 September 1960, text provided by the Ministry of Foreign Affairs and Public Worship of the Argentine Republic.]

(j) A survey of the possible consumption of electric power in the region and of the possible costs.

Article III

All surveys made by the Joint Argentine-Paraguayan Technical Commission shall be at the disposal of both Contracting Parties.

The investigations and surveys made shall not affect or interrupt those being made by the technical agencies of both countries.

Article IV

The representatives and advisers and the technical personnel employed by the Joint Argentine-Paraguayan Technical Commission who are engaged in some work or survey shall have the right to travel freely in the said region and enter the territory of the other Contracting Party, bringing their instruments and other working tools.

They shall also enjoy all facilities for the accomplishment of their task.

Article V

A period of two years is fixed for the completion of all the surveys mentioned in this Agreement and for the submission by the Joint Argentine-Paraguayan Technical Commission to both Governments of its final report, giving a general description of the works, the advantages accruing therefrom, and the methods of carrying out any projects recommended, the execution of the work and the financing plan to be adopted.

Article VI

The Joint Commission shall draw up a work plan and request from both Governments equal contributions towards the funds needed for the execution of the work plan.

. . .

Argentina—Uruguay

38. PROTOCOL¹ BETWEEN URUGUAY AND ARGENTINA
DEALING WITH THE QUESTION OF THE JURISDICTION
OF THE RIVER PLATE, SIGNED AT MONTEVIDEO, JANU-
ARY 5, 1910²

Dr. Gonzalo *Ramirez*, Envoy Extraordinary and Minister Plenipotentiary duly authorized by the Government of the Oriental Republic of Uruguay, and Dr. Roque *Saénz Peña*, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Argentina on special mission, duly authorized by his Government, after a friendly exchange of views and without prejudice to ulterior connections between the two nations, being met to-day in the salon of the Ministry of Foreign Affairs, declare:

¹ Came into force on the date of signature.

² *American Journal of International Law*, vol. 4, 1910, Suppl., p. 138; *British and Foreign State Papers*, vol. 103, p. 357.

1. The sentiment and aspirations of both peoples are reciprocal in the desire to cultivate and maintain the ancient relations of friendship, fortified by the common origin of the two nations.

2. With the object of giving greater efficacy to the declaration which precedes, and eliminating any resentment which might have remained as a result of past differences, the signatories agree that these differences, not having been capable of causing or inferring offence, are to be considered as incapable of duration and in no respect as diminishing the spirit of harmony which animates the two countries or the considerations which mutually unite them.

3. The navigation and use of the waters of the River Plate will continue without alteration as up to the present, and whatever difference may arise in this connection will be removed and resolved in the same spirit of cordiality and harmony which has always existed between the two countries.

. . .

39. AGREEMENT¹ CONCLUDED BY ARGENTINA AND URUGUAY CONCERNING INCIDENTS WHICH OCCURRED ON CERTAIN ISLANDS OF THE URUGUAY RIVER, SIGNED AT BUENOS AIRES, ON 13 JANUARY 1938²

. . . with a view to definitively avoiding any possible repetition of similar occurrences, and desiring to proclaim once again the friendly feelings on which the traditional ties between the two countries are based and to strengthen those ties, have decided to conclude an agreement . . .

Article 2. The two Governments shall jointly make a hydrographic survey of the Uruguay River in accordance with a plan to be drawn up by their competent agencies.

Article 3. Expenses arising from the work referred to in article 2 shall be met by the respective Governments in so far as their personnel and supplies are concerned.

. . .

Article 5. As utilization of the water-power of the Uruguay River is considered to be in their common interest, the two countries agree to arrange for the appointment of a Joint Argentine-Uruguayan Technical Commission which shall carry out the aforementioned survey and report as soon as possible to both Governments with a view to the implementation of the project.

. . .

¹ Entered into force on 13 January 1938 by signature.

² Ministry of Foreign Affairs and Worship of the Argentine Republic, *Instrumentos internacionales de carácter bilateral suscritos por la República Argentina* (up to 30 June 1948), 1950, vol. II, p. 1385.

40. AGREEMENT¹ BETWEEN ARGENTINA AND URUGUAY
RELATING TO THE UTILIZATION OF THE RAPIDS OF THE
URUGUAY RIVER IN THE AREA OF SALTO GRANDE,
SIGNED AT MONTEVIDEO, ON 30 DECEMBER 1946²

His Excellency the President of the Argentine Republic and His Excellency the President of the Eastern Republic of Uruguay, desiring to obtain, for the economic, industrial and social development of the two countries, the greatest possible benefit from the natural advantages offered by the rapids of the Uruguay River in the area of Salto Grande, to improve the conditions for navigation, to utilize the waters of the river for the production of energy, to facilitate the linking of their land communications and to pursue any other objectives which, without prejudice to those aforementioned, will benefit the two countries in the manner aforesaid, have decided — pursuant to the provisions of article 5 of the agreement of 13 January 1938 — to conclude the present agreement.

Article 1

The High Contracting Parties declare, for the purposes of this agreement, that the waters of the Uruguay River shall be utilized jointly on a basis of equality.

Article 2

The High Contracting Parties agree to appoint and maintain a Joint Technical Commission which shall be composed of an equal number of representatives from each country and shall be responsible for dealing with all matters connected with the utilization, damming and diversion of the waters of the Uruguay River.

The remuneration and expenses of the said representatives shall be borne by the respective Governments.

Article 3

The Joint Technical Commission shall establish its own technical and administrative rules and draw up its plan of work, and shall, in the performance of its functions, conform with the following regulations and principles agreed upon by the High Contracting Parties:

(a) The following water-use priorities shall apply, and no use shall be permitted which hampers or restricts the same;

(1) Household use and sanitation;

¹ The exchange of the instruments of ratification took place on 27 August 1958. The entry into force of the Agreement resulted in the abrogation of the "Additional Protocol" which had been in force since 28 January 1947. The object of the "Additional Protocol" was to keep in being the Joint Technical Commission set up by the Agreement of 13 January 1938. This Commission was replaced by the new Joint Technical Commission established by article 2 of the Agreement of 30 December 1946.

² Ministry of Foreign Affairs and Worship of the Argentine Republic, *Instrumentos internacionales de carácter bilateral suscritos por la República Argentina* (up to 30 June 1948), vol. II, p. 1409, Buenos Aires, 1950.

- (2) Navigation;
- (3) Production of energy;
- (4) Irrigation.

The Commission shall also request the Governments to take the necessary measures for the conservation of fish resources.

(b) Decisions of the Joint Technical Commission shall be taken by majority vote of the membership. If a vote is equally divided, the delegations shall submit separate reports to their respective Governments. The High Contracting Parties shall endeavour to reach an agreement, and if an agreement is arrived at, it shall be reduced to writing and shall be communicated to the Joint Technical Commission, which shall take the necessary steps for giving it effect. If no agreement is reached, the High Contracting Parties agree to settle the dispute by diplomatic means, and if a solution is not arrived at by this method, the dispute shall be submitted to arbitration.

(c) The Joint Technical Commission shall address all its communications to the Ministries of Foreign Affairs of the two countries, to which it shall also send a copy of all its minutes and decisions and any other information which it considers appropriate.

(d) The Commission shall employ permanent or temporary technical and administrative personnel in accordance with its needs. Except in special cases, it shall for this purpose use nationals of the two High Contracting Parties in equal numbers.

Article 4

The cost of joint works and installations, consisting mainly of a dam together with mechanical and electrical generating equipment, and the cost of surveys and plans shall be shared equally by the two Parties.

The cost of works not constructed jointly — consisting mainly of access facilities, supplementary works and transmission lines — and costs in respect of compensation and expropriation to be paid in the territory of each country shall be borne by the Governments concerned.

The cost of works and installations required for navigation upstream of the dam shall be borne by each country in proportion to the use made of them, taking into account their zones of influence, extent of shoreline and probable traffic.

The value to be assigned to the joint works and installations shall be such as will permit the production of energy at a cost not exceeding that which could be obtained from a thermal station of the same power established in the same area. If the total cost of the joint works and installations exceeds the value thus assigned, the excess shall be added to the cost of the works intended for navigation.

If the total installed capacity is temporarily distributed among the High Contracting Parties in a proportion other than 50 per cent each, the cost of the joint works and installations shall during such period be apportioned accordingly.

If, when the final plans are drawn up, the Eastern Republic of Uruguay reserves, for a specific period, less than half of the total installed capacity, the Argentine Republic shall take the remainder during such period and shall reimburse it to Uruguay in accordance with that country's anticipated

consumption requirements, four years' notice being required before such reimbursement becomes effective.

Irrespective of the proportionate contribution of each of the High Contracting Parties, the joint works and installations shall be jointly owned in an equal proportion by each of the signatory States at the end of the amortization period.

Article 5

The High Contracting Parties agree that the use and diversion, whether temporary or permanent, of the waters of the Uruguay River and its tributaries upstream of the dam shall be authorized by the Governments within their respective areas of jurisdiction only when a report has been received from the Joint Technical Commission.

Article 6

The Joint Technical Commission shall arrange for such studies as have not been made at the time when it commences to function and shall draw up plans for the construction of the necessary works and installations. These plans, together with the related estimates, specifications, economic and financing plans and relevant regulations governing the employment of workers, shall be submitted to the High Contracting Parties for consideration and approval.

When this approval has been obtained, the Commission shall be empowered to arrange for the construction work and to take partial and full delivery of the works and installations to be constructed.

The payments for studies and plans shall be made by the Commission, which shall also, as appropriate, issue artifications for the works and installations constructed.

Technical and administrative personnel and construction workers shall, as far as possible, be recruited from among nationals of the two High Contracting Parties in equal numbers.

Article 7

The High Contracting Parties shall establish an inter-State agency for the purpose of operating and administering the works and installations constructed in accordance with this Agreement. Pending the establishment of this agency, the aforementioned functions shall be performed by the Joint Technical Commission.

Article 8

The High Contracting Parties shall make the necessary arrangements in order that energy may be exchanged by the two Governments at cost price.

Article 9

Supplies and machinery intended for the works provided for in this Agreement shall be exempt from all types of duty and supplementary charges applicable to them in either country.

The personnel, equipment, instruments, baggage, food supplies and other articles required by the Joint Technical Commission shall be entitled

to the same customs exemptions and facilities for their transport shall be granted by the Governments.

Article 10

The measures taken to give effect to this Agreement shall not affect any of the rights of the High Contracting Parties relating to sovereignty and jurisdiction or to their navigation rights on the Uruguay River.

Article 11

The High Contracting Parties agree to invite the Government of the United States of Brazil, once this Agreement is signed, to a conference at which will be considered the changes which, as a result of this Agreement, are brought about in navigation on the Uruguay River and in the river regulations subject to the provisions of the conventions in force.¹

Article 12

The Joint Technical Commission shall have its headquarters at Buenos Aires and shall be established within thirty days after the ratifications of this Agreement have been exchanged.

¹ *Brazil* was invited to attend a *tripartite conference* that was convened at Buenos Aires. This Conference concluded its works by adopting, on 23 September 1960, a *Joint Declaration* in which the Governments of Argentina, Brazil and Uruguay have agreed upon the following: (1) The Brazilian Government views favourably the joint execution by the Governments of Argentina and Uruguay of the Salto Grande works, which will demonstrate the spirit of solidarity and co-operation existing in the region of the continent shared by the signatory States; and the Argentine and Uruguayan Governments take note of its attitude with satisfaction; (2) In accordance with international doctrine and practice, the Brazilian Government reserves, and the Argentine and Uruguayan Governments recognize, the right to: (a) claim and obtain, at any time, fair compensation for any damages which may be caused in Brazilian territory during the construction or utilization of the works; (b) be consulted if, in the course of their studies, the participating countries wish to make any change in the plan which will alter the conditions at present contemplated; (3) The Governments of Argentina, Brazil and Uruguay reaffirm their mutual recognition of the right of free navigation of the Uruguay River and of non-discrimination in the use of locks by vessels flying their flags or in their service, as regards both rates and tariffs and the order in which vessels are serviced; (4) The Governments of Argentina and Uruguay recognize the Brazilian Government's right, in accordance with existing international instruments and the rules of international law, freely to carry out hydraulic works of any nature on the Brazilian reaches of the Uruguay River and its tributaries. The Brazilian Government will, in its turn, in accordance with international doctrine and practice, consult with the other riparian States before carrying out any hydraulic works which may alter the present regime of the Uruguay River; (5) The Governments of Argentina, Brazil and Uruguay declare their intention to prepare a joint regional plan for the utilization and reclamation of the entire basin of the Uruguay River and the regions adjacent thereto, in which the interests and aspirations of the frontier populations of the three friendly countries are increasingly becoming identified. [Argentina, Dirección de Defensa Nacional, *Documentación de la Conferencia prevista en el artículo XI del Convenio argentino-uruguayo sobre el aprovechamiento de los rápidos del río Uruguay en la zona del Salto Grande, in fine.* (Translated from the Spanish by the Secretariat of the United Nations).]

Article 13

Upon approval of this Agreement by the High Contracting Parties, the exchange of ratifications shall take place at Montevideo.

In witness whereof the respective plenipotentiaries have signed this Agreement in two copies, having the same effect and being equally authentic, and have thereto affixed their seals at Montevideo on 30 December 1946.

41. TREATY¹ BETWEEN THE ARGENTINE REPUBLIC AND THE
EASTERN REPUBLIC OF URUGUAY ON THE BOUNDARY
CONSTITUTED BY THE URUGUAY RIVER, SIGNED AT
MONTEVIDEO ON 7 APRIL 1961²

Article 7. The High Contracting Parties shall agree on a statute governing the utilization of the river, which shall cover, *inter alia*, the following matters:

- (a) Joint and uniform regulations to ensure safe navigation;
- (b) A system of pilotage taking into account present practices;
- (c) Regulations for the purpose of maintaining dredging and marking with buoys in accordance with the provisions of article 6;
- (d) Reciprocal facilities for hydrological and other surveys relating to the river;
- (e) Provisions for the conservation of living resources;
- (f) Provisions designed to avoid pollution of the waters.

Article 8. In the islands remaining under Uruguayan jurisdiction included in the zone specified in article 1, paragraph B II, the High Contracting Parties, shall, by mutual agreement, determine the utilization of the waters for domestic, industrial and irrigation purposes and shall establish a system of policing which shall ensure, through joint Argentine-Uruguayan co-operation, that the relevant regulations are enforced.

Bolivia—Peru

42. PRELIMINARY CONVENTION³ BETWEEN BOLIVIA AND
PERU FOR THE EXPLOITATION OF FISHERIES IN LAKE
TITICACA. SIGNED AT LIMA, ON 17 JULY 1935⁴

The Governments of Bolivia and Peru, considering the importance which

¹ Ratified by Argentine Republic, on 2 October 1961. It has not yet been ratified by Eastern Republic of Uruguay.

² Text provided by the Ministry of Foreign Affairs and Public Worship of the Argentine Republic. [Translated by the Secretariat of the United Nations.]

³ Approved by Peru by *Resolución Suprema* No. 429 of 21 August 1935, and by Bolivia by an Act of 20 September 1938.

⁴ Bolivian Ministry of Foreign Affairs, *Colección de tratados vigentes de la República de Bolivia*, vol. V, *Convenciones bilaterales*, p. 486; Peruvian Ministry of Foreign Affairs, *Tratados y acuerdos vigentes entre el Perú y otros Estados*, I, *Instrumentos bilaterales*, p. 127.

the study and development of the fishery possibilities of Lake Titicaca may have for the economic life of their frontier regions, have agreed to concert their efforts to those ends . . .

Article 1. The Governments of Bolivia and Peru shall, by agreement and simultaneously, provide for the dispatch of a Scientific Commission to study the varieties of fish in Lake Titicaca and the possibility of establishing and developing there other species suited to industrial exploitation.

Article 2. If it appears from the conclusions of the Commission referred to in the foregoing article that the establishment of fish hatcheries and distribution stations is desirable, the two Governments shall agree on the steps to be taken and the apportionment of the necessary expenditures.

Article 3. After the conclusions of the Commission have been adopted by the two Governments or modified by agreement between them, the two Governments shall conclude a Convention on Fishing in Lake Titicaca which shall provide for equality of rights and economic opportunities for Bolivian and Peruvian fishermen, and for a permanent régime governing the participation of the two Governments in the establishments referred to in the foregoing article and the reimbursement of whatever expenditures are incurred.

43. EXCHANGE OF NOTES¹ BETWEEN PERU AND BOLIVIA
ESTABLISHING A JOINT COMMISSION FOR STUDY OF
THE PUNO-GUAQUI RAILWAY LINE AND JOINT USE OF
THE WATERS OF LAKE TITICACA. LA PAZ, 20 APRIL 1955²

REPUBLIC OF BOLIVIA
MINISTRY OF FOREIGN AFFAIRS AND WORSHIP

La Paz, 20 April 1955

Your Excellency,

I have the honour to inform you that the Government of Bolivia is in agreement with the Government of Peru concerning the usefulness of studying important questions of common interest the solution of which should effectively strengthen the economic ties between the two countries and further improve the friendly relations they now maintain.

For that purpose and in view of the need to organize and develop a co-ordinated technical plan for linking the Bolivian La Paz-Guaqui railway with the Peruvian Mollendo (Matarani)-Puno railway and utilizing the waters of Lake Titicaca, my Government has agreed with your Government as follows:

1. A Joint Bolivian-Peruvian Commission shall be established for the purpose of preparing studies concerning the Puno-Guaqui railway line and the use of the waters of Lake Titicaca for hydroelectric and other mutually beneficial purposes.

¹ Came into force on 20 April 1955 by exchange of the said Notes.

² *Revista Peruana de Derecho Internacional*, vol. XV, January/December 1955, Nos. 47-48, p. 76.

2. The Joint Commission shall be composed of twelve members, six from each country, who shall be chosen as follows: two officials appointed by the Ministry of Foreign Affairs of each country, two railway experts and two hydroelectricity experts.

3. In order to carry out the functions assigned to it, the Joint Commission shall be divided into two sub-commissions, one for preparing the studies concerning the Puno-Guaqui railway line, and the other the studies concerning the use of the waters of Lake Titicaca.

4. The Commission shall meet at La Paz on a date agreed on by the two Governments in order to establish the rules under which it will function and to make whatever arrangements it considers desirable.

5. The sessions of the Joint Commission shall be held alternately at Lima and La Paz, and shall be presided over by the Minister of Foreign Affairs of the country concerned or a person appointed by him.

6. The appointment of the members of the Joint Bolivian-Peruvian Commission shall be made simultaneously by the two Governments twenty days after the date of signature of this note.

This note and your reply shall constitute evidence of the agreement reached by the two Governments. . . .

EMBASSY OF PERU

Your Excellency,

I have the honour to inform you that the Government of Peru is in agreement with the Government of Bolivia concerning the usefulness of studying important questions of common interest the solution of which should effectively strengthen the economic ties between the two countries and further improve the friendly relations they now maintain.

For that purpose and in view of the need to organize and develop a co-ordinated technical plan for linking the Peruvian Mollendo (Matarani)-Puno railway with the Bolivian La Paz-Guaqui railway and utilizing the waters of Lake Titicaca, my Government has agreed with your Government as follows:

[See first note]

44. PRELIMINARY CONVENTION¹ BETWEEN PERU AND BOLIVIA CONCERNING A STUDY OF THE JOINT UTILIZATION OF THE WATERS OF LAKE TITICACA. SIGNED AT LIMA, ON 30 JULY 1955²

The Governments of the Republic of Peru and the Republic of Bolivia,

¹ This Agreement has not yet entered into force.

A Declaration made by the Presidents of Peru and Bolivia at Lima on 30 July 1955 on the date of signature of the Preliminary Convention states: "As regards the utilization of the waters of Lake Titicaca for industrial or other purposes, the two Governments declare that the said waters, being the joint and indivisible property of both may be used only with the express agreement of the two parties" [*Revista Peruana de Derecho Internacional*, vol. XV, January/December 1955, nos. 47-48, p. 87].

² *Ibid.*, p. 90.

moved by a desire to strengthen the cordial relations which happily exist between them, have decided to conclude a Preliminary Convention concerning a study of the utilization of the waters of Lake Titicaca — such study having been entrusted, by virtue of an exchange of notes signed by both Governments on 20 April 1955, to a joint Peruvian-Bolivian Commission — and have for this purpose appointed as their respective plenipotentiaries, . . .

Who, having exchanged their full powers, found in good and due form, have agreed as follows:

Article I. The Governments of Peru and Bolivia hereby approve the recommendations which the Joint Peruvian-Bolivian Commission to study the utilization of the waters of Lake Titicaca made at its first session, which was inaugurated at La Paz on 28 June 1955, their intention being to put into practice the decisions reached at the said session, namely:

1. To give careful attention to the question of finance for the immediate execution of the programme of preliminary study and observation relating to joint utilization of the waters of Lake Titicaca; and, if necessary, to seek economic assistance from appropriate national or international bodies;

2. To furnish their respective commissions with all the technical and economic facilities which they may require in order to discharge their duties promptly and effectively, providing them with transport, equipment and tools and with the necessary funds;

3. To grant extensive customs and transit facilities so that personnel, equipment, tools and other things needed for the work may move freely from one territory to the other for the purposes of their specific tasks; and

4. To hold the second session of the Joint Commission at Lima, in October of the present year.

Article II. With reference to the first recommendation mentioned in the preceding article, the Governments of Peru and Bolivia undertake to take the necessary steps to provide or obtain, as the case may be, finance for the preliminary surveys which will be used as a basis for the study concerning the utilization of the waters of Lake Titicaca.

Article III. The social and economic studies of the zones of influence adjacent to Lake Titicaca shall be carried out jointly by the Joint Commission on the territory of both Peru and Bolivia. The said zones shall be determined by the Joint Commission, and its conclusions shall be submitted to both Governments for approval.

Article IV. The present Agreement shall enter into force upon the exchange of the instruments of ratification, which shall take place as soon as possible at La Paz.

45. AGREEMENT¹ BETWEEN BOLIVIA AND PERU CONCERNING A PRELIMINARY ECONOMIC STUDY OF THE JOINT UTILIZATION OF THE WATERS OF LAKE TITICACA, SIGNED AT LA PAZ, ON 19 FEBRUARY 1957²

Article 1

The Governments of Peru and Bolivia, in view of the recommendations made by the Joint Peruvian-Bolivian Commission and by virtue of the fact that the two countries have joint, indivisible and exclusive ownership over the waters of Lake Titicaca, resolve to adopt a definite plan for a preliminary economic study concerning the joint utilization of the said waters in such manner as not to fundamentally alter the navigability or fishing facilities thereof or substantially affect the volume of water diverted from the Lake for industrial, irrigation or other purposes.

Article 2

The preliminary basic values of water drawn from the Lake in accordance with article 1 shall be as follows:

1. Kinetic energy of the water — \$US 0.001 per kwh consumed;
2. Water used for irrigation purposes — \$US 0.001 per cubic metre consumed.

These basic values, which are fixed on a preliminary basis and shall be divided equally between the two countries, shall be taken into consideration in carrying out the economic studies for the project to which this Agreement refers.

Article 3

The payments or other compensation to be made for the losses or the reduction in economic benefits sustained by either of the two countries as a result of hydroelectric development or use of the waters for irrigation and other purposes shall be the subject of an agreement to be concluded after the above-mentioned economic studies are completed.

Article 4

The preliminary economic study on the utilization by Peru and Bolivia of the waters of the Lake Titicaca shall contain, in a special introductory chapter, an estimate of the electricity consumption in both countries so that the construction of one or more hydroelectric stations capable of meeting the demand efficiently and equitably can be considered in the initial stage of development. It shall also include an agricultural and economic study of the areas where there is likely to be a market for the water for irrigation purposes after it has yielded its kinetic energy.

¹ Ratified by Peru on 21 November 1957 [*Resolución legislativa*, No. 12857]. This Agreement has not yet been ratified by Bolivia, therefore it has not yet entered into force. This Agreement was recommended by the Joint Peruvian-Bolivian Commission at its third session, which was held at La Paz from 7 to 19 February 1957.

² *Revista Peruana de Derecho Internacional*, vol. XVII, No. 52, July-December 1957, p. 210.

Article 5

The two Governments agree that they may jointly or separately initiate negotiations with responsible bodies or firms of world-wide reputation regarding the contract for the preliminary economic studies mentioned in this Agreement. Each country shall promptly give notice of such negotiations to the other through their Ministries of Foreign Affairs so that a meeting of the Joint Sub-Commission for the utilization of the Waters of Lake Titicaca may be called, the said Sub-Commission being authorized to study and recommend acceptance and signature of the contract by the two Governments.

When the preliminary economic studies provided for in the said contract have been completed, the Joint Sub-Commission shall submit them to the Joint Peruvian-Bolivian Commission for consideration and approval.

Article 6

When the studies referred to in article 5 have been approved by the Joint Peruvian-Bolivian Commission, both Governments shall invite tenders in the world market for the final studies and for the financing, in whole or in part, of the project.

Article 7

This Agreement shall come into force upon the exchange of the instruments of ratification, which shall take place as soon as possible at Lima.

Brazil—Paraguay

46. AGREEMENT¹ CONCERNING CO-OPERATION BETWEEN THE UNITED STATES OF BRAZIL AND THE REPUBLIC OF PARAGUAY IN A STUDY ON THE UTILIZATION OF THE WATER-POWER OF THE ACARAY AND MONDAY RIVERS. SIGNED AT RIO DE JANEIRO, ON 20 JANUARY 1956²

... being convinced that the policy of closer co-operation between the two countries would be effectively promoted by the adoption of measures conducive to their economic development, and bearing in mind the spirit of loyal friendship which governs relations between Paraguay and Brazil, have decided to conclude an agreement for a study concerning the utilization of the water-power of the Acaray and Monday Rivers in Paraguayan territory . . .

Article I. The subject of this Agreement is a study concerning the utilization in Paraguayan territory — in the vicinity of the Brazilian town of Foz de Iguazú and the Paraguayan port of Presidente Franco — of the water-power of the Acaray and Monday rivers, which are tributaries of the Paraná River.

¹ The exchange of the instruments of ratification took place at Rio de Janeiro on 6 September 1957.

² Ministry of Foreign Affairs, *Coleção de Atos Internacionais do Brasil*, No. 393, p. 4.

Article II. The studies to be carried out by the Government of the United States of Brazil, through the National Department of Land Improvement of the Ministry of Roads and Public Works, shall consist of:

- (a) A reconnaissance and site inspection of the region in which the waterfalls of the aforementioned rivers are situated in order to determine the ways in which their power could be utilized in either one or two hydroelectric stations;
- (b) A hydrological study of the régime of the two rivers in the vicinity of the waterfalls;
- (c) A general topographical survey of the areas in which the plans for utilizing the aforementioned power would be carried out;
- (d) A geological survey of the sites chosen for the works;
- (e) Detailed topographical surveys;
- (f) A description of the hydroelectric project setting out the general specifications necessary for preparing estimates, tenders for machinery and other equipment, and the project programme;
- (g) A preliminary plan and specifications for transmission lines between the site of the power-stations and:
 1. Asunción, including the possibility of intermediate transformer sub-stations;
 2. Foz de Iguazú and vicinity;
- (h) An economic study of the works and their repercussions on the development of the neighbouring regions, including suggestions for electricity tariffs.

Article III. All the studies, surveys and the like mentioned in article II, together with the documents on which they are based, shall be transmitted by the Government of the United States of Brazil to the Government of the Republic of Paraguay as they are completed.

Article IV. The Government of the Republic of Paraguay, at its own expense, shall assign permanent representatives to the National Department of Land Improvement of Brazil for the purpose of following the progress of the studies and programmes referred to in this Agreement.

Article V. For a period of twenty years from the date on which the first electric generator is put into service, Brazil shall have the right to consume up to 20 per cent of the electric power which the generators in service can produce, paying the rates to be established in the corresponding tariffs.

Sole paragraph. The right referred to in this article may be renewed for the same number of years by agreement between the Contracting Parties.

Article VI. The Government of the United States of Brazil undertakes to inform the Government of the Republic of Paraguay, with at least three years' notice, of the date on which it will begin to make use of the right granted to it under article V and of the quantity of electricity that it wishes to consume.

Article VII. The terms of payment for the power requested or consumed by Brazil in accordance with articles V and VI shall be subject to adjust-

ment in a manner to be agreed upon at the appropriate time by the administrative authorities of both countries.

Article VIII. Personnel of either country whose task it is to carry out the studies, surveys and the like referred to in this Agreement may freely enter, travel in and leave the territory of the two States with the equipment, personal articles and service vehicles necessary for the discharge of their duties. This right shall also extend to the use of aircraft for aerial photographic reconnaissance and surveys.

Article IX. The time limit for transmittal of the studies, surveys and the like mentioned in article II shall be four years, reckoned from the date of signature of this Agreement.

Article X. The Government of the United States of Brazil, as an interested party, shall collaborate with the Government of the Republic of Paraguay in obtaining finance for the works to be undertaken in pursuance of this Agreement.

Brazil—United Kingdom

47. EXCHANGE OF NOTES¹ BETWEEN THE BRAZILIAN GOVERNMENT AND HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM CONSTITUTING AN AGREEMENT FOR THE DELIMITATION OF THE RIVERAIN AREAS OF THE BOUNDARY BETWEEN BRAZIL AND BRITISH GUIANA. LONDON, OCTOBER 27TH AND NOVEMBER 1ST, 1932²

I

FOREIGN OFFICE, S.W. 1

No. A 7079/27/6

October 27th, 1932

Your Excellency,

In order to give effect to the desire expressed by the Brazilian Government that His Majesty's Government in the United Kingdom and the Brazilian Government should reach an agreement as to the principles to be adopted by the Mixed Commission in the delimitation of the riverain areas of the boundary between British Guiana and Brazil, I have the honour to make the following detailed proposals on the basis of the proposals already put forward by the Brazilian Government:

¹ Came into force November 1st, 1932.

² League of Nations, *Treaty Series*, vol. 177, p. 128. The text of this Exchange of Notes is also reproduced as Annex 3 of the Exchange of Notes between Brazil and the United Kingdom of 15 March 1940 [United Nations, *Treaty Series*, vol. 5, p. 72].

(vi) The river shall be open to free navigation and fishing to both States throughout that portion of its length which constitutes the boundary but no works shall be permitted other than those intended solely to retain the river in its present course and not involving any risk of altering that course except with the mutual consent of the Governments of both States and any work such as canalisation, irrigation, or the development of electrical power shall only be undertaken subject to the mutual consent of both riparian States.

2. If the Brazilian Government agree to the adoption of these principles by the Mixed Commission, I have the honour to suggest that the present note and Your Excellency's note in reply accepting the proposals be regarded as constituting an Agreement between the two Governments to this effect.

I have the honour to be, with the highest consideration, Your Excellency's obedient Servant.

(For the Secretary of State)

(Signed) R. L. GRAIGIE

His Excellency

Monsieur Raul Régis de Oliveira, G.B.E., etc.

II

No. 59

London, November 1st, 1932

Monsieur le Secrétaire d'Etat,

I have the honour to acknowledge receipt of note No. A.7079/27/6, dated October 27th last, in which Your Excellency, for the purpose of giving effect to the desire expressed by the Brazilian Government that His Majesty's Government in the United Kingdom and the Brazilian Government should reach an agreement as to the principles to be adopted by the Mixed Commission in the delimitation of the riverain areas of the boundary between Brazil and British Guiana, made the following detailed proposals, which are based on the proposals already put forward by the Brazilian Government, and which I have the honour to accept:

[See paragraph (vi) of the Note above]

2. It is understood that the present Note and Your Excellency's Note, dated October 27th last, constitute an agreement between the Brazilian Government and His Britannic Majesty's Government in the United Kingdom to this effect.

I have the honour to be, etc.

(Signed) Raul Régis DE OLIVEIRA

The Right Honourable Sir John Simon,
G.C.S.I., K.C.V.O., K.C., M.P.,
His Britannic Majesty's
Principal Secretary of State
for Foreign Affairs.

48. EXCHANGE OF NOTES¹ BETWEEN HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM AND THE GOVERNMENT OF BRAZIL APPROVING THE GENERAL REPORT OF THE SPECIAL COMMISSIONERS APPOINTED TO DEMARCATÉ THE BOUNDARY-LINE BETWEEN BRITISH GUIANA AND BRAZIL (WITH GENERAL REPORT). RIO DE JANEIRO, 15 MARCH 1940²

No. 1

Sir Geoffrey Knox to Dr. Oswaldo Aranha

BRITISH EMBASSY

Rio de Janeiro, 15 March, 1940

Your Excellency,

In accordance with instructions from His Majesty's Principal Secretary of State for Foreign Affairs, I have the honour to inform Your Excellency that the Government of the United Kingdom of Great Britain and Northern Ireland have examined the General Report of the Special Commissioners appointed to demarcate the boundary-line between Brazil and British Guiana in accordance with the Treaty signed in London on 22nd April, 1926, and the Protocol signed in London on 18th March, 1930.

2. The Government of the United Kingdom approve the work of the Commissioners as set forth in their General Report, the original of which, with its appendices numbered 1 to 11 and the General Map referred to in Appendix No. 8, is annexed hereto, and they declare:

(1) That they accept the line laid down by the said Commissioners, in the manner shown in Appendices Nos 5 to 9 and the annexed General Map, as constituting the boundary-line between British Guiana and Brazil in accordance with the above-mentioned Treaty of 22nd April, 1926, the Protocol of 18th March, 1930, and the notes exchanged in London on 27th October/1st November, 1932;

. . .

3. If the Brazilian Government are prepared to make a corresponding declaration, I have the honour to propose that the present note and Your Excellency's reply in similar terms be regarded as constituting a formal agreement between the two Governments for the establishment of the boundary between British Guiana and Brazil.

I avail, . . .

(Signed) G. G. KNOX

¹ Came into force on 15 March 1940 by signature.

² United Nations, *Treaty Series*, vol. 5, p. 72.

MINISTRY FOR FOREIGN AFFAIRS

Rio de Janeiro, 15th March, 1940

Monsieur l'Ambassadeur,

I have the honour to acknowledge the receipt of the note of to-day's date, in which Your Excellency informs me that, according to instructions received from His Majesty's Principal Secretary of State for Foreign Affairs, the Government of the United Kingdom of Great Britain and Northern Ireland examined and approved the General Report of the Special Commissioners appointed to demarcate the boundary-line between Brazil and British Guiana in accordance with the Treaty signed in London on 22nd April, 1926, and the Protocol signed in London on 18th March, 1930.

2. In reply, I have to inform Your Excellency that the Brazilian Government have also given their approval to the work of the Commissioners referred to above, as set forth in the General Report, the original of which, accompanied by Appendices number 1 to 11 and the General Map referred to in Appendix 8, is annexed hereto, and they declare:

[See paragraph 1 (1) of Note No. 1 above]

. . . .

3. Accordingly it is understood that the present note and that of Your Excellency, to which I have the honour to reply, shall be considered as a formal agreement between the two Governments for the establishment of the boundaries between Brazil and British Guiana.

I avail, . . .

(Signed) Oswaldo ARANHA

*General report of the Commissioners appointed
to demarcate the boundary*

. . . .

18. The question of the free navigation and fishing rights in those portions of the Rivers Mahú and Tacutú which constitute the boundary is covered in the Agreement reached between the two Governments, a copy of which is contained in (the Exchange of Note of 27th October, on 2nd November, 1932, concerning the Delimitation of the Riverain Areas.

. . . .

Brazil—Uruguay

49. CONVENTION¹ REGARDING THE DETERMINATION OF THE LEGAL STATUS OF THE FRONTIER BETWEEN BRAZIL AND URUGUAY, SIGNED AT MONTEVIDEO, DECEMBER 20TH, 1933²

. . . .

¹ The exchange of ratifications took place at Rio de Janeiro, July 21st, 1937.

² League of Nations, *Treaty Series*, vol. 181, p. 70.

Article XIX. Each of the two States shall be entitled to dispose of half the water flowing in the frontier watercourses.

Article XX. When there is a possibility that the installation of plant for the utilisation of the water may cause an appreciable and permanent alteration in the rate of flow of a watercourse running along or intersecting the frontier, the contracting State desirous of such utilisation shall not carry out the work necessary therefor until it has come to an agreement with the other State.

Article XXI. Each of the contracting States shall be responsible for the water police service in its own territory, subject to the limitations specified in the various frontier regimes in force, in accordance with the international instruments applicable thereto. Should the regime adopted be that of the bed or of the joint ownership of the water, the jurisdiction of each riparian State shall extend as far as the opposite bank, but shall not include the land skirting the watercourse.

Article XXII. Fishing rights shall be exercised by the nationals of each State in the waters within their respective jurisdictions.

. . .

Canada—United States

50. AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND CANADA TO REGULATE THE LEVEL OF LAKE OF THE WOODS, SIGNED AT WASHINGTON, FEBRUARY 24, 1925²

Desiring to regulate the level of Lake of the Woods in order to secure to the inhabitants of Canada and the United States the most advantageous use of the waters thereof and of the waters flowing into and from the Lake on each side of the boundary between the two countries, and

Accepting as a basis of agreement the recommendations made by the International Joint Commission in its final report of May 18th, 1917³ on the reference concerning Lake of the Woods submitted to it by the Governments of Canada and the United States of America,

. . .

Article 1

In the present Convention, the term "level of Lake of the Woods" or "level of the lake" means the level of the open lake unaffected by wind or currents.

The term "Lake of the Woods watershed" means the entire region in

¹ Came into force 17 July 1925, by the exchange of ratifications.

² League of Nations, *Treaty Series*, vol. 43, p. 252.

³ *Final Report of the International Joint Commission on the Lake of the Woods Reference*, Washington, 1917.

which the waters discharged at the outlets of Lake of the Woods have their natural source.

The term "sea level datum" means the datum permanently established by the International Joint Commission at the town of Warroad, Minnesota, of which the description is as follows:

"Top of copper plug in concrete block carried below frost line, and located near fence in front of and to the west of new schoolhouse. Established October 3, 1912. Elevation, sea level datum, 1068.797."

"The International Joint Commission" means the Commission established under the Treaty signed at Washington on the 11th day of January, 1909, between His Britannic Majesty and the United States of America, relating to boundary waters and questions arising between the United States and Canada.

Article 2

The level of Lake of the Woods shall be regulated to the extent and in the manner provided for in the present Convention, with the object of securing to the inhabitants of Canada and the United States the most advantageous use of the waters thereof and of the waters flowing into and from the Lake on each side of the boundary between the two countries for domestic and sanitary purposes, for navigation purposes, for fishing purposes, and for power, irrigation and reclamation purposes.

Article 3

The Government of Canada shall establish and maintain a Canadian Lake of the Woods Control Board, composed of engineers, which shall regulate and control the outflow of the waters of Lake of the Woods.

There shall be established and maintained an International Lake of the Woods Control Board composed of two engineers, one appointed by the Government of Canada and one by the Government of the United States from their respective public services, and whenever the level of the lake rises above elevation 1061 sea level datum or falls below elevation 1056 sea level datum the rate of total discharge of water from the lake shall be subject to the approval of this Board.

Article 4

The level of Lake of the Woods shall ordinarily be maintained between elevations 1056 and 1061.25 sea level datum, and between these two elevations the regulation shall be such as to ensure the highest continuous uniform discharge of water from the lake.

During periods of excessive precipitation the total discharge of water from the lake shall, upon the level reaching elevation 1061 sea level datum, be so regulated as to ensure that the extreme high level of the lake shall at no time exceed elevation 1062.5 sea level datum.

The level of the lake shall at no time be reduced below elevation 1056 sea level datum except during periods of low precipitation and then only upon the approval of the International Lake of the Woods Control Board and subject to such conditions and limitations as may be necessary to protect the use of the waters of the lake for domestic, sanitary, navigation and fishing purposes.

Article 5

If in the opinion of the International Lake of the Woods Control Board the experience gained in the regulation of the lake under Articles 3 and 4, or the provision of additional facilities for the storage of waters tributary to the lake, demonstrates that it is practicable to permit the upper limit of the ordinary range in the levels of the lake to be raised from elevation 1061.25 sea level datum to a higher level and at the same time to prevent during periods of excessive precipitation the extreme high level of the lake from exceeding elevation 1062.5 sea level datum, this shall be permitted under such conditions as the International Lake of the Woods Control Board may prescribe. Should such permission be granted, the level at which under Article 3 the rate of total discharge of water from the lake becomes subject to the approval of the International Lake of the Woods Control Board may, upon the recommendation of that Board and with the approval of the International Joint Commission, be raised from elevation 1061 sea level datum to a correspondingly higher level.

Article 6

Any disagreement between the members of the International Lake of the Woods Control Board as to the exercise of the functions of the Board under Articles 3, 4 and 5 shall be immediately referred by the Board to the International Joint Commission whose decision shall be final.

Article 7

The outflow capacity of the outlets of Lake of the Woods shall be so enlarged as to permit the discharge of not less than forty-seven thousand cubic feet of water per second (47,000 c.f.s.) when the level of the lake is at elevation 1061 sea level datum.

The necessary works for this purpose, as well as the necessary works and dams for controlling and regulating the outflow of the water, shall be provided for at the instance of the Government of Canada, either by the improvement of existing works and dams or by the construction of additional works.

Article 8

A flowage easement shall be permitted up to elevation 1064 sea level datum upon all lands bordering on Lake of the Woods in the United States, and the United States assumes all liability to the owners of such lands for the costs of such easement.

The Government of the United States shall provide for the following protective works and measures in the United States along the shores of Lake of the Woods and the banks of Rainy River, in so far as such protective works and measures may be necessary for the purposes of the regulation of the level of the lake under the present Convention: namely, the removal or protection of buildings injuriously affected by erosion, and the protection of the banks at the mouth of Warroad River where subject to erosion, in so far in both cases as the erosion results from fluctuations in the level of the lake; the alteration of the railway embankment east of the town of Warroad, Minnesota, in so far as it may be necessary to prevent surface flooding of the higher lands in and around the town of Warroad; the making of provi-

sion for the increased cost, if any, of operating the existing sewage system of the town of Warroad, and the protection of the waterfront at the town of Beaudette, Minnesota.

Article 9

The Dominion of Canada and the United States shall each on its own side of the boundary assume responsibility for any damage or injury which may have heretofore resulted to it or to its inhabitants from the fluctuations of the level of Lake of the Woods or of the outflow therefrom.

Each shall likewise assume responsibility for any damage or injury which may hereafter result to it or to its inhabitants from the regulation of the level of Lake of the Woods in the manner provided for in the present Convention.

Article 10

The Governments of Canada and the United States shall each be released from responsibility for any claims or expenses arising in the territory of the other in connection with the matters provided for in Articles 7, 8 and 9.

In consideration, however, of the undertakings of the United States as set forth in Article 8, the Government of Canada shall pay to the Government of the United States the sum of two hundred and seventy-five thousand dollars (\$275,000) in currency of the United States. Should this sum prove insufficient to cover the cost of such undertakings one-half of the excess of such cost over the said sum shall, if the expenditure be incurred within five years of the coming into force of the present Convention, be paid by the Government of Canada.

Article 11

No diversion shall henceforth be made of any waters from the Lake of the Woods watershed to any other watershed except by authority of the United States or the Dominion of Canada within their respective territories and with the approval of the International Joint Commission.¹

. . .

¹ This article rose from the following recommendations of the "International Joint Commission:

"that, as a matter of sound international policy, neither Government should permit the permanent or temporary diversion out of the watershed of any waters within its jurisdiction which are tributary to the boundary waters under consideration, without first referring the matter to the Commission for such recommendation as it may deem appropriate." (Final Report, cit., p. 38.)

"The Commission appreciates the fact that, in the case of drainage basins that lie wholly within one country or the other, it may be desirable to artificially divert waters out of and from their own local watershed for use in another. On the other hand, diversions from an international watershed, such as that of the Lake of the Woods, whereby the international channel in that watershed would be deprived by such diversion of waters which naturally belong to the Lake of the Woods drainage system, would very probably lead to irritating disputes between the people of two neighboring countries. Further, the existing and future developments of the entire waters of the Lake of the Woods watershed will involve very large expenditures, and an investment of such magnitude

PROTOCOL ACCOMPANYING CONVENTION TO REGULATE
THE LEVEL OF LAKE OF THE WOODS

1. The plans of the necessary works for the enlargement of the outflow capacity of the outlets of Lake of the Woods provided for in Article 7 of the Convention, as well as of the necessary works and dams for controlling and regulating the outflow of the water, shall be referred to the International Lake of the Woods Control Board for an engineering report upon their suitability and sufficiency for the purpose of permitting the discharge of not less than forty-seven thousand cubic feet of water per second (47,000 c.f.s.) when the level of the lake is at elevation 1061 sea level datum. Any disagreement between the members of the International Lake of the Woods Control Board in regard to the matters so referred shall be immediately submitted by the Board to the International Joint Commission whose decision shall be final.

2. Should it become necessary to set up a special tribunal to determine the cost of the acquisition of the flowage easement in the United States provided for in Article 8 of the Convention, the Government of Canada shall be afforded an opportunity to be represented thereon. Should the cost be determined by means of the usual judicial procedure in the United States, the Government of Canada shall be given the privilege of representation by counsel in connection therewith.

3. Since Canada is incurring extensive financial obligations in connection with the protective works and measures provided for in the United States along the shores of Lake of the Woods and the banks of Rainy River, under Article 8 of the Convention, the plans, together with the estimates of cost, of all such protective works and measures as the Government of the United States may propose to construct or provide for within five years of the coming into force of the Convention shall be referred to the International Lake of the Woods Control Board for an engineering report upon their suitability and sufficiency for the purpose of the regulation of the level of the lake under the Convention. Any disagreement between the members of the International Lake of the Woods Control Board in regard to the matters so referred shall be immediately submitted by the Board to the International Joint Commission whose decision shall be final.

4. In order to ensure the fullest measure of co-operation between the International Lake of the Woods Control Board and the Canadian Lake of the Woods Control Board provided for in Article 3 of the Convention, the Government of Canada will appoint one member of the Canadian Board as its representative on the International Board.

5. Until the outlets of Lake of the Woods have been enlarged in accordance with Article 7 of the Convention, the upper limit of the ordinary range in the levels of the lake provided for in Article 4 of the Convention shall be elevation 1060.5 sea level datum, and the International Lake of

must naturally depend upon some definite understanding that the flow of water on which it is based will not be diminished by a diversion of any portion thereof from the watershed. For these reasons, the Commission has suggested that no diversions, temporary or permanent, out of the Lake of the Woods watershed, of any waters which in their natural course flow into these boundary waters, should be permitted without first referring the matter to the Commission for such recommendation as it may deem appropriate." (*Ibid.*, p. 70, 71.)

the Woods Control Board may advise the Canadian Lake of the Woods Control Board in respect of the rate of total discharge of water from the lake which may be permitted.

...

At the moment of signing the Convention and Protocol between His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, in respect of the Dominion of Canada, and the United States of America, regarding the regulation of the level of Lake of the Woods, the undersigned Plenipotentiaries have agreed that the Government of the Dominion of Canada and the Government of the United States shall, without delay, address to the International Joint Commission identic letters of reference relating to Rainy Lake and other upper waters of the Lake of the Woods watershed as follows:

“ I have the honour to inform you that, in pursuance of Article 9 of the Treaty of the 11th January 1909, between Great Britain and the United States, the Governments of Canada and the United States have agreed to refer to the International Joint Commission the following questions for examination and report, together with such conclusions and recommendations as may be deemed appropriate:

“ Question 1. In order to secure the most advantageous use of the waters of Rainy Lake and of the boundary waters flowing into and from Rainy Lake, for domestic and sanitary purposes, for navigation purposes, for fishing purposes, and for power, irrigation and reclamation purposes; and in order to secure the most advantageous use of the shores and harbours of both Rainy Lake and the boundary waters flowing into and from the lake, is it, from an economic standpoint, now practicable and desirable, having regard for all or any of the interests affected thereby, or under what conditions will it become thus practicable and desirable:

“ (a) To regulate the level of Rainy Lake in such a manner as to permit the upper limit of the ordinary range of the levels to exceed elevation 1108.61 sea level datum?

“ (b) To regulate the level of Namakan Lake and the waters controlled by the dams at Kettle falls in such a manner as to permit the upper limit of the ordinary range of the levels to exceed elevation 1120.11 sea level datum?

“ (c) To provide storage facilities upon all or any of the boundary waters above Namakan Lake?

“ Question 2. If it be found practicable and desirable thus (1) to regulate the level of Rainy Lake, and/or (2) to regulate the level of Namakan Lake and the waters controlled by the dams at Kettle falls, and/or (3) to provide storage facilities upon all or any of the boundary waters above Namakan Lake:

“ (a) What elevations are recommended?

“ (b) To what extent will it be necessary to acquire lands and to construct works in order to provide for such elevations and/or storage, and what will be their respective costs?

“ (c) What interests on each side of the boundary would be benefited? What would be the nature and extent of such benefit in each

case? How should the cost be apportioned among the various interests so benefited?

“Question 3. What methods of control and operation would be feasible and advisable in order to regulate the volume, use and outflow of the waters in each case in accordance with such recommendations as may be made in answer to questions one and two?”

“Question 4. What interests on each side of the boundary are benefited by the present storage on Rainy Lake and on the waters controlled by the dams at Kettle falls? What are the nature and extent of such benefits in each case? What is the cost of such storage and how should such cost be apportioned among the various interests so benefited?”

“Each Government will appoint from its public service such engineering and other technical assistance as may be necessary to enable the Commission to make the desired examination and to submit their report.”

51. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN THE UNITED STATES OF AMERICA AND
CANADA REGARDING THE LEVEL OF LAKE MEMPHRE-
MAGOG. WASHINGTON, SEPTEMBER 20 AND OTTAWA,
NOVEMBER 6, 1935²

The Secretary of State to the Minister in Canada (Armour)

No. 17

Washington, August 26, 1935

Sir:

On April 9, 1920, the Secretary of State transmitted to the Chargé d’Affaires of Great Britain a copy of a petition presented by the inhabitants of the city of Newport and the towns of Derby, Coventry, Barton and Newport, in the State of Vermont, representing that owing to the action of the Dominion Textile Company in maintaining a dam for power purposes in the Magog River at or near the outlet of Lake Memphremagog, in the Province of Quebec, the level of the lake had been increased several feet above the normal level. This resulted in damage to American residence and property owners in the vicinity of the lake and along the Clyde, Barton and Black Rivers which empty therein, the levels of which are affected by the level of the lake.

The attention of the Chargé d’Affaires was also drawn to the provisions of Articles 3 and 4 of the Boundary Waters Convention of January 11, 1909.

In a note dated August 2, 1920, from the British Embassy it was suggested that the United States Government appoint an engineer to confer with a Canadian Government engineer and if possible unite with the latter in a joint recommendation to each government as to the levels or level at which Lake Memphremagog should be, as far as possible, maintained. This suggestion was acceptable to this Government and the International Lake Memphremagog Board was accordingly established.

After numerous delays, due in large part to the efforts of the interested parties to find a satisfactory solution to the problem between themselves,

¹ Came into force on 6 November, 1935, by the exchange of the said Notes.

² *Foreign Relations of the United States*, 1935, vol. II, p. 53.

the Board completed its investigation and on May 14, 1934, submitted its report. It is gratifying to note that during the investigation the Board had the cooperation of the Dominion Textile Company "which has maintained the levels of the lake in a manner which has avoided the development of further complaints on the part of the foreshore landowners". In conclusion the Board recommended that the following principles should govern the regulation of the flow of water from Lake Memphremagog:

"(a) That the levels of the lake shall continue to be regulated in accordance with the rights of regulation held and practised by the Dominion Textile Company at the time of the signing of the Boundary Waters Treaty in 1909, i.e. the levels under conditions of normal flow to range between the upper elevation of 682.57 old datum or 682.70 Geodetic Survey of Canada 1923 adjustment, and a lower limit of 678.85 old datum or 678.98 under the 1923 adjustment.

"(b) That during times of flood the sluiceways of the dam shall be sufficiently opened to ensure that the outflow from the lake shall be unobstructed by the dam, the flood water drawn off, and the water level in the lake reduced to the normal regulated level of 682.70 as rapidly as possible."

Please address a note to the Canadian Government in the above sense, stating that this Government is pleased to concur in the recommendations of the Board as a satisfactory solution of the problem at the present time and inquiring whether the recommendations in question also have the approval of the Canadian Government. You should add that while this Government has every expectation that the suggested adjustment will prove a satisfactory solution of the problem, should it be the subject of future complaints the matter would appear to be one which should be referred to the International Joint Commission.

A copy of the report of the International Lake Memphremagog Board is enclosed for your information.

. . . .

No. 216 *The Minister in Canada (Armour) to the Secretary of State*

Ottawa, November 9, 1935

[Received November 18]

Sir:

I have the honor to refer to the Department's instruction No. 17 of August 26, 1935 (file No. 711.42157M51/24) relative to the report of the International Lake Memphremagog Board of May 14, 1934, and instructing me to address a note to the Canadian Government expressing the concurrence of the American Government in the recommendations of the Board and inquiring whether the Canadian Government approves them.

A note was accordingly sent to the Canadian Secretary of State for External Affairs in this sense, and a reply has now been received stating that the Canadian Government is also of the opinion the Board's recommendations afford a satisfactory solution to the Memphremagog problem and concurs therein.

It is of interest to note the precautionary measure adopted by the Cana-

dian Government, following submission of the Board's report, in securing full cooperation from the Dominion Textile Company in carrying out the Board's recommendations pending final definite action upon the report by the two Governments.

I should like to point out, in connection with the Canadian reply, the happy tone of the note, particularly of the concluding paragraph. It may also be remarked that the note was signed personally by the Prime Minister in his capacity of Secretary of State for External Affairs and is the first received from Mackenzie King since he took over the reins of office on October 23, 1935.

Copies of my note No. 35 of September 20, 1935, to the Canadian Government, and of the Canadian reply, note No. 124 of November 6, 1935, are enclosed, since it is presumed that the notes may perhaps be incorporated in the Executive Agreement Series. Should this be desired, I should appreciate receiving in due course a draft of any announcement which it may be proposed to make in making public the outcome of this matter. I have been assured informally by the Canadian Government that there will be no objection to the publication of its note in question; however, I should appreciate the receipt of an instruction requesting me to approach the Canadian Government in writing on this point. Should it be decided to issue any public statement with regard to the agreement reached between the two Governments I have no doubt the Canadian authorities would appreciate simultaneous issuance thereof.

52. CONVENTION ¹ BETWEEN THE UNITED STATES OF AMERICA AND CANADA PROVIDING FOR EMERGENCY REGULATION OF THE LEVEL OF RAINY LAKE AND OF OTHER BOUNDARY WATERS IN THE RAINY LAKE WATER SHED, SIGNED AT OTTAWA, SEPTEMBER 15, 1938 ²

Desirous of providing for emergency regulation of the level of Rainy Lake and of the level of other boundary waters in the Rainy Lake watershed, in such a way as to protect the interests of the inhabitants of the United States of America and Canada, and,

Accepting as a basis of agreement the following recommendations made by the International Joint Commission in its Final Report dated May 1st, 1934, on the Reference concerning Rainy Lake and the boundary waters flowing into and from that lake, and particularly in answer to Question 2 of that Reference, namely,

that it would be wise and in the public interest that the Commission be clothed with power to determine when unusual or extraordinary conditions exist throughout the watershed, whether by reason of high or low water, and that it be empowered to adopt such measures of control as to it may seem proper with respect to existing dams at Kettle Falls and International Falls, as well as any future dams or works, in the event of the Commission determining that such unusual or extraordinary conditions exist.

¹ Came into force on 3 October 1940 by the exchange of ratifications.

² League of Nations, *Treaty Series*, vol. 203, p. 208.

Have resolved to conclude a convention for that purpose. . . .

Article 1

The International Joint Commission, established pursuant to the provisions of the Treaty signed at Washington on the 11th day of January, 1909,¹ relating to questions arising between the United States of America and Canada, is hereby clothed with power to determine when emergency conditions exist in the Rainy Lake watershed, whether by reason of high or low water, and the Commission is hereby empowered to adopt such measures of control as to it may seem proper with respect to existing dams at Kettle Falls and International Falls, as well as with respect to any existing or future dams or works in boundary waters of the Rainy Lake watershed, in the event the Commission shall determine that such emergency conditions exist.

53. EXCHANGE OF NOTES² BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF CANADA CONSTITUTING AN AGREEMENT REGARDING THE DEVELOPMENT OF CERTAIN PORTIONS OF THE GREAT LAKES ST. LAWRENCE BASIN PROJECT. WASHINGTON, OCTOBER 14 AND 31, AND NOVEMBER 7, 1940³

DEPARTMENT OF STATE

Washington, October 14th, 1940

Sir,

I have the honor to refer to the conversations which have taken place recently between officials of the Governments of the United States and Canada in regard to the desirability of taking immediate steps looking to the early development of certain portions of the Great Lakes-St. Lawrence Basin project. These conversations have indicated that there is apprehension in both countries over the possibility of a power shortage; these apprehensions have been heightened by the necessity for increased supplies of power in consequence of Canada's war effort and of the major national defense effort in the United States.

In the light of these considerations, the Government of the United States proposes that each Government appoint forthwith a Temporary Great Lakes-St. Lawrence Basin Committee consisting of not more than five members. These two Committees would cooperate in preliminary engineering and other investigations for that part of the project which is located in the International Rapids Section of the St. Lawrence River, in order that the entire project may be undertaken without delay when final decision

¹ See *infra*, Treaty No. 79 p. 260

² Came into force 7 November 1940 by the exchange of the said Notes.

³ League of Nations, *Treaty Series*, vol. 203, p. 268.

is reached by the two Governments. The Government of the United States is prepared to advance the necessary funds up to \$1,000,000 to pay for these preliminary engineering and other investigations, on the understanding that their cost shall ultimately be prorated by agreement between the two Governments.

Meanwhile, to assist in providing an adequate supply of power to meet Canadian defense needs and contingent upon the Province of Ontario's agreeing to provide immediately for diversions into the Great Lakes System of waters from the Albany River Basin which normally flow into Hudson Bay, the Government of the United States will interpose no objection, pending the conclusions of a final Great Lakes-St. Lawrence Basin agreement between the two countries, to the immediate utilization for power at Niagara Falls by the Province of Ontario of additional waters equivalent in quantity to the diversions into the Great Lakes Basin above referred to.

I shall be glad if you will let me know if your Government is in accord with the foregoing proposals.

...

CANADIAN LEGATION

No. 316

Washington, October 14th, 1940

Sir,

I have the honour to refer to your note of October 14th, in which you proposed that the Governments of Canada and the United States take immediate steps looking to the early development of certain portions of the Great Lakes-St. Lawrence Basin project.

I am instructed to inform you that the Canadian Government is in accord with the proposals which you have made.

...

CANADIAN LEGATION

No. 340

Washington, October 31st, 1940

Sir,

I have the honour to refer to the third paragraph of your note of October 14th concerning the Great Lakes-St. Lawrence Basin project, in which you state that to assist in providing an adequate supply of power to meet Canadian defence needs and contingent upon the Province of Ontario's agreeing to provide immediately for diversions into the Great Lakes System of waters from the Albany River Basin which normally flow into Hudson Bay, the Government of the United States would interpose no objection, pending the conclusion of a final Great Lakes-St. Lawrence Basin agreement between the two countries, to the immediate utilization for power at Niagara Falls by the Province of Ontario of additional waters equivalent in quantity to the diversions into the Great Lakes Basin above referred to.

I am instructed to inform you that the Canadian Government has received appropriate assurances that the Hydro-Electric Power Commission of Ontario is prepared to proceed immediately with the Long Lac-Ogoki diversions and that this action has been approved by the Government of the Province.

The Canadian Government is therefore giving appropriate instructions

to authorize the additional diversion of 5,000 cubic feet per second at Niagara by the Hydro-Electric Power Commission of Ontario.

. . .

DEPARTMENT OF STATE

Washington, November 7th, 1940

Sir,

I have the honor to acknowledge the receipt of your Note No. 340 of October 31st, 1940, stating that the Hydro-Electric Power Commission of Ontario is prepared to proceed immediately with the Long Lac-Ogoki diversions of waters from the Albany River Basin into the Great Lakes System and that this action has been approved by the Government of the Province.

I note also that the Canadian Government is giving appropriate instructions to authorize the additional diversion of 5,000 cubic feet per second of water at Niagara Falls by the Hydro-Electric Power Commission of Ontario.

. . .

54. EXCHANGE OF NOTES¹ BETWEEN THE GOVERNMENTS OF THE UNITED STATES OF AMERICA AND OF CANADA CONSTITUTING AN AGREEMENT RELATING TO THE TEMPORARY RAISING OF THE LEVEL OF LAKE ST. FRANCIS DURING LOW WATER PERIODS. WASHINGTON, 10 NOVEMBER 1941²

I

The Canadian Minister to the Secretary of State

CANADIAN LEGATION

Washington, November 10, 1941

No. 682

Sir,

I have the honour, on the instructions of my Government, to enquire whether the Government of the United States of America would agree to a temporary raising of the level of Lake St. Francis during low water periods, for the reasons and in the circumstances hereinafter set out:

1. The Beauharnois Light, Heat and Power Company has for some years, under the authority of the Parliament and Government of Canada, diverted water from Lake St. Francis for the development of hydro-electric power.
2. In order to conserve the supply of power in the lower St. Lawrence,

¹ Came into force on 10 November 1941, by the exchange of the said Notes.

² United Nations, *Treaty Series*, vol. 23, p. 276.

which is needed to continue the existing export of power for aluminum production at Massena, New York, the Company have asked the Canadian Government for authority to maintain the level of Lake St. Francis at 152.0 during low water periods, subject to the maintenance of the normal regimen of the Lake for levels above that elevation.

3. During these periods the water level of the Lake has fallen to 150.0 and may even fall to a lower level, whereas the mean level of the Lake is 151.7 and the normal high water 154.0. Extreme high water may go to above elevation 155.75.
4. To provide for the maintenance of the Lake level, the Company is presently installing a temporary dam to partially close the existing gap at the head of the Coteau Rapids, and have in contemplation for next season the construction of a permanent dam to close the gap completely, but this will not assure their output during low water periods unless they are permitted to maintain the Lake level at 152.0 as above. The regulation of the level of the Lake to 152.0 will not only be of benefit to the Beauharnois output in this vital period but will assure continuous 14 ft. depth for navigation in the Cornwall Canal, and may maintain more satisfactory shore conditions during low water periods.
5. The proposal would result in an increase, in low water periods, in the natural levels on the United States side of the St. Lawrence River near the head of Lake St. Francis.

In view of the importance to both Canada and the United States of America of the conservation of the power supply in this area, the Canadian Government proposes that both Governments should agree to permit the maintenance of the level of Lake St. Francis at 152.0 during low water periods, subject to the maintenance of the normal regimen of the Lake for levels above that elevation. The proposed agreement would expire on October 1st, 1942.

If the foregoing is acceptable to your Government, this note and your reply thereto shall be regarded as constituting a special agreement between the two Governments within the meaning of Article 4 of the Boundary Waters Treaty of 1909.

I have the honour to be, with the highest consideration, Sir, your most obedient, humble servant,

H. H. WRONG
For the Minister

The Hon. Cordell Hull
Secretary of State of the United States
Washington, D.C.

II

The Secretary of State to the Canadian Minister

DEPARTMENT OF STATE

Washington, November 10, 1941

Sir,

I have the honour to inform you that the Government of the United States concurs in the proposals contained in your note of November 10 regarding

the temporary raising of the level of Lake St. Francis during low water periods. The Government of the United States attaches importance to the understanding that this agreement authorizing the raising of the level of Lake St. Francis is temporary, and that this action shall not be deemed to create any vested or other right calling for or implying an extension of the authority to raise the level of Lake St. Francis beyond October 1, 1942.

Accept, Sir, the renewed assurances of my highest consideration.

For the Secretary of State:

A. A. BERLE, JR.

The Honourable Leighton McCarthy, K.C.
Minister of Canada

55. EXCHANGE OF NOTES¹ CONSTITUTING AN AGREEMENT
EXTENDING THE ABOVE AGREEMENT. WASHINGTON,
5 AND 9 OCTOBER 1942²

I

The Canadian Minister to the Secretary of State

CANADIAN LEGATION

Washington, October 5, 1942

No. 653

Sir,

I have the honour, on the instructions of my Government, to refer to the exchange of notes of November 10th 1941, whereby the Government of the United States of America agreed to a temporary raising of the levels of Lake St. Francis during low water periods for the reasons and subject to the conditions and limitations set forth in the Notes.

The circumstances which led the Government of the United States to agree to the temporary raising of the levels of Lake St. Francis have continued and, in view of the importance to both Canada and the United States of America of the conservation of the power supply in this area, the Canadian Government proposes that the arrangements set forth in the exchange of Notes should be continued until October 1, 1943. The arrangements as continued would, of course, be subject to all of the conditions and limitations as contained in the exchange of Notes of November 10, 1941.

Accept, Sir, the renewed assurances of my highest consideration.

Leighton McCARTHY

The Honourable Cordell Hull
Secretary of State of the United States
Washington, D.C.

¹ Came into force on 9 October 1942, by the exchange of the said Notes.

² United Nations, *Treaty Series*, vol. 23, p. 280.

II

The Secretary of State to the Canadian Minister

DEPARTMENT OF STATE

Washington, October 9, 1942

Sir,

I have the honor to acknowledge the receipt of your note of October 5, 1942 concerning the arrangements effected through an exchange of notes on November 10, 1941 with respect to a temporary raising of the levels of Lake St. Francis during low water periods and to inform you that this Government is agreeable to your Government's proposal that these arrangements should be continued until October 1, 1943 subject, of course, to all of the conditions and limitations contained in the Notes exchanged on November 10, 1941.

Accept, Sir, the renewed assurances of my highest consideration.

For the Secretary of State:

A. A. BERLE, JR.

The Honorable Leighton McCarthy, K.C.
Minister of Canada

56. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
CONTINUING IN EFFECT THE ABOVE MENTIONED
AGREEMENT. WASHINGTON, 5 AND 9 OCTOBER 1943²

I

The Canadian Minister to the Secretary of State

CANADIAN LEGATION

Washington, October 5th, 1943

No. 516

Sir,

I have the honour, on the instructions of my Government, to refer to the exchange of notes of November 10th, 1941, whereby the Government of the United States of America agreed to a temporary raising of the levels of Lake St. Francis during low water periods for the reasons and subject to the conditions and limitations set forth in the Notes. By an exchange of notes of October 5th and 9th, 1942, the arrangements made on November 10th, 1941 were continued until October 1st, 1943.

The circumstances which led the Government of the United States to agree to the temporary raising of the levels of Lake St. Francis have continued and, in view of the importance to both Canada and the United States of America of the conservation of the power supply in this area, the Canadian Government proposes that the arrangements set forth in the exchange of Notes should be continued until October 1st, 1944.

¹ Came into force on 9 October 1943, by the exchange of the said Notes.

² United Nations, *Treaty Series*, vol. 105, p. 306.

The arrangements as continued would, of course, be subject to all of the conditions and limitations as contained in the exchange of Notes of November 10th, 1941.

Accept, Sir, the renewed assurance of my highest consideration.

L. B. PEARSON

For the Minister

The Honourable Cordell Hull
Secretary of State of the United States
Washington, D.C.

II

The Secretary of State to the Canadian Minister

DEPARTMENT OF STATE

Washington, October 9, 1943

Sir,

I have the honor to acknowledge the receipt of your note of October 5, 1943 concerning the arrangements effected through an exchange of notes on November 10, 1941 with respect to a temporary raising of the levels of Lake St. Francis during low water periods and to inform you that this Government is agreeable to your Government's proposal that these arrangements should be continued until October 1, 1944 subject, of course, to all of the conditions and limitations contained in the Notes exchanged on November 10, 1941.

Accept, Sir, the renewed assurances of my highest consideration.

For the Secretary of State:

A. A. BERLE, JR.

The Honorable Leighton McCarthy, K.C.
Minister of Canada

57. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
CONTINUING IN EFFECT THE AGREEMENT OF 10 NOVEMBER 1941. WASHINGTON, 31 AUGUST AND 7 SEPTEMBER 1944.²

I

The Canadian Chargé d'Affaires ad interim to the Secretary of State

CANADIAN EMBASSY

Washington 6, D.C. August 31, 1944

No. 309

Sir,

I have the honour, on the instructions of my Government, to refer to the exchange of Notes of November 10th, 1941, whereby the Government of

¹ Came into force on 7 September 1944, by the exchange of the said Notes.

² United Nations, *Treaty Series*, vol. 105, p. 310.

the United States of America agreed to a temporary raising of the levels of Lake St. Francis during low water periods for the reasons and subject to the conditions and limitations set forth in the notes. By an exchange of notes of October 5th and 9th, 1943, the arrangements made on November 10th, 1941 were continued until October 1st, 1944.

The circumstances which led the Government of the United States to agree to the temporary raising of the levels of Lake St. Francis have continued, and in view of the importance to both Canada and the United States of America of the conservation of the power supply in this area, the Canadian Government proposes that the arrangements set forth in the exchange of notes should be continued for the duration of the emergency, subject to review prior to October 1st of each year. The arrangements as continued would, of course, be subject to all of the conditions and limitations as contained in the exchange of notes of November 10th, 1941.

Accept, Sir, the renewed assurance of my highest consideration.

L. B. PEARSON
Chargé d'Affaires

The Honourable Cordell Hull
Secretary of State of the United States
Washington, D.C.

II

The Secretary of State to the Canadian Chargé d'Affaires ad interim

DEPARTMENT OF STATE

Washington, September 7, 1944

Sir,

I have received your note No. 309 of August 31, 1944 concerning the arrangements effected through an exchange of Notes on November 10, 1941 with respect to a temporary raising of the levels of Lake St. Francis during low water periods, and to inform you that this Government is agreeable to your Government's proposal that these arrangements should be continued for the duration of the emergency, subject to review prior to October 1 of each year and subject, of course, to all of the conditions and limitations contained in the Notes exchanged on November 10, 1941.

Accept, Sir, the renewed assurance of my high consideration.

For the Secretary of State:

A. A. BERLE, JR.

The Honorable L. B. Pearson, O.B.E.
Chargé d'Affaires ad interim of Canada

58. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND CANADA RELATING TO A STUDY TO BE MADE BY THE INTERNATIONAL JOINT COMMISSION WITH RESPECT TO THE UPPER COLUMBIA RIVER BASIN. OTTAWA, 25 FEBRUARY AND 3 MARCH 1944²

I

The American Ambassador to the Canadian Secretary of State for External Affairs

EMBASSY OF THE UNITED STATES OF AMERICA

Ottawa, Canada, February 25, 1944

No. 101

Sir:

I have the honor to refer to your note No. 157 of December 10, 1943, concerning the desirability of having a study made by the International Joint Commission with respect to the Upper Columbia River Basin from the points of view of navigation, power development, irrigation, flood control, and other beneficial public uses and purposes.

As the result of informal exchanges of views on this subject I have been directed to bring the following suggested reference to the Commission to your attention with the request that I be informed whether it is acceptable to the Government of Canada:

“ 1. In order to determine whether a greater use than is now being made of the waters of the Columbia River system would be feasible and advantageous, the Governments of the United States and Canada have agreed to refer the matter to the International Joint Commission for investigation and report pursuant to Article IX of the Convention concerning Boundary Waters between the United States and Canada, signed January 11th, 1909.

“ 2. It is desired that the Commission shall determine whether in its judgment further development of the water resources of the river basin would be practicable and in the public interest from the points of view of the two Governments, having in mind (A) domestic water supply and sanitation, (B) navigation, (C) efficient development of water power, (D) the control of floods, (E) the needs of irrigation, (F) reclamation of wet lands, (G) conservation of fish and wildlife, and (H) other beneficial public purposes.

“ 3. In the event that the Commission should find that further works or projects would be feasible and desirable for one or more of the purposes indicated above, it should indicate how the interests on either side of the boundary would be benefited or adversely affected thereby, and should estimate the costs of such works or projects, including indemnification for damage to public and private property and the costs of any

¹ Came into force on 3 March 1944, by the exchange of the said Notes.

² United Nations, *Treaty Series*, vol. 109, p. 192.

remedial works that may be found to be necessary, and should indicate how the costs of any projects and the amounts of any resulting damage should be apportioned between the two Governments.

“ 4. The Commission should also investigate and report on existing dams, hydro-electric plants, navigation works, and other works or projects located within the Columbia River system in so far as such investigation and report may be germane to the subject under consideration.

“ 5. In the conduct of its investigation and otherwise in the performance of its duties under this reference, the Commission may utilize the services of engineers and other specially qualified personnel of the technical agencies of Canada and the United States and will so far as possible make use of information and technical data heretofore acquired by such technical agencies or which may become available during the course of the investigation, thus avoiding duplication of effort and unnecessary expense.”

If the proposed reference is acceptable to your Government I should appreciate being informed, and this note together with your reply would be regarded as an agreement between our two Governments on the terms of reference.

Accept, Sir, the renewed assurances of my highest consideration.

Ray ATHERTON

The Right Honorable
The Secretary of State for External Affairs
Ottawa

II

*The Canadian Secretary of State for External Affairs
to the American Ambassador*

DEPARTMENT OF EXTERNAL AFFAIRS
CANADA

Ottawa, March 3, 1944

No. 18

Excellency:

I have the honour to refer to your note No. 101 dated February 25, 1944, in which you brought to the attention of the Canadian Government the terms of a reference to the International Joint Commission with respect to the Upper Columbia River Basin.

The proposed reference is acceptable to the Canadian Government and your note, together with this reply, may be regarded as an agreement between our two Governments on the terms of reference.

Accept, Excellency, the renewed assurances of my highest consideration.

N. A. ROBERTSON

For Secretary of State for External Affairs

His Excellency
The Ambassador of the United States of America
United States Legation
Ottawa

59. TREATY¹ BETWEEN THE UNITED STATES OF AMERICA AND CANADA RELATING TO THE USES OF THE WATERS OF THE NIAGARA RIVER. SIGNED AT WASHINGTON, ON 27 FEBRUARY 1950²

The United States of America and Canada, recognizing their primary obligation to preserve and enhance the scenic beauty of the Niagara Falls and River and, consistent with that obligation, their common interest in providing for the most beneficial use of the waters of that River,

Considering that the quantity of water which may be diverted from the Niagara River for power purposes is at present fixed by Article V of the treaty with respect to the boundary waters between the United States of America and Canada, signed at Washington, January 11, 1909, between the United States of America and Great Britain, and by notes exchanged between the Government of the United States of America and the Government of Canada in 1940, 1941, and 1948 authorizing for emergency purposes temporary additional diversions,

Recognizing that the supply of low-cost power in northeastern United States and southeastern Canada is now insufficient to meet existing and potential requirements and considering that the water resources of the Niagara River may be more fully and efficiently used than is now permitted by international agreement,

Desiring to avoid a continuing waste of a great natural resource and to make it possible for the United States of America and Canada to develop, for the benefit of their respective peoples, equal shares of the waters of the Niagara River available for power purposes, and,

Realizing that any redevelopment of the Niagara River for power in the United States of America and Canada is not advisable until the total diversion of water which may be made available for power purposes is authorized permanently and any restrictions on the use thereof are agreed upon,

Have resolved to conclude a treaty. . . .

Article I

This Treaty shall terminate the third, fourth, and fifth paragraphs of Article V of the treaty between the United States of America and Great Britain relating to boundary waters and questions arising between the United States of America and Canada dated January 11, 1909, and the provisions embodied in the notes exchanged between the Government of the United States of America and the Government of Canada at Washington on May 20, 1941, October 27, 1941, November 27, 1941, and December 23, 1948 regarding temporary diversions of water of the Niagara River for power purposes.

Article II

The United States of America and Canada agree to complete in accordance with the objectives envisaged in the final report submitted to the United States of America and Canada on December 11, 1929, by the Special Inter-

¹ The treaty came into force on 10 October 1950 by the exchange of ratifications at Ottawa.

² United Nations, *Treaty Series*, vol. 132, p. 224.

national Niagara Board, the remedial works which are necessary to enhance the beauty of the Falls by distributing the waters so as to produce an unbroken crestline on the Falls. The United States of America and Canada shall request the International Joint Commission to make recommendations as to the nature and design of such remedial works and the allocation of the task of construction as between the United States of America and Canada. Upon approval by the United States of America and Canada of such recommendations the construction shall be undertaken pursuant thereto under the supervision of the International Joint Commission and shall be completed within four years after the date upon which the United States of America and Canada shall have approved the said recommendations. The total cost of the works shall be divided equally between the United States of America and Canada.

Article III

The amount of water which shall be available for the purposes included in Articles IV and V of this Treaty shall be the total outflow from Lake Erie to the Welland Canal and the Niagara River (including the Black Rock Canal) less the amount of water used and necessary for domestic and sanitary purposes and for the service of canals for the purposes of navigation. Waters which are being diverted into the natural drainage of the Great Lakes System through the existing Long Lac-Ogoki works shall continue to be governed by the notes exchanged between the Government of the United States of America and the Government of Canada at Washington on October 14 and 31 and November 7, 1940, and shall not be included in the waters allocated under the provisions of this Treaty.

Article IV

In order to reserve sufficient amounts of water in the Niagara River for scenic purposes, no diversions of the water specified in Article III of this Treaty shall be made for power purposes which will reduce the flow over Niagara Falls to less than one hundred thousand cubic feet per second each day between the hours of eight a.m., E.S.T., and ten p.m., E.S.T., during the period of each year beginning April 1 and ending September 15, both dates inclusive, or to less than one hundred thousand cubic feet per second each day between the hours of eight a.m., E.S.T., and eight p.m., E.S.T., during the period of each year beginning September 16 and ending October 31, both dates inclusive, or to less than fifty thousand cubic feet per second at any other time; the minimum rate of fifty thousand cubic feet per second to be increased when additional water is required for flushing ice above the Falls or through the rapids below the Falls. No diversion of the amounts of water, specified in this Article to flow over the Falls, shall be made for power purposes between the Falls and Lake Ontario.

Article V

All water specified in Article III of this Treaty in excess of water reserved for scenic purposes in Article IV may be diverted for power purposes.

Article VI

The waters made available for power purposes by the provisions of this

Treaty shall be divided equally between the United States of America and Canada.

Article VII

The United States of America and Canada shall each designate a representative who, acting jointly, shall ascertain and determine the amounts of water available for the purposes of this Treaty, and shall record the same, and shall also record the amounts of water used for power diversions.

Article VIII

Until such time as there are facilities in the territory of one party to use its full share of the diversions of water for power purposes agreed upon in this Treaty, the other party may use the portion of that share for the use of which facilities are not available.

Article IX

Neither party shall be responsible for physical injury or damage to persons or property in the territory of the other which may be caused by any act authorized or provided for by this Treaty.

. . .

60. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN THE UNITED STATES OF AMERICA AND
CANADA RELATING TO THE ST. LAWRENCE SEAWAY
PROJECT. WASHINGTON, 30 JUNE 1952²

I

The Canadian Ambassador to the Acting Secretary of State

CANADIAN EMBASSY

No. 447

Washington, D.C., June 30, 1952

Sir,

I have the honour to refer to our exchange of notes of January 11, 1952, relating to the St. Lawrence Seaway and Power Project. In my note to you, I informed you that the Canadian Government is prepared to proceed with the construction of the seaway as soon as appropriate arrangements can be made for the construction of the power phase of the project as well.

I have been instructed by my Government to inform you that, when all arrangements have been made to ensure the completion of the power phase of the St. Lawrence project, the Canadian Government will construct locks and canals on the Canadian side of the International Boundary to provide for deep-water navigation to the standard specified in the proposed agreement between Canada and the United States for the development of navigation and power in the Great Lakes-St. Lawrence Basin, signed March 19, 1941, and in accordance with the specifications of the Joint

¹ Came into force on 30 June 1952 by the exchange of the said Notes.

² United Nations, *Treaty Series*, vol. 234, p. 200.

Board of Engineers, dated November 16, 1926, and that such deep-water navigation shall be provided as nearly as possible concurrently with the completion of the power phase of the St. Lawrence project.

The undertaking of the Government of Canada with respect to these deepwater navigation facilities is based on the assumption that it will not be possible in the immediate future to obtain Congressional approval of the Great Lakes-St. Lawrence Basin Agreement of 1941. As it has been determined that power can be developed economically, without the seaway, in the International Rapids Section of the St. Lawrence River and as there has been clear evidence that entities in both Canada and the United States are prepared to develop power on such a basis, the Canadian Government has, with Parliamentary approval, committed itself to provide and maintain whatever additional works may be required to allow uninterrupted 27-foot navigation between Lake Erie and the Port of Montreal, subject to satisfactory arrangements being made to ensure the development of power.

Canada's undertaking to provide the seaway is predicated on the construction and maintenance by suitable entities in Canada and the United States of a sound power project in the International Rapids Section. The features of such a power project are described in section 8 of the applications to be submitted to the International Joint Commission by the Governments of Canada and of the United States. They are also described in the Agreement of December 3, 1951, between the Government of Canada and the Government of Ontario, forming part of the International Rapids Power Development Act, Chapter 13 of the Statutes of Canada, 1951 (Second Session), a copy of which is attached hereto. The Canadian Government wishes to make it clear that, even were the seaway not to be constructed, Canada would not give its approval to any power development scheme in the International Rapids Section of the St. Lawrence River which omitted any of the features so described.

However, in order to ensure that construction of both the power project and the deep waterway may be commenced without any further delay and notwithstanding:

- (a) That the power-developing entities would be required, if power were to be developed alone, to provide for continuance of 14-foot navigation (such provision was indeed made in the 1948 applications by the Province of Ontario and the State of New York), and that the Canadian Government's commitment to provide concurrently a deep waterway between Lake Erie and the Port of Montreal does not alter the basic principle that any entity developing power in boundary waters must make adequate provision for the maintenance of existing navigation facilities, and
- (b) That, in view of the clear priority given to navigation over power by Article VIII of the 1909 Boundary Waters Treaty, provision of channeling to the extent specified in the Annex to the 1951 Canada-Ontario Agreement referred to above is reasonable and in conformity with Canadian practice,

the Canadian Government is now prepared to agree:

- (a) That 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, 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 re-

placement of 14-foot navigation facilities will be rendered unnecessary by reason of the concurrent construction of the deep waterway in Canada, and

- (b) That 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), contribute \$15 million 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 applications to the International Joint Commission, in consideration of the benefits which will accrue to navigation from such channel enlargement.

I understand that your Government approves the arrangements outlined in this note and that it is further agreed, subject to the modifications outlined in the preceding paragraph, that the Government of Canada and the Government of the United States will request the International Joint Commission to allocate equally between the two power-developing entities the cost of all the features described in section 8 of the applications to the International Joint Commission and in the Agreement of December 3, 1951, between Canada and Ontario.

Accept, Sir, the renewed assurances of my highest consideration.

H. H. WRONG

The Honourable David Bruce
Acting Secretary of State of the United States
Washington, D.C.

II

The Acting Secretary of State to the Canadian Ambassador

DEPARTMENT OF STATE

Washington, June 30, 1952

Excellency:

I have the honor to acknowledge the receipt of your note of June 30, 1952, in which you inform me that your Government, when all arrangements have been made to ensure the completion of the power phase of the St. Lawrence project, will construct locks and canals on the Canadian side of the International Boundary to provide deep-water navigation to the standard specified in the proposed agreement between the United States and Canada for the development of navigation and power in the Great Lakes-St. Lawrence Basin, signed March 19, 1941, and in accordance with the specifications of the Joint Board of Engineers, dated November 16, 1926, and that such deep-water navigation shall be provided as nearly as possible concurrently with the completion of the power phase of the St. Lawrence Project.

My Government approves the arrangements set forth in your note and, subject to the modifications there proposed and outlined below, agrees to request the International Joint Commission to allocate equally between the power-developing entities the cost of all the features described in Section 8 of the applications to the International Joint Commission and in the Agreement of December 3, 1951, between the Governments of Canada and Ontario.

These modifications are:

- (a) The amount to be paid to Canada, as specified by 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, 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 navigation facilities will be rendered unnecessary by reason of the concurrent construction of the deep waterway in Canada, and
- (b) That 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), contribute \$15 million toward the cost of channel enlargement which the power developing entities must undertake in the St. Lawrence River, as set out in Section 8 of the applications to the International Joint Commission and in paragraph 4 of the Annex to the Canada-Ontario Agreement of December 3, 1951, in consideration of the benefits which will accrue to navigation from such channel enlargement.
- Accept, Excellency, the renewed assurances of my highest consideration.

David BRUCE
Acting Secretary

His Excellency the Honorable Hume Wrong
Ambassador of Canada

61. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN THE UNITED STATES OF AMERICA AND
CANADA RELATING TO THE ESTABLISHMENT OF THE
ST. LAWRENCE RIVER JOINT BOARD OF ENGINEERS.
WASHINGTON, 12 NOVEMBER 1953²

I

The Canadian Ambassador to the Secretary of State

CANADIAN EMBASSY

No. 820

Washington, D. C., November 12, 1953

Sir:

I have the honour to refer to the Order of Approval issued by the International Joint Commission on October 29, 1952, under authority of the Boundary Waters Treaty of January 11, 1909, in the matter of the applications of the Government of Canada and the Government of the United States of America for an Order of Approval for the construction of certain works for the development of power in the International Rapids Section of the St. Lawrence River.

The Government of Canada has designated the Hydro-Electric Power

¹ Came into force on 12 November 1953 by the exchange of the said Notes.

² United Nations, *Treaty Series*, vol. 234, p. 98.

Commission of Ontario as the entity to construct, maintain and operate the proposed works in Canada and I have been informed that the Government of the United States, consistent with the action of the Federal Power Commission in licensing the Power Authority of the State of New York, has declared that authority to be the designee of the Government of the United States of America for the construction of the works referred to in the Order of Approval of the International Joint Commission of October 29, 1952. It would, therefore, be agreeable to the Canadian Government if the St. Lawrence River Joint Board of Engineers, proposed in the applications of both Governments to the International Joint Commission and approved in that Commission's Order, were now established so that the Hydro-Electric Power Commission of Ontario and the Power Authority of the State of New York may submit their plans and programmes of construction to the Board for its approval.

The Canadian Government suggests that the Board consist of four members, two to be designated by and to act on behalf of the Government of Canada and two to be designated by and to act on behalf of the Government of the United States of America, and that the Board should perform the duties specified in clause (g) of the Order of Approval, including the approval of the plans and specifications of the works and the programmes of construction thereof, submitted for approval of the respective Governments as required by the Order of Approval, and assurance that the construction of the works is in accordance with such approval.

Reports shall be made by the Joint Board of Engineers to the respective governments to keep them currently informed of the progress of the construction of the works.

If the Government of the United States is agreeable to the foregoing proposals, I suggest that this note and your reply should constitute an agreement between our two governments establishing the St. Lawrence River Joint Board of Engineers.

Accept, Sir, the renewed assurances of my highest consideration.

A. D. P. HEENEY

The Honourable John Foster Dulles
Secretary of State of the United States
Washington, D.C.

II

The Secretary of State to the Canadian Ambassador

DEPARTMENT OF STATE

Washington, Nov. 12, 1953

Excellency:

I have the honor to refer to your note No. 820 of November 12, 1953, in which you made proposals for the establishment of the St. Lawrence River Joint Board of Engineers.

I have the honor to inform you that the Government of the United States concurs in these proposals and agrees that your note and the present reply shall constitute an agreement between our two Governments establishing the St. Lawrence River Joint Board of Engineers, as proposed in the applications of each Government, dated June 30, 1952, to the International Joint

Commission and approved in that Commission's Order of October 29, 1952.
Accept, Excellency, the renewed assurances of my highest consideration.

John Foster DULLES

His Excellency A. D. P. Heeney
Ambassador of Canada

62. CONVENTION¹ BETWEEN THE UNITED STATES OF
AMERICA AND CANADA ON GREAT LAKES FISHERIES.
SIGNED AT WASHINGTON, ON 10 SEPTEMBER 1954²

. . . .
Taking note of the interrelation of fishery conservation problems and of
the desirability of advancing fishery research in the Great Lakes,
Being aware of the decline of some of the Great Lakes fisheries,
Being concerned over the serious damage to some of these fisheries caused
by the parasitic sea lamprey and the continuing threat which this lamprey
constitutes for other fisheries, . . .

Article I

This Convention shall apply to Lake Ontario (including the St. Lawrence
River from Lake Ontario to the forty-fifth parallel of latitude), Lake Erie,
Lake Huron (including Lake St. Clair), Lake Michigan, Lake Superior and
their connecting waters, hereinafter referred to as "the Convention Area".
This Convention shall also apply to the tributaries of each of the above
waters to the extent necessary to investigate any stock of fish of common
concern, the taking or habitat of which is confined predominantly to the
Convention Area, and to eradicate or minimize the populations of the sea
lamprey (*Petromyzon marinus*) in the Convention Area.

Article II

1. The Contracting Parties agree to establish and maintain a joint com-
mission, to be known as the Great Lakes Fishery Commission, hereinafter
referred to as "the Commission", and to be composed of two national
sections, a Canadian Section and a United States Section. Each Section
shall be composed of not more than three members appointed by the re-
spective Contracting Parties.

2. Each Section shall have one vote. A decision or recommendation of
the Commission shall be made only with the approval of both Sections.

3. Each Contracting Party may establish for its Section an advisory com-
mittee for each of the Great Lakes. The members of each advisory com-
mittee so established shall have the right to attend all sessions of the Commission
except those which the Commission decides to hold *in camera*.

¹ Came into force on 11 October 1955, by the exchange of the instruments of
ratification at Ottawa.

² United Nations, *Treaty Series*, vol. 238, p. 98.

Article III

1. At the first meeting of the Commission and at every second subsequent annual meeting thereafter the members shall select from among themselves a Chairman and a Vice-Chairman, each of whom shall hold office from the close of the annual meeting at which he has been selected until the close of the second annual meeting thereafter. The Chairman shall be selected from one Section and the Vice-Chairman from the other Section. The offices of Chairman and Vice-Chairman shall alternate biennially between the Sections.

2. The seat of the Commission shall be at such place in the Great Lakes area as the Commission may designate.

3. The Commission shall hold a regular annual meeting at such place as it may decide. It may hold such other meetings as may be agreed upon by the Chairman and Vice-Chairman and at such time and place as they may designate.

4. The Commission shall authorize the disbursement of funds for the joint expenses of the Commission and may employ personnel and acquire facilities necessary for the performance of its duties.

5. The Commission shall make such rules and by-laws for the conduct of its meetings and for the performance of its duties and such financial regulations as it deems necessary.

6. The Commission may appoint an Executive Secretary upon such terms as it may determine.

7. The staff of the Commission may be appointed by the Executive Secretary in the manner determined by the Commission or appointed by the Commission itself on terms to be determined by it.

8. The Executive Secretary shall, subject to such rules and procedures as may be determined by the Commission, have full power and authority over the staff and shall perform such functions as the Commission may prescribe. If the office of Executive Secretary is vacant, the Commission shall prescribe who shall exercise such power or authority.

Article IV

The Commission shall have the following duties:

- (a) To formulate a research program or programs designed to determine the need for measures to make possible the maximum sustained productivity of any stock of fish in the Convention Area which, in the opinion of the Commission, is of common concern to the fisheries of the United States of America and Canada and to determine what measures are best adapted for such purpose;
- (b) To coordinate research made pursuant to such programs and, if necessary, to undertake such research itself;
- (c) To recommend appropriate measures to the Contracting Parties on the basis of the findings of such research programs;
- (d) To formulate and implement a comprehensive program for the purpose of eradicating or minimizing the sea lamprey populations in the Convention Area; and

- (e) To publish or authorize the publication of scientific and other information obtained by the Commission in the performance of its duties.

Article V

In order to carry out the duties set forth in Article IV, the Commission may:

- (a) Conduct investigations;
- (b) Take measures and install devices in the Convention Area and the tributaries thereof for lamprey control; and
- (c) Hold public hearings in the United States of America and Canada.

Article VI

1. In the performance of its duties, the Commission shall, in so far as feasible, make use of the official agencies of the Contracting Parties and of their Provinces or States and may make use of private or other public organizations, including international organizations, or of any person.

2. The Commission may seek to establish and maintain working arrangements with public or private organization for the purpose of furthering the objectives of this Convention.

Article VII

Upon the request of the Commission a Contracting Party shall furnish such information pertinent to the Commission's duties as is practicable. A Contracting Party may establish conditions regarding the disclosure of such information by the Commission.

Article VIII

1. Each Contracting Party shall determine and pay the expenses of its Section. Joint expenses incurred by the Commission shall be paid by contributions made by the Contracting Parties. The form and proportion of the contributions shall be those approved by the Contracting Parties after the Commission has made a recommendation.

2. The Commission shall submit an annual budget of anticipated joint expenses to the Contracting Parties for approval.

Article IX

The Commission shall submit annually to the Contracting Parties a report on the discharge of its duties. It shall make recommendations to or advise the Contracting Parties whenever it deems necessary on any matter relating to the Convention.

Article X

Nothing in this Convention shall be construed as preventing any of the States of the United States of America bordering on the Great Lakes or, subject to their constitutional arrangements, Canada or the Province of Ontario from making or enforcing laws or regulations within their respective jurisdictions relative to the fisheries of the Great Lakes so far as such laws or regulations do not preclude the carrying out of the Commission's duties.

Article XI

The Contracting Parties agree to enact such legislation as may be necessary to give effect to the provisions of this Convention.

Article XII

The Contracting Parties shall jointly review in the eighth year of the operation of this Convention the activities of the Commission in relation to the objectives of the Convention in order to determine the desirability of continuing, modifying or terminating this Convention.

. . .

63. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND CANADA WITH RESPECT TO THE CONSTRUCTION OF REMEDIAL WORKS AT NIAGARA FALLS, SIGNED AT OTTAWA, SEPTEMBER 13, 1954²

*The Canadian Secretary of State for External Affairs
to the American Chargé d'Affaires ad interim,*

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA

Ottawa, September 13, 1954

Sir:

I have the honour to refer to recent conversations between representatives of our two Governments with respect to the construction of remedial works at Niagara Falls. As Article II of the Convention between the United States and Canada signed on February 27, 1950, concerning uses of the waters of the Niagara River provides that "the total cost of the works shall be divided equally between the United States of America and Canada", the Government of Canada and the Government of the United States consider it desirable that 50 per cent of the cost of the remedial works at Niagara Falls completed by or on behalf of the other Government shall be paid by or on behalf of such other Government as work progresses.

I have the honour to propose, therefore, that our two Governments agree as follows:

- (a) The Government of Canada and the Government of the United States shall each bear 50 per cent of the cost of the remedial works at Niagara Falls done by or on behalf of the other Government as work progresses. Monthly statements of expenditures and payments to cover them in the funds of the country performing the work shall be exchanged between the agents of the two countries as indicated below. Adjustments will be made from time to time as required.
- (b) In order to facilitate administration, payments by the United States Government shall be made directly to The Hydro-Electric Power Commission of Ontario, through the office of the Project Manager, Sir Adam

¹ Came into force on 13 September 1954, by the exchange of the said Notes.

² United Nations, *Treaty Series*, vol. 236, p. 382.

Beck-Niagara Generating Station No. 2, Niagara Falls, Ontario, acting on behalf of the Government of the Province of Ontario, which, under an Agreement dated March 27, 1950, made between the Government of Canada and the Government of Ontario, has assumed the obligations of the Government of Canada in respect of the Canadian share of the cost of the remedial works to be constructed pursuant to Article II of the Niagara Treaty. Payments to the United States Government by The Hydro-Electric Power Commission of Ontario shall be made to "The Treasurer of the United States" and be forwarded to the District Engineer, Buffalo, New York, District of the Corps of Engineers. In order to comply with the provisions of Article II of the Niagara Treaty, the receipts to be given for each payment made by The Hydro-Electric Power Commission of Ontario to the United States Corps of Engineers, and *vice versa*, shall constitute a full and sufficient discharge of the financial obligations of the two Governments under the Treaty in respect of each such payment. In addition a final discharge of financial obligations shall be made between the Government of Canada and the Government of the United States when payments for all costs of the remedial works have been completed.

- (c) Data in support of claims for reimbursements incurred for the period covered shall be made available by the Government of the United States through the District Office of the United States Corps of Engineers in Buffalo, New York, and by the Government of Canada through The Hydro-Electric Power Commission of Ontario, Office of the Project Manager, Sir Adam Beck-Niagara Generating Station No. 2, Niagara Falls, Ontario.
- (d) This arrangement shall remain in force until all payments have been completed and the final discharge of financial obligations referred to above has been made by an exchange of notes. It is understood that the arrangements herein set forth for the procedure respecting payment of amounts due Canada are subject to the appropriation by the Congress of the funds required to pay such disbursements.

If the Government of the United States is agreeable to the foregoing proposals, I suggest that the present Note and your reply to that effect should constitute an agreement between our two Governments which shall take effect this day. . . .

*The American Chargé d'Affaires ad interim
to the Canadian Secretary of State for External Affairs*

THE FOREIGN SERVICE OF THE UNITED STATES OF AMERICA,
UNITED STATES EMBASSY

Ottawa, September 13, 1954

Sir:

I have the honor to acknowledge receipt of your note No. X-233 of September 13, 1954, in which you make proposals concerning the procedure to be followed in the payment of expenditures incurred by or on behalf of the respective Governments for work performed at Niagara Falls pursuant to Article II of the convention between the United States and Canada signed on February 27, 1950 concerning the uses of the waters of the Niagara River.

I have the honor to state that the Government of the United States

concur in these proposals and agrees that your note and the present reply shall constitute an agreement between our Governments establishing procedures to be followed with respect to disbursement of funds in payment for expenditures on construction of remedial works at Niagara Falls. . . .

64. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN THE UNITED STATES OF AMERICA AND
CANADA RELATING TO THE ST. LAWRENCE SEAWAY.
OTTAWA, 27 FEBRUARY 1959²

The Agreement refers to a project involving the dredging and disposal of spoil in the St. Clair River and Lake St. Clair for the purpose of deepening the Great Lakes connecting channels in those areas.

. . .

(f) That any machine, plant, vessel, barge or the operators or crews thereof, used on these works, shall not be permitted to tie up, discharge ashes, fuel oil, waste oil, etc., in a manner prejudicial to the health, well-being and activities of the owners and/or users of land or water areas, or to commit any other nuisance in Canadian territory during the progress of, or subsequent to, the carrying out of these works. The attention of the United States Government is also drawn to Section 33 of the Fisheries Act of Canada and Section 40 of the Regulations under the Migratory Birds Convention Act which refer to the pollution of waters with special reference to the effect upon fish and migratory birds.

. . .

65. TREATY³ BETWEEN THE UNITED STATES OF AMERICA
AND CANADA RELATING TO COOPERATIVE DEVELOP-
MENT OF THE WATER RESOURCES OF THE COLUMBIA
RIVER BASIN AND ANNEXES, SIGNED AT WASHINGTON,
JANUARY 17, 1961⁴

The Governments of the United States of America and Canada,
Recognizing that their peoples have, for many generations, lived together and cooperated with one another in many aspects of their national enterprises for the greater wealth and happiness of their respective nations, and

Recognizing that the Columbia River basin, as a part of the territory

¹ Came into force on 27 February 1959, by the exchange of the said Notes.

² United Nations, *Treaty Series*, vol. 341, p. 4. Similar dispositions are contained in the Exchange of Notes of 23 July and 26 October 1956 and 26 February 1957 (Detroit River Section of the Great Lakes connecting channel) [United Nations, *Treaty Series*, vol. 279, p. 179] and of 30 November 1956 and 8 and 9 April 1957 (St. Mary's River and St. Clair River Sections of the Great Lakes Connecting Channels) [*Ibid.*, vol. 283, p. 218].

³ This treaty has not yet been ratified by any contracting Parties.

⁴ *87th Congress, 1st Session, Senate, Executive C*, p. 12.

of both countries, contains water resources that are capable of contributing greatly to the economic growth and strength and to the general welfare of the two nations, and

Being desirous of achieving the development of those resources in a manner that will make the largest contribution to the economic progress of both countries and to the welfare of their peoples of which those resources are capable, and

Recognizing that the greatest benefit to each country can be secured by cooperative measures for hydroelectric power generation and flood control, which will make possible other benefits as well,

Have agreed as follows:

ARTICLE I

Interpretation

(1) In the Treaty, the expression

(a) "average critical period load factor" means the average of the monthly load factors during the critical stream flow period;

(b) "base system" means the plants, works and facilities listed in the table in Annex B as enlarged from time to time by the installation of additional generating facilities, together with any other plants, works or facilities which may be constructed on the main stem of the Columbia River in the United States of America;

(c) "Canadian storage" means the storage provided by Canada under Article II;

(d) "critical stream flow period" means the period, beginning with the initial release of stored water from full reservoir conditions and ending with the reservoirs empty, when the water available from reservoir releases plus the natural stream flow is capable of producing the least amount of hydroelectric power in meeting system load requirements;

(e) "consumptive use" means use of water for domestic, municipal, stock-water, irrigation, mining or industrial purposes but does not include use for the generation of hydroelectric power;

(f) "dam" means a structure to impound water, including facilities for controlling the release of the impounded water;

(g) "entity" means an entity designated by either the United States of America or Canada under Article XIV and includes its lawful successor;

(h) "International Joint Commission" means the Commission established under Article VII of the Boundary Waters Treaty, 1909, or any body designated by the United States of America and Canada to succeed to the functions of the Commission under this Treaty;

(i) "maintenance curtailment" means an interruption or curtailment which the entity responsible therefor considers necessary for purposes of repairs, replacements, installations of equipment, performance of other maintenance work, investigations and inspections;

(j) "monthly load factor" means the ratio of the average load for a month to the integrated maximum load over one hour during that month;

(k) "normal full pool elevation" means the elevation to which water is stored in a reservoir by deliberate impoundment every year, subject to the availability of sufficient flow;

(l) "ratification date" means the day on which the instruments of ratification of the Treaty are exchanged;

(m) "storage" means the space in a reservoir which is usable for impounding water for flood control or for regulating stream flows for hydroelectric power generation;

(n) "Treaty" means this Treaty and its Annexes A and B;

(o) "useful life" means the time between the date of commencement of operation of a dam or facility and the date of its permanent retirement from service by reason of obsolescence or wear and tear which occurs notwithstanding good maintenance practices.

(2) The exercise of any power, or the performance of any duty, under the Treaty does not preclude a subsequent exercise or performance of the power or duty.

ARTICLE II

Development by Canada

(1) Canada shall provide in the Columbia River basin in Canada 15,500,000 acre-feet of storage usable for improving the flow of the Columbia River.

(2) In order to provide this storage, which in the Treaty is referred to as the Canadian storage, Canada shall construct dams:

(a) On the Columbia River near Mica Creek, British Columbia, with approximately 7,000,000 acre-feet of storage;

(b) Near the outlet of Arrow Lakes, British Columbia, with approximately 7,100,000 acre-feet of storage; and

(c) On one or more tributaries of the Kootenay River in British Columbia downstream from the Canada-United States of America boundary with storage equivalent in effect to approximately 1,400,000 acre-feet of storage near Duncan Lake, British Columbia.

(3) Canada shall commence construction of the dams as soon as possible after the ratification date.

ARTICLE III

Development by the United States of America respecting power

(1) The United States of America shall maintain and operate the hydroelectric facilities included in the base system and any additional hydroelectric facilities constructed on the main stem of the Columbia River in the United States of America in a manner that makes the most effective use of the improvement in stream flow resulting from operation of the Canadian storage for hydroelectric power generation in the United States of America power system.

(2) The obligation in paragraph (1) is discharged by reflecting in the determination of downstream power benefits to which Canada is entitled the assumption that the facilities referred to in paragraph (1) were maintained and operated in accordance therewith.

ARTICLE IV

Operation by Canada

(1) For the purpose of increasing hydroelectric power generation in the United States of America and Canada, Canada shall operate the Canadian storage in accordance with Annex A and pursuant to hydroelectric operating plans made thereunder. For the purposes of this obligation an operating plan if it is either the first operating plan or if in the view of either the United States of America or Canada it departs substantially from the immediately preceding operating plan must, in order to be effective, be confirmed by an exchange of notes between the United States of America and Canada.

(2) For the purpose of flood control until the expiration of sixty years from the ratification date, Canada shall

(a) Operate in accordance with Annex A and pursuant to flood control operating plans made thereunder

(i) 80,000 acre-feet of the Canadian storage described in Article 11(2)(a),

(ii) 7,100,000 acre-feet of the Canadian storage described in Article 11(2)(b),

(iii) 1,270,000 acre-feet of the Canadian storage described in Article 11(2)(c),

provided that the Canadian entity may exchange flood control storage under subparagraph (ii) for flood control storage additional to that under subparagraph (i), at the location described in Article II(2)(a), if the entities agree that the exchange would provide the same effectiveness for control of floods on the Columbia River at the Dalles, Oregon;

(b) Operate any additional storage in the Columbia River basin in Canada, when called upon by an entity designated by the United States of America for that purpose, within the limits of existing facilities and as the entity requires to meet flood control needs for the duration of the flood period for which the call is made.

(3) For the purpose of flood control after the expiration of sixty years from the ratification date, and for so long as the flows in the Columbia River in Canada continue to contribute to potential flood hazard in the United States of America, Canada shall, when called upon by an entity designated by the United States of America for that purpose, operate within the limits of existing facilities any storage in the Columbia River basin in Canada as the entity requires to meet flood control needs for the duration of the flood period for which the call is made.

(4) The return to Canada for hydroelectric operation and the compensation to Canada for flood control operation shall be as set out in Articles V and VI.

(5) Any water resource development, in addition to the Canadian storage, constructed in Canada after the ratification date shall not be operated in a way that adversely affects the stream flow control in the Columbia River within Canada so as to reduce the flood control and hydroelectric power benefits which the operation of the Canadian storage in accordance with the operating plans in force from time to time would otherwise produce.

(6) As soon as any Canadian storage becomes operable Canada shall commence operation thereof in accordance with this Article and in any event shall commence full operation of the Canadian storage described in Article II(2)(b) and Article II(2)(c) within five years of the ratification date and shall commence full operation of the balance of the Canadian storage within nine years of the ratification date.

ARTICLE V

Entitlement to downstream power benefits

(1) Canada is entitled to one half the downstream power benefits determined under Article VII.

(2) The United States of America shall deliver to Canada at a point on the Canada-United States of America boundary near Oliver, British Columbia, or at such other place as the entities may agree upon, the downstream power benefits to which Canada is entitled, less

(a) Transmission loss,

(b) The portion of the entitlement disposed of under Article VIII(1), and

(c) The energy component described in Article VIII(4).

(3) The entitlement of Canada to downstream power benefits begins for any portion of Canadian storage upon commencement of its operation in accordance with Annex A and pursuant to a hydro-electric operating plan made thereunder.

ARTICLE VI

Payment for flood control

(1) For the flood control provided by Canada under Article VI(2)(a) the United States of America shall pay Canada in United States funds:

(a) 1,200,000 dollars upon the commencement of operation of the storage referred to in subparagraph (a)(i) thereof,

(b) 52,100,000 dollars upon the commencement of operation of the storage referred to in subparagraph (a)(ii) thereof, and

(c) 11,100,000 dollars upon the commencement of operation of the storage referred to in subparagraph (a)(iii) thereof.

(2) If full operation of any storage is not commenced within the time specified in Article IV, the amount set forth in paragraph (1) of this Article with respect to that storage shall be reduced as follows:

(a) under paragraph (1)(a), 4,500 dollars for each month beyond the required time.

(b) Under paragraph (1)(b), 192,100 dollars for each month beyond the required time, and

(c) Under paragraph (1)(c), 40,800 dollars for each month beyond the required time.

(3) For the flood control provided by Canada under Article IV(2)(b) the United States of America shall pay Canada in United States funds in respect only of each of the first four flood periods for which a call is

made 1,875,000 dollars and shall deliver to Canada in respect of each and every call made, electric power equal to the hydroelectric power lost by Canada as a result of operating the storage to meet the flood control need for which the call was made, delivery to be made when the loss of hydroelectric power occurs.

(4) For each flood period for which flood control is provided by Canada under Article IV(3) the United States of America shall pay Canada in United States funds:

(a) The operating cost incurred by Canada in providing the flood control, and

(b) Compensation for the economic loss to Canada arising directly from Canada foregoing alternative uses of the storage used to provide the flood control.

(5) Canada may elect to receive in electric power, the whole or any portion of the compensation under paragraph (4)(b) representing loss of hydroelectric power to Canada.

ARTICLE VII

Determination of downstream power benefits

(1) The downstream power benefits shall be the difference in the hydroelectric power capable of being generated in the United States of America with and without the use of Canadian storage, determined in advance, and is referred to in the Treaty as the downstream power benefits.

(2) For the purpose of determining the downstream power benefits:

(a) The principles and procedures set out in Annex B shall be used and followed;

(b) The Canadian storage shall be considered as next added to 13,000,000 acre-feet of the usable storage listed in Column 4 of the table in Annex B;

(c) The hydroelectric facilities included in the base system shall be considered as being operated to make the most effective use for hydroelectric power generation of the improvement in stream flow resulting from operation of the Canadian storage.

(3) The downstream power benefits to which Canada is entitled shall be delivered as follows:

(a) Dependable hydroelectric capacity as scheduled by the Canadian entity, and

(b) Average annual usable hydroelectric energy in equal amounts each month, or in accordance with a modification agreed upon under paragraph (4).

(4) Modification of the obligation in paragraph (3) (b) may be agreed upon by the entities.

ARTICLE VIII

Disposal of entitlement to downstream power benefits

(1) With the authorization of the United States of America and Canada

evidenced by exchange of notes, portions of the downstream power benefits to which Canada is entitled may be disposed of within the United States of America. The respective general conditions and limits within which the entities may arrange initial disposals shall be set out in an exchange of notes to be made as soon as possible after the ratification date.

(2) The entities may arrange and carry out exchanges of dependable hydroelectric capacity and average annual usable hydroelectric energy to which Canada is entitled for average annual usable hydroelectric energy and dependable hydroelectric capacity respectively.

(3) Energy to which Canada is entitled may not be used in the United States of America except in accordance with paragraphs (1) and (2).

(4) The bypassing at dams on the main stem of the Columbia River in the United States of America of an amount of water which could produce usable energy equal to the energy component of the downstream power benefits to which Canada is entitled but not delivered to Canada under Article V or disposed of in accordance with paragraphs (1) and (2) at the time the energy component was not so delivered or disposed of, is conclusive evidence that such energy component was not used in the United States of America and that the entitlement of Canada to such energy component is satisfied.

ARTICLE IX

Variation of entitlement to downstream power benefits

(1) If the United States of America considers with respect to any hydroelectric power project planned on the main stem of the Columbia River between Priest Rapids Dam and McNary Dam that the increase in entitlement of Canada to downstream power benefits resulting from the operation of the project would produce a result which would not justify the United States of America in incurring the costs of construction and operation of the project, the United States of America and Canada at the request of the United States of America shall consider modification of the increase in entitlement.

(2) An agreement reached for the purposes of this Article shall be evidenced by an exchange of notes.

ARTICLE X

East-West standby transmission

(1) The United States of America shall provide in accordance with good engineering practice east-west standby transmission service adequate to safeguard the transmission from Oliver, British Columbia, to Vancouver, British Columbia, of the downstream power benefits to which Canada is entitled and to improve system stability of the east-west circuits in British Columbia.

(2) In consideration of the standby transmission service, Canada shall pay the United States of America in Canadian funds the equivalent of 1.50 United States dollars a year for each kilowatt of dependable hydroelectric capacity included in the downstream power benefits to which Canada is entitled.

(3) When a mutually satisfactory electrical coordination arrangement is entered into between the entities and confirmed by exchange of notes between the United States of America and Canada the obligation of Canada in paragraph (2) ceases.

ARTICLE XI

Use of improved stream flow

(1) Improvement in stream flow in one country brought about by operation of storage constructed under the Treaty in the other country shall not be used directly or indirectly for hydroelectric power purposes except:

(a) In the case of use within the United States of America with the prior approval of the United States entity, and

(b) In the case of use within Canada with the prior approval of the authority in Canada having jurisdiction.

(2) The approval required by this Article shall not be given except upon such conditions, consistent with the Treaty, as the entity or authority considers appropriate.

ARTICLE XII

Kootenai river development

(1) The United States of America for a period of five years from the ratification date, has the option to commence construction of a dam on the Kootenai River near Libby, Montana, to provide storage to meet flood control and other purposes in the United States of America. The storage reservoir of the dam shall not raise the level of the Kootenai River at the Canada-United States of America boundary above an elevation consistent with a normal full pool elevation at the dam of 2,459 feet, United States Coast and Geodetic Survey datum, 1929 General Adjustment, 1947 International Supplemental Adjustment.

(2) All benefits which occur in either country from the construction and operation of the storage accrue to the country in which the benefits occur.

(3) The United States of America shall exercise its option by written notice to Canada and shall submit with the notice a schedule of construction which shall include provision for commencement of construction, whether by way of railroad relocation work or otherwise, within five years of the ratification date.

(4) If the United States of America exercises its option, Canada in consideration of the benefits accruing to it under paragraph (2) shall prepare and make available for flooding the land in Canada necessary for the storage reservoir of the dam within a period consistent with the construction schedule.

(5) If a variation in the operation of the storage is considered by Canada to be of advantage to it the United States of America shall, upon request, consult with Canada. If the United States of America deter-

mines that the variation would not be to its disadvantage it shall vary the operation accordingly.

(6) The operation of the storage by the United States of America shall be consistent with any order of approval which may be in force from time to time relating to the levels of Kootenay Lake made by the International Joint Commission under the Boundary Waters Treaty, 1909.

(7) Any obligation of Canada under this Article ceases if the United States of America, having exercised the option, does not commence construction of the dam in accordance with the construction schedule.

(8) If the United States of America exercises the option it shall commence full operation of the storage within seven years of the date fixed in the construction schedule for commencement of construction.

(9) If Canada considers that any portion of the land referred to in paragraph (4) is no longer needed for the purpose of this Article the United States of America and Canada, at the request of Canada, shall consider modification of the obligation of Canada in paragraph (4).

(10) If the Treaty is terminated before the end of the useful life of the dam Canada shall for the remainder of the useful life of the dam continue to make available for the storage reservoir of the dam any portion of the land made available under paragraph (4) that is not required by Canada for purposes of diversion of the Kootenay River under Article XIII.

ARTICLE XIII

Diversions

(1) Except as provided in this Article neither the United States of America nor Canada shall, without the consent of the other evidenced by an exchange of notes, divert for any use, other than a consumptive use, any water from its natural channel in a way that alters the flow of any water as it crosses the Canada-United States of America boundary within the Columbia River basin.

(2) Canada has the right, after the expiration of twenty years from the ratification date, to divert not more than 1,500,000 acre-feet of water a year from the Kootenay River in the vicinity of Canal Flats, British Columbia, to the headwaters of the Columbia River, provided that the diversion does not reduce the flow of the Kootenay River immediately downstream from the point of diversion below the lesser of 200 cubic feet per second or the natural flow.

(3) Canada has the right, exercisable at any time during the period commencing sixty years after the ratification date and expiring one hundred years after the ratification date, to divert to the headwaters of the Columbia River any water which, in its natural channel, would flow in the Kootenay River across the Canada-United States of America boundary, provided that the diversion does not reduce the flow of the Kootenay River at the Canada-United States of America boundary near Newgate, British Columbia, below the lesser of 2,500 cubic feet per second or the natural flow.

(4) During the last twenty years of the period within which Canada may exercise the right to divert described in paragraph (3) the limitation on diversion is the lesser of 1,000 cubic feet per second or the natural flow.

- (5) Canada has the right:
- (a) If the United States of America does not exercise the option in Article XII(1), or
- (b) If it is determined that the United States of America, having exercised the option, did not commence construction of the dam referred to in Article XII in accordance therewith or that the United States of America is in breach of the obligation in that Article to commence full operation of the storage,

to divert to the headwaters of the Columbia River any water which, in its natural channel, would flow in the Kootenay River across the Canada-United States of America boundary, provided that the diversion does not reduce the flow of the Kootenay River at the Canada-United States of America boundary near Newgate, British Columbia, below the lesser of 1,000 cubic feet per second or the natural flow.

(6) If a variation in the use of the water diverted under paragraph (2) is considered by the United States of America to be of advantage to it Canada shall, upon request, consult with the United States of America. If Canada determines that the variation would not be to its disadvantage it shall vary the use accordingly.

ARTICLE XIV

Arrangements for implementation

(1) The United States of America and Canada shall each, as soon as possible after the ratification date, designate entities and when so designated the entities are empowered and charged with the duty to formulate and carry out the operating arrangements necessary to implement the Treaty. Either the United States of America or Canada may designate one or more entities. If more than one is designated the powers and duties conferred upon the entities by the Treaty shall be allocated among them in the designation.

(2) In addition to the powers and duties dealt with specifically elsewhere in the Treaty the powers and duties of the entities include:

(a) Coordination of plans and exchange of information relating to facilities to be used in producing and obtaining the benefits contemplated by the Treaty,

(b) Calculation of and arrangements for delivery of hydroelectric power to which Canada is entitled for providing flood control,

(c) Calculation of the amounts payable to the United States of America for standby transmission services,

(d) Consultation on requests for variations made pursuant to Articles XII(5) and XIII(6),

(e) The establishment and operation of a hydrometeorological system as required by Annex A,

(f) Assisting and cooperating with the Permanent Engineering Board in the discharge of its functions,

(g) Periodic calculation of accounts,

(h) Preparation of the hydroelectric operating plans and the flood

control operating plans for the Canadian storage together with determination of the downstream power benefits to which Canada is entitled,

(i) Preparation of proposals to implement Article VIII and carrying out any disposal authorized or exchange provided for therein,

(j) Making appropriate arrangements for delivery to Canada of the downstream power benefits to which Canada is entitled including such matters as load factors for delivery, times and points of delivery, and calculation of transmission loss,

(k) Preparation and implementation of detailed operating plans that may produce results more advantageous to both countries than those that would arise from operation under the plans referred to in Annexes A and B.

(3) The entities are authorized to make maintenance curtailments. Except in case of emergency, the entity responsible for a maintenance curtailment shall give notice to the corresponding United States or Canadian entity of the curtailment, including the reason therefor and the probable duration thereof and shall both schedule the curtailment with a view to minimizing its impact and exercise due diligence to resume full operation.

(4) The United States of America and Canada may by an exchange of notes empower or charge the entities with any other matter coming within the scope of the Treaty.

ARTICLE XV

Permanent engineering board

(1) A Permanent Engineering Board is established consisting of four members, two to be appointed by Canada and two by the United States of America. The initial appointments shall be made within three months of the ratification date.

(2) The Permanent Engineering Board shall:

(a) Assemble records of the flows of the Columbia River and the Kootenay River at the Canada-United States of America boundary;

(b) Report to the United States of America and Canada whenever there is substantial deviation from the hydroelectric and flood control operating plans and if appropriate include in the report recommendations for remedial action and compensatory adjustments;

(c) Assist in reconciling differences concerning technical or operational matters that may arise between the entities;

(d) Make periodic inspections and require reports as necessary from the entities with a view to ensuring that the objectives of the Treaty are being met;

(e) Make reports to the United States of America and Canada at least once a year of the results being achieved under the Treaty and make special reports concerning any matter which it considers should be brought to their attention;

(f) Investigate and report with respect to any other matter coming within the scope of the Treaty at the request of either the United States of America or Canada.

(3) Reports of the Permanent Engineering Board made in the course of the performance of its functions under this Article shall be *prima facie*

evidence of the facts therein contained and shall be accepted unless rebutted by other evidence.

(4) The Permanent Engineering Board shall comply with directions, relating to its administration and procedures, agreed upon by the United States of America and Canada as evidenced by an exchange of notes.

ARTICLE XVI

Settlement of differences

(1) Differences arising under the Treaty which the United States of America and Canada cannot resolve may be referred by either to the International Joint Commission for decision.

(2) If the International Joint Commission does not render a decision within three months of the referral or within such other period as may be agreed upon by the United States of America and Canada, either may then submit the difference to arbitration by written notice to the other.

(3) Arbitration shall be by a tribunal composed of a member appointed by Canada, a member appointed by the United States of America and a member appointed jointly by the United States of America and Canada who shall be Chairman. If within six weeks of the delivery of a notice under paragraph (2) either the United States of America or Canada has failed to appoint its member, or they are unable to agree upon the member who is to be Chairman, either the United States of America or Canada may request the President of the International Court of Justice to appoint the member or members. The decision of a majority of the members of an arbitration tribunal shall be the decision of the tribunal.

(4) The United States of America and Canada shall accept as definitive and binding and shall carry out any decision of the International Joint Commission or an arbitration tribunal.

(5) Provision for the administrative support of a tribunal and for remuneration and expenses of its members shall be as agreed in an exchange of notes between the United States of America and Canada.

(6) The United States of America and Canada may agree by an exchange of notes on alternative procedures for settling differences arising under the Treaty including reference of any difference to the International Court of Justice for decision.

ARTICLE XVII

Restoration of pre-treaty legal status

(1) Nothing in this Treaty and no action taken or foregone pursuant to its provisions shall be deemed, after its termination or expiration, to have abrogated or modified any of the rights or obligations of the United States of America or Canada under then existing international law, with respect to the uses of the water resources of the Columbia River basin.

(2) Upon termination of this Treaty, the Boundary Waters Treaty, 1909, shall, if it has not been terminated, apply to the Columbia River basin, except insofar as the provisions of that Treaty may be inconsistent with any provision of this Treaty which continues in effect.

(3) Upon termination of this Treaty, if the Boundary Waters Treaty, 1909, has been terminated in accordance with Article XIV of that Treaty, the provisions of Article II of that Treaty shall continue to apply to the waters of the Columbia River basin.

(4) If, upon the termination of this Treaty, Article II of the Boundary Waters Treaty, 1909, continues in force by virtue of paragraph (3) of this Article the effect of Article II of that Treaty with respect to the Columbia River basin may be terminated by either the United States of America or Canada delivering to the other one year's written notice to that effect; provided however that the notice may be given only after the termination of this Treaty.

(5) If, prior to the termination of this Treaty, Canada undertakes works usable for and relating to a diversion of water from the Columbia River basin, other than works authorized by or undertaken for the purpose of exercising a right under Article XIII or any other provision of this Treaty, paragraph (3) of this Article shall cease to apply one year after delivery by either the United States of America or Canada to the other of written notice to that effect.

ARTICLE XVIII

Liability for damage

(1) The United States of America and Canada shall be liable to the other and shall make appropriate compensation to the other in respect of any act, failure to act, omission or delay amounting to a breach of the Treaty or of any of its provisions other than an act, failure to act, omission or delay occurring by reason of war, strike, major calamity, act of God, uncontrollable force or maintenance curtailment.

(2) Except as provided in paragraph (1) neither the United States of America nor Canada shall be liable to the other or to any person in respect of any injury, damage or loss occurring in the territory of the other caused by any act, failure to act, omission or delay under the Treaty whether the injury, damage or loss results from negligence or otherwise.

(3) The United States of America and Canada, each to the extent possible within its territory, shall exercise due diligence to remove the cause of and to mitigate the effect of any injury, damage or loss occurring in the territory of the other as a result of any act, failure to act, omission or delay under the Treaty.

(4) Failure to commence operation as required under Articles IV and XII is not a breach of the Treaty and does not result in the loss of rights under the Treaty if the failure results from a delay that is not wilful or reasonably avoidable.

(5) The compensation payable under paragraph (1):

(a) In respect of a breach by Canada of the obligation to commence full operation of a storage, shall be forfeiture of entitlement to downstream power benefits resulting from the operation of that storage, after operation commences, for a period equal to the period between the day of commencement of operation and the day when commencement should have occurred;

(b) In respect of any other breach by either the United States of Ame-

rica or Canada, causing loss of power benefits, shall not exceed the actual loss in revenue from the sale of hydroelectric power.

ARTICLE XIX

Period of treaty

- (1) The Treaty shall come into force on the ratification date.
- (2) Either the United States of America or Canada may terminate the Treaty other than Article XIII (except paragraph (1) thereof), Article XVII and this Article at any time after the Treaty has been in force for sixty years if it has delivered at least ten years' written notice to the other of its intention to terminate the Treaty.
- (3) If the Treaty is terminated before the end of the useful life of a dam built under Article XII then, notwithstanding termination, Article XII remains in force until the end of the useful life of the dam.
- (4) If the Treaty is terminated before the end of the useful life of the facilities providing the storage described in Article IV(3) and if the conditions described therein exist then, notwithstanding termination, Articles IV(3) and VI(4) and (5) remain in force until either the end of the useful life of those facilities or until those conditions cease to exist, whichever is the first to occur.

ARTICLE XX

Ratification

The instruments of ratification of the Treaty shall be exchanged by the United States of America and Canada at Ottawa, Canada.

ARTICLE XXI

Registration with the United Nations

In conformity with Article 102 of the Charter of the United Nations, the Treaty shall be registered by Canada with the Secretariat of the United Nations.

This Treaty has been done in duplicate copies in the English language.

IN WITNESS WHEREOF the undersigned, duly authorized by their respective Governments, have signed this Treaty at Washington, District of Columbia, United States of America, this 17th day of January, 1961.

For the United States of America: For Canada:

DWIGHT D. EISENHOWER
President
of the United States of America

CHRISTIAN A. HERTER
Secretary of State

ELMER F. BENNETT
Under Secretary of the Interior

JOHN G. DIEFENBAKER
Prime Minister of Canada

E. D. FULTON
Minister of Justice

A. D. P. HEENEY
Ambassador Extraordinary and Plenipotentiary of Canada to the United States of America

ANNEX A — PRINCIPLES OF OPERATION

GENERAL

1. The Canadian storage provided under Article II will be operated in accordance with the procedures described herein.

2. A hydrometeorological system, including snow courses, precipitation stations and streamflow gauges will be established and operated, as mutually agreed by the entities and in consultation with the Permanent Engineering Board, for use in establishing data for detailed programming of flood control and power operations. Hydrometeorological information will be made available to the entities in both countries for immediate and continuing use in flood control and power operations.

3. Sufficient discharge capacity at each dam to afford the desired regulation for power and flood control will be provided through outlet works and turbine installations as mutually agreed by the entities. The discharge capacity provided for flood control operations will be large enough to pass inflow plus sufficient storage releases during the evacuation period to provide the storage space required. The discharge capacity will be evaluated on the basis of full use of any conduits provided for that purpose plus one half the hydraulic capacity of the turbine installation at the time of commencement of the operation of storage under the Treaty.

4. The outflows will be in accordance with storage reservation diagrams and associated criteria established for flood control purposes and with reservoir-balance relationships established for power operations. Unless otherwise agreed by the entities the average weekly outflows shall not be less than 3,000 cubic feet per second at the dam described in Article II(2)(a), not less than 5,000 cubic feet per second at the dam described in Article II(2)(b) and not less than 1,000 cubic feet per second at the dam described in Article II(2)(c). These minimum average weekly releases may be scheduled by the Canadian entity as required for power or other purposes.

FLOOD CONTROL

5. For flood control operation, the United States entity will submit flood control operating plans which may consist of or include flood control storage reservation diagrams and associated criteria for each of the dams. The Canadian entity will operate in accordance with these diagrams or any variation which the entities agree will not derogate from the desired aim of the flood control plan. The use of these diagrams will be based on data obtained in accordance with paragraph 2. The diagrams will consist of relationships specifying the flood control storage reservations required at indicated times of the year for volumes of forecast runoff. After consultation with the Canadian entity the United States entity may from time to time as conditions warrant adjust these storage reservation diagrams within the general limitations of flood control operation. Evacuation of the storages listed hereunder will be guided by the flood control storage reservation diagrams and refill will be as requested by the United States entity after consultation with the Canadian entity. The general limitations of flood control operation are as follows:

(a) *The Dam described in Article II(2)(a)* — The reservoir will be evacuated

to provide up to 80,000 acre-feet of storage, if required, for flood control use by May 1 of each year.

(b) *The Dam described in Article II(2)(b)* — The reservoir will be evacuated to provide up to 7,100,000 acre-feet of storage, if required, for flood control use by May 1 of each year.

(c) *The Dam described in Article II(2)(c)* — The reservoir will be evacuated to provide up to 700,000 acre-feet of storage, if required, for flood control use by April 1 of each year and up to 1,270,000 acre-feet of storage, if required, for flood control use by May 1 of each year.

(d) The Canadian entity may exchange flood control storage provided in the reservoir referred to in subparagraph (b) for additional storage provided in the reservoir referred to in subparagraph (a) if the entities agree that the exchange would provide the same effectiveness for control of floods on the Columbia River at The Dalles, Oregon.

POWER

6. For power generating purposes the 15,500,000 acre-feet of Canadian storage will be operated in accordance with operating plans designed to achieve optimum power generation downstream in the United States of America until such time as power generating facilities are installed at the site referred to in paragraph 5(a) or at sites in Canada downstream therefrom.

7. After at-site power is developed at the site referred to in paragraph 5(a) or power generating facilities are placed in operation in Canada downstream from that site, the storage operation will be changed so as to be operated in accordance with operating plans designed to achieve optimum power generation at-site in Canada and downstream in the United States of America and Canada, including consideration of any agreed electrical coordination between the two countries. Any reduction in the downstream power benefits in the United States of America resulting from that change in operation of the Canadian storage shall not exceed in any one year the reduction in downstream power benefits in the United States of America which would result from reducing by 500,000 acre-feet the Canadian storage operated to achieve optimum power generation in the United States of America and shall not exceed at any time during the period of the Treaty the reduction in downstream power benefits in the United States of America which would result from similarly reducing the Canadian storage by 3,000,000 acre-feet.

8. After at-site power is developed at the site referred to in paragraph 5(a) or power generating facilities are placed in operation in Canada downstream from that site, storage may be operated to achieve optimum generation of power in the United States of America alone if mutually agreed by the entities in which event the United States of America shall supply power to Canada to offset any reduction in Canadian generation which would be created as a result of such operation as compared to operation to achieve optimum power generation at-site in Canada and downstream in the United States of America and Canada. Similarly, the storage may be operated to achieve optimum generation of power in Canada alone if mutually agreed by the entities in which event Canada shall supply power to the United States of America to offset any reduction in United States generation which would be created as a result of such operation as

compared to operation to achieve optimum power generation at-site in Canada and downstream in the United States of America and Canada.

9. Before the first storage becomes operative, the entities will agree on operating plans and the resulting downstream power benefits for each year until the total of 15,500,000 acre-feet of storage in Canada becomes operative. In addition, commencing five years before the total of 15,500,000 acre-feet of storage is expected to become operative, the entities will agree annually on operating plans and the resulting downstream power benefits for the sixth succeeding year of operation thereafter. This procedure will continue during the life of the Treaty, providing to both the entities, in advance, an assured plan of operation of the Canadian storage and a determination of the resulting downstream power benefits for the next succeeding five years.

ANNEX B—DETERMINATION OF DOWNSTREAM POWER BENEFITS

1. The downstream power benefits in the United States of America attributable to operation in accordance with Annex A of the storage provided by Canada under Article II will be determined in advance and will be the estimated increase in dependable hydroelectric capacity in kilowatts for agreed critical stream flow periods and the increase in average annual usable hydroelectric energy output in kilowatt hours on the basis of an agreed period of stream flow record.

2. The dependable hydroelectric capacity to be credited to Canadian storage will be the difference between the average rates of generation in kilowatts during the appropriate critical stream flow periods for the United States of America base system consisting of the projects listed in the table, with and without the addition of the Canadian storage, divided by the estimated average critical period load factor. The capacity credit shall not exceed the difference between the capability of the base system without Canadian storage and the maximum feasible capability of the base system with Canadian storage, to supply firm load during the critical stream flow periods.

3. The increase in the average annual usable hydroelectric energy will be determined by first computing the difference between the available hydroelectric energy at the United States base system with and without Canadian storage. The entities will then agree upon the part of available energy which is usable with and without Canadian storage, and the difference thus agreed will be the increase in average annual usable hydroelectric energy. Determination of the part of the energy which is usable will include consideration of existing and scheduled transmission facilities and the existence of markets capable of using the energy on a contractual basis similar to the then existing contracts. The part of the available energy which is considered usable shall be the sum of:

- (a) The firm energy,
- (b) The energy which can be used for thermal power displacement in the Pacific Northwest Area as defined in Paragraph 7, and
- (c) The amount of the remaining portion of the available energy which is agreed by the entities to be usable and which shall not exceed in any event 40% of that remainder.

4. An initial determination of the estimated downstream power benefits

in the United States of America from Canadian storage added to the United States base system will be made before any of the Canadian storage becomes operative. This determination will include estimates of the downstream power benefits for each year until the total of 15,500,000 acre-feet of Canadian storage becomes operative.

5. Commencing five years before the total of 15,500,000 acre-feet of storage is expected to become operative, estimates of downstream power benefits will be calculated annually for the sixth succeeding year on the basis of the assured plan of operation for that year.

6. The critical stream flow period and the details of the assured plan of operation will be agreed upon by the entities at each determination. Unless otherwise agreed upon by the entities, the determination of the downstream power benefits shall be based upon stream flows for the twenty year period beginning with July 1928 as contained in the report entitled *Modified Flows at Selected Powers Sites—Columbia River Basin*, dated June 1957. No retroactive adjustment in downstream power benefits will be made at any time during the period of the Treaty. No reduction in the downstream power benefits credited to Canadian storage will be made as a result of the load estimate in the United States of America, for the year for which the determination is made, being less than the load estimate for the preceding year.

7. In computing the increase in dependable hydroelectric capacity and the increase in average annual hydroelectric energy, the procedure shall be in accordance with the three steps described below and shall encompass the loads of the Pacific Northwest Area. The Pacific Northwest Area, for purposes of these determinations, shall be Oregon, Washington, Idaho and Montana west of the Continental Divide but shall exclude areas served on the ratification date by the California Oregon Power Company and Utah Power and Light Company.

Step I

The system for the period covered by the estimate will consist of the Canadian storage, the United States base system, any thermal installation operated in coordination with the base system, and additional hydroelectric projects which will provide storage releases usable by the base system or which will use storage releases that are usable by the base system. The installations included in this system will be those required, with allowance for adequate reserves, to meet the forecast power load to be served by this system in the United States of America, including the estimated flow of power at points of inter-connection with adjacent areas, subject to paragraph 3, plus the portion of the entitlement of Canada that is expected to be used in Canada. The capability of this system to supply this load will be determined on the basis that the system will be operated in accordance with the established operating procedures of each of the projects involved.

Step II

A determination of the energy capability will be made using the same thermal installation as in *Step I*, the United States base system with the same installed capacity as in *Step I* and Canadian storage.

Step III

A similar determination of the energy capability will be made using the same thermal installation as in *Step I* and the United States base system with the same installed capacity as in *Step I*.

8. The downstream power benefits to be credited to Canadian storage will be the differences between the determinations in *Step II* and *Step III* in dependable hydroelectric capacity and in average annual usable hydroelectric energy, made in accordance with paragraphs 2 and 3.

Chile—Peru

66. TREATY¹ BETWEEN CHILE AND PERU FOR THE SETTLEMENT OF THE DISPUTE REGARDING TACNA AND ARICA, SIGNED AT LIMA, JUNE 3, 1929²

Article 1. The dispute arising out of Article 3 of the Treaty of Peace and Friendship of the twentieth day of October of the year one thousand eight hundred and eighty-three, which was the only difficulty outstanding between the signatory Governments, is hereby finally settled.

Article 2. The territory of Tacna and Arica shall be divided into two portions, of which Tacna shall be allotted to Peru and Arica to Chile. . . Chile cedes to Peru in perpetuity all her rights over the irrigation-channels Uchusuma and the Mauri (also known as Azucarero), without prejudice to the sovereignty she will be entitled to exercise over such part of the above-mentioned aqueducts as may come within Chilean territory after the tracing of the dividing line mentioned in the present Article. In respect of both channels, Chile grants to Peru a perpetual and absolute easement over the sections which pass through Chilean territory. Such easement shall include the right to widen the present channels, to change their course and to utilize all the water that may be collected in their passage through Chilean territory, except the waters that at present flow into the river Lluta and those which are used in the Tacora sulphur mines.

Article 12. If the Governments of Chile and Peru disagree as to the interpretation of any of the provisions of this Treaty, and if, in spite of their goodwill, they can reach no agreement, the dispute shall be settled by the President of the United States of America.

¹ The exchange of ratifications took place at Santiago de Chile, July 28, 1929.

² League of Nations, *Treaty Series*, vol. 94, p. 402.

Colombia—Venezuela

67. STATUTE¹ BETWEEN COLOMBIA AND VENEZUELA REGULATING THE FRONTIER REGIME. CARACAS, AUGUST 5, 1942²

Article 22. Fishing rights may not be exercised beyond the centre-line of rivers and non-navigable streams.

Article 23. It shall be forbidden to divide the frontier waters by means of fixed nets or by any other device which shall impede the free passage of fish from one bank to the other.

It shall equally be forbidden to fish by means of explosive, poisonous or noxious substances, or to use any other methods of catching fish, except by fish-hooks.

Dominicau Republic—Haiti

68. TRAITÉ³ DE PAIX, D'AMITIÉ ET D'ARBITRAGE ENTRE LA RÉPUBLIQUE DOMINICAINE ET LA RÉPUBLIQUE D'HAÏTI, SIGNÉ À SAINT-DOMINGUE, LE 20 FÉVRIER 1929⁴

Article 10. En raison de ce que des rivières et autres cours d'eau naissent sur le territoire d'un des deux Etats, traversent sur le territoire de l'autre ou leur servent de limites, les deux Hautes Parties contractantes s'engagent à ne faire ni consentir aucun ouvrage susceptible soit de changer le cours naturel de ces eaux, soit d'altérer le débit de leurs sources.

Cette disposition ne pourra s'interpréter de manière à priver l'un ou l'autre des deux Etats du droit d'user d'une manière juste et équitable, dans les limites de leurs territoires respectifs, des dites rivières et autres cours d'eau pour l'arrosage des terres et autres fins agricoles et industrielles.

Ecuador—Peru

69. DECLARATION AND EXCHANGE OF NOTES⁵ CONCERNING THE TERMINATION OF THE PROCESS OF DEMARCATION OF THE PERUVIAN-ECUADOREAN FRONTIER. LIMA/QUITO, MAY 22-24, 1944⁶

It is with the deepest patriotic satisfaction that the Government discharges the very pleasant duty of announcing to the country, as stated in the com-

¹ The exchange of ratifications took place on 22 February 1944.

² *British and Foreign State Papers*, vol. 144, p. 1127.

³ L'échange des ratifications a eu lieu à Saint-Domingue, le 1^{er} juillet 1929.

⁴ Société des Nations, *Recueil des Traités*, vol. 105, p. 216.

⁵ Came into force on 24 May 1944, by the exchange of the said Notes.

⁶ *British and Foreign State Papers*, vol. 145, p. 566.

munique of the 20th inst., that the process of demarcation of the Peruvian-Ecuadorean frontier has been brought to a conclusion, with the faithful and strict execution of the Protocol of Peace, Friendship and Boundaries signed between Peru and Ecuador in Rio de Janeiro on January 29, 1942,¹ which determined the boundary line between the two countries.

. . .

The negotiations have achieved complete success, and owing to the intelligent and wise intervention of the distinguished Brazilian Chancellor, H. E. Sr. Oswaldo Aranha, the definite frontier between Peru and Ecuador has been determined. . . .

. . .

In the Western Section, it has been established that the boundary line shall pass through the so-called old bed of the River Zarumilla, as far as its outlet into the Hualtaco estuary, all the territory lying in the zone called that of the two river beds being included under our sovereignty. . . .

Peru undertakes, by this agreement, to take the necessary steps within 3 years, to guarantee the supply of water necessary for the life of the Ecuadorean villages on the right bank of the so-called old bed of the river Zarumilla, fixed as the frontier. . . .

Official notes have to-day been exchanged between the Ministers for Foreign Affairs of Peru and Ecuador, expressing the acceptance of the two Governments of the results obtained in the negotiations just concluded. . .

No. 1. *The Peruvian Minister for Foreign Affairs to the Ecuadorean Minister for Foreign Affairs*

Lima, May 22, 1944

Your Excellency:

I have the honour to communicate to Your Excellency that my Government is in agreement with the formula of H. E. Sr. Oswaldo Aranha, Minister for Foreign Affairs of Brazil,² resolving the differences in interpretation arising on certain points of the demarcation of the Peruvian-Ecuadorean frontier which has been in process of execution in accordance with the Protocol of Peace, Friendship and Boundaries signed in Rio de Janeiro in

¹ *British and Foreign State Papers*, vol. 144, p. 1161; *American Journal of International Law*, vol. 36, 1942, Suppl., p. 168. His Protocol was denounced by the President of Ecuador on 1 September 1960. The Government of Peru declared that this denunciation did not modify the legal situation created by the Protocol of 29 January 1942.

² With regard to the utilization of the waters of the River Zarumilla, Sr. Oswaldo Aranha proposed the following solution:

"Peru undertakes to divert, within a period of three years, part of the waters of the River Zarumilla so that they shall flow along the former bed of the river, in order to provide the Ecuadorean villages situated along its banks with the aid essential to their existence, Ecuador retaining joint ownership of the waters in accordance with international practice."

(*Informe del Ministro de Relaciones Exteriores a la Nación, Agosto 1944-Julio 1946*, Quito, Ecuador, p. 610.)

January 29, 1942. This formula, which has the support of the countries guaranteeing the fulfilment of the Protocol in question, is contained in the notes handed over by the Brazilian Chancery, on the 17th instant, to the Ambassadors of Peru and Ecuador accredited to the Government of that Republic.

. . .

No. 2. [The Minister for Foreign Affairs of Ecuador handed the note of acceptance of his Government to the Peruvian Legation, Quito, on May 22, 1944.]

El Salvador—Guatemala

70. TREATY¹ FOR THE DELIMITATION OF THE BOUNDARY BETWEEN GUATEMALA AND EL SALVADOR, SIGNED AT GUATEMALA, APRIL 9, 1938²

. . .

Article 2. No change in the bed of frontier rivers, whether due to natural causes such as alluvium deposits, landslides, freshets, etc., or to artificial causes such as the construction of public works, the deepening of channels for water-supply, etc., shall affect the frontier as determined at the time of demarcation, which shall continue to be the international boundary even though a stream may have completely abandoned its original bed.

Each Government reserves the right to utilize half the volume of water in frontier rivers, either for agricultural or industrial purposes; but in no circumstances may concessions be granted to foreign undertakings or companies.

. . .

71. TREATY³ OF FREE TRADE AND ECONOMIC INTEGRATION BETWEEN THE REPUBLIC OF GUATEMALA AND EL SALVADOR, SIGNED AT SAN SALVADOR, ON 14 DECEMBER 1951⁴

. . .

Article 19. The competent authorities of both States shall co-ordinate their activities with a view to protecting forest reserves and water resources and preventing soil erosion in the frontier regions of their respective territories.

. . .

¹ The exchange of ratifications took place at Guatemala, May 24, 1938.

² League of Nations, *Treaty Series*, vol. 189, p. 276.

³ Came into force, on 17 May 1952, by the exchange of the instruments of ratification at Guatemala.

⁴ United Nations, *Treaty Series*, vol. 131, p. 132.

France—Netherlands

72. CONVENTION¹ ENTRE LA FRANCE ET LES PAYS-BAS POUR FIXER CONVENTIONNELLEMENT LA LIMITE ENTRE LES COLONIES DE LA GUYANE FRANÇAISE ET DE SURINAM, DANS LA PARTIE DU FLEUVE FRONTIÈRE COMPRISE ENTRE L'EXTRÉMITÉ SEPTENTRIONALE DE L'ÎLE NÉERLANDAISE STOELMAN, DITE STOELMANSEILAND, ET L'EXTRÉMITÉ MÉRIDIONALE DE L'ÎLE FRANÇAISE PORTAL, SIGNÉE À PARIS, LE 30 SEPTEMBRE 1915²

Article 3. Aucun ouvrage d'utilité publique ou privée susceptible de modifier le régime hydrographique ou d'entraver la navigation ou le halage dans les eaux de la partie du fleuve Maroni (Marowijne) délimitée conformément à l'article 1^{er}, ne pourra être entrepris sans l'entente préalable des deux gouvernements.

Toutefois, un tel accord préalable ne sera pas exigé pour l'installation sur l'une quelconque des rives d'appontements, de bassins, de cales, de chenaux et de tous travaux généralement quelconques, destinés à assurer le libre accès de la rive. Les installations de ce genre seront toujours permises sur chaque rive à l'administration publique, ainsi qu'aux bénéficiaires de concessions, à condition que ces derniers se conforment aux règlements édictés par le gouvernement de la nation à laquelle appartient la rive intéressée.

Article 4. Les concessions de dragages sont accordées de concert par les deux gouvernements de la Guyane française et de la colonie de Surinam dans une même partie du fleuve délimitée, soit à un solliciteur unique, soit à un groupe unique de solliciteurs, de manière que la même exploitation puisse s'exercer dans la partie française et dans la partie néerlandaise des eaux qui sont en regard l'une de l'autre.

Article 5. Les deux puissances s'engagent à déterminer, aussitôt que possible, les formes dans lesquelles seront accordées par les deux gouvernements les concessions de dragages, ainsi que les obligations qui seront imposées aux concessionnaires.

Il sera stipulé dans les concessions de dragages :

1) que toute quantité de minéral extraite dans la partie du fleuve délimitée conformément à l'article premier, sera réputée provenir pour moitié des eaux françaises, et pour moitié des eaux néerlandaises.

2) que les concessionnaires devront acquitter dans l'une et l'autre colonie tous les droits sur les minéraux édictés par les tarifs actuels ou futurs, proportionnellement à la quantité de minéral réputée extraite des eaux de chaque nation ;

¹ L'échange des instruments de ratification a eu lieu à Paris, le 6 septembre 1916.

² *British and Foreign State Papers*, vol. 110, p. 872.

3) que les concessionnaires seront tenus de tolérer le halage le long du fleuve, et qu'ils devront se conformer à tous les règlements destinés à assurer la libre navigation

Article 6. Les hautes parties contractantes s'engagent à soumettre à la Cour permanente d'arbitrage de La Haye les différends qui pourraient s'élever entre elles au sujet de l'application ou de l'interprétation de la présente convention et qui n'auront pu être résolus par la voie diplomatique.

Dans chaque cas particulier, les hautes parties contractantes signeront un compromis spécial déterminant nettement l'objet du litige, l'étendue des pouvoirs de l'arbitre ou du tribunal arbitral, le mode de sa désignation, la langue dont l'arbitre ou le tribunal arbitral fera usage et celles dont l'emploi sera autorisé devant eux, le montant de la somme que chacune des hautes parties contractantes aura à déposer à titre d'avance pour les frais, ainsi que les règles à observer en ce qui concerne les formalités et les délais de la procédure.

. . . .

Guatemala—Honduras

73. TREATY¹ OF FREE TRADE AND ECONOMIC INTEGRATION BETWEEN THE REPUBLICS OF GUATEMALA AND HONDURAS, SIGNED AT GUATEMALA, ON 22 AUGUST 1956²

. . . .

Article 19. The competent authorities of the two States shall co-ordinate their activities with a view to protecting forest reserves and water resources and preventing forest fires and soil erosion in the frontier regions of their respective territories.

. . . .

Mexico—United States

74. BOUNDARY CONVENTION³ BETWEEN THE UNITED STATES OF AMERICA AND MEXICO, SIGNED AT WASHINGTON, MARCH 1, 1889⁴

. . . to facilitate the carrying out of the principles contained in the treaty of November 12, 1884, and to avoid the difficulties occasioned by reason of

¹ Came into force on 28 December 1956 by the exchange of the instruments of ratification at Tegucigalpa.

² United Nations, *Treaty Series*, vol. 263, p. 66.

³ Came into force on 24 December 1890, by the exchange of ratifications. This Convention has been indefinitely extended according to article 2, para. 1, of the Treaty of 3 February 1944 below.

⁴ *Treaties and Conventions between the United States and other powers* (Malloy's Collection), vol. 1, p. 1167.

the changes which take place in the bed of the Rio Grande and that of the Colorado river, in that portion thereof where they serve as a boundary between the two Republics, . . .

. . .

Article I. All differences or questions that may arise on that portion of the frontier between the United States of America and the United States of Mexico where the Rio Grande and the Colorado rivers form the boundary line, whether such differences or questions grow out of alterations or changes in the bed of the aforesaid Rio Grande and that of the aforesaid Colorado River, or of works that may be constructed in said rivers, or of any other cause affecting the boundary line, shall be submitted for examination and decision to an International Boundary Commission, which shall have exclusive jurisdiction in the case of said differences or questions.

Article II. The International Boundary Commission shall be composed of a Commissioner appointed by the President of the United States of America, and of another appointed by the President of the United States of Mexico, in accordance with the constitutional provisions of each country, of a Consulting Engineer, appointed in the same manner by each Government, and of such Secretaries and Interpreters as either Government may see fit to add to its Commission. Each Government separately shall fix the salaries and emoluments of the members of its Commission.

Article III. The International Boundary Commission shall not transact any business unless both Commissioners are present. It shall sit on the frontier of the two contracting countries, and shall establish itself at such places as it may determine upon; it shall, however, repair to places at which any of the difficulties or questions mentioned in this convention may arise, as soon as it shall have been duly notified thereof.

Article IV. When, owing to natural causes, any change shall take place in the bed of the Rio Grande or in that of the Colorado River, in that portion thereof wherein those rivers form the boundary line between the two countries, which may affect the boundary line, notice of that fact shall be given by the proper local authorities on both sides to their respective Commissioners of the International Boundary Commission, on receiving which notice it shall be the duty of the said Commission to repair to the place where the change has taken place or the question has arisen, to make a personal examination of such change, to compare it with the bed of the river as it was before the change took place, as shown by the surveys, and to decide whether it has occurred through avulsion or erosion, for the effects of articles I and II of the convention of November 12, 1884; having done this, it shall make suitable annotations on the surveys of the boundary line.

Article V. Whenever the local authorities on any point of the frontier between the United States of America and the United States of Mexico, in that portion in which the Rio Grande and the Colorado River form the boundary between the two countries, shall think that works are being constructed, in either of those rivers, such as are prohibited by article III of the convention of November 12, 1884, or by article VII of the treaty of Guadalupe Hidalgo of February 2, 1848, they shall so notify their respective Commis-

sioners, in order that the latter may at once submit the matter to the International Boundary Commission, and that said Commission may proceed, in accordance with the provisions of the foregoing article, to examine the case, and that it may decide whether the work is among the number of those which are permitted, or of those which are prohibited by the stipulations of those treaties.

The Commission may provisionally suspend the construction of the works in question pending the investigation of the matter, and if it shall fail to agree on this point, the works shall be suspended, at the instance of one of the two Governments.

Article VI. In either of these cases, the Commission shall make a personal examination of the matter which occasions the change, the question or the complaint, and shall give its decision in regard to the same, in doing which it shall comply with the requirements established by a body of regulations to be prepared by the said Commission and approved by both Governments.

Article VII. The International Boundary Commission shall have power to call for papers and information, and it shall be the duty of the authorities of each of the two countries to send it any papers that it may call for, relating to any boundary question in which it may have jurisdiction in pursuance of this convention.

The said Commission shall have power to summon any witnesses whose testimony it may think proper to take, and it shall be the duty of all persons thus summoned to appear before the same and to give their testimony, which shall be taken in accordance with such by-laws and regulations as may be adopted by the Commission and approved by both Governments. In case of the refusal of a witness to appear, he shall be compelled to do so, and to this end the Commission may make use of the same means that are used by the courts of the respective countries to compel the attendance of witnesses, in conformity with their respective laws.

Article VIII. If both Commissioners shall agree to a decision, their judgment shall be considered binding upon both Governments, unless one of them shall disapprove it within one month reckoned from the day on which it shall have been pronounced. In the latter case, both Governments shall take cognizance of the matter, and shall decide it amicably, bearing constantly in mind the stipulation of Article XXI of the treaty of Guadalupe Hidalgo of February 2, 1848.

The same shall be the case when the Commissioners shall fail to agree concerning the point which occasions the question, the complaint or the change, in which case each Commissioner shall prepare a report, in writing, which he shall lay before his Government.

75. CONVENTION¹ BETWEEN THE UNITED STATES OF AMERICA AND MEXICO CONCERNING THE EQUITABLE DISTRIBUTION OF THE WATERS OF THE RIO GRANDE FOR IRRIGATION PURPOSES, SIGNED AT WASHINGTON, MAY 21, 1906²

The United States of America and the United States of Mexico being desirous to provide for the equitable distribution of the waters of the Rio Grande for irrigation purposes, and to remove all causes of controversy between them in respect thereto, and being moved by considerations of international comity, have resolved to conclude a Convention for these purposes. . . .

Article I. After the completion of the proposed storage dam near Engle, New Mexico, and the distributing system auxiliary thereto, and as soon as water shall be available in said system for the purpose, the United States shall deliver to Mexico a total of 60,000 acre-feet of water annually, in the bed of the Rio Grande at the point where the head works of the Acequia Madre, known as the Old Mexican Canal, now exist above the city of Juarez, Mexico.

Article II. The delivery of the said amount of water shall be assured by the United States and shall be distributed through the year in the same proportions as the water supply proposed to be furnished from the said irrigation system to lands in the United States in the vicinity of El Paso, Texas, according to the following schedule, as nearly as may be possible:

	Acre feet per month	Corresponding cubic feet of water.
January	0	0
February	1,090	47,480,400
March	5,460	237,837,600
April	12,000	522,720,000
May	12,000	522,720,000
June	12,000	522,720,000
July	8,180	356,320,800
August	4,370	190,357,200
September	3,270	142,441,200
October	1,090	47,480,400
November	540	23,522,400
December	0	0
Total for the year	60,000	2,613,600,000

In case, however, of extraordinary drought or serious accident to the irrigation system in the United States, the amount delivered to the Mexican Canal shall be diminished in the same proportion as the water delivered to lands under said irrigation system in the United States.

¹ Came into force on 16 January 1907, by the exchange of ratifications.

² De Martens, *Nouveau Recueil Général des Traités*, 2nd series, vol. XXXV, p. 461.

Article III. The said delivery shall be made without cost to Mexico, and the United States agrees to pay the whole cost of storing the said quantity of water to be delivered to Mexico, of conveying the same to the international line, of measuring the said water, and of delivering it in the river bed above the head of the Mexican Canal. It is understood that the United States assumes no obligation beyond the delivering of the water in the bed of the river above the head of the Mexican Canal.

Article IV. The delivery of water as herein provided is not to be construed as a recognition by the United States of any claim on the part of Mexico to the said waters; and it is agreed that in consideration of such delivery of water, Mexico waives any and all claims to the waters of the Rio Grande for any purpose whatever between the head of the present Mexican Canal and Fort Quitman, Texas, and also declares fully settled and disposed of, and hereby waives, all claims heretofore asserted or existing, or that may hereafter arise, or be asserted, against the United States on account of any damages alleged to have been sustained by the owners of land in Mexico, by reason of the diversion by citizens of the United States of waters of the Rio Grande.

Article V. The United States, in entering into this treaty, does not thereby concede, expressly or by implication, any legal basis for any claims heretofore asserted or which may be hereafter asserted by reason of any losses incurred by the owners of land in Mexico due or alleged to be due to the diversion of the waters of the Rio Grande within the United States; nor does the United States in any way concede the establishment of any general principle or precedent by the concluding of this treaty. The understanding of both parties is that the arrangement contemplated by this treaty extends only to the portion of the Rio Grande which forms the international boundary, from the head of the Mexican Canal down to Fort Quitman, Texas, and in no other case.

. . .

76. CONVENTION¹ BETWEEN THE UNITED STATES OF AMERICA AND MEXICO FOR THE RECTIFICATION OF THE RIO GRANDE (RIO BRAVO DEL NORTE) IN THE PASO-JUAREZ VALLEY, SIGNED AT MEXICO, FEBRUARY 1, 1933²

. . . having taken into consideration the studies and engineering plans carried on by the International Boundary Commission, and specially directed to relieve the towns and agricultural lands located within the El-Paso-Juarez Valley from flood dangers, and securing at the same time the stabilization of the international boundary line, which, owing to the present meandering nature of the river it has not been possible to hold within the mean line of its channel; and fully conscious of the great importance involved in this matter, both from a local point of view as well as from a good international understanding, have resolved to undertake, in common agreement and cooperation, the necessary works as provided in Minute 129 (dated

¹ Came into force on 10 November 1933, by the exchange of ratifications.

² *Treaties and Conventions between the United States and other powers* (Malloy's Collection), vol. IV, p. 4463.

July 31, 1930) of the International Boundary Commission,¹ approved by the two Governments in the manner provided by treaty

Article I. The Government of the United States of America and the Government of the United Mexican States have agreed to carry out the Rio Grande rectification works provided for in Minute 129 of the International Boundary Commission and annexes thereto, approved by both Governments, in that part of the river beginning at the point of intersection of the present river channel with the located line as shown in map, exhibit No. 2 of Minute 129 of said Commission (said intersection being south of Monument 15 of the boundary polygon of Córdoba Island) and ending at Box Canyon.

The terms of this Convention and of Minute 129 shall apply exclusively to river rectification within the limits above set out.

The two Governments shall study such further minutes and regulations as may be submitted by the International Boundary Commission and, finding them acceptable, shall approve same in order to carry out the material execution of the works in accordance with the terms of this Convention. The works shall be begun after this Convention becomes effective.

Article II. For the execution of the works there shall be followed the procedure outlined in the technical study of the project. The works shall be begun and shall be carried on primarily from the lower end, but at the same time and for reasons of necessity works may be carried on in the upper sections of the valley.

Article III. In consideration of the difference existing in the benefits derived by each of the contracting countries by the rectification works, the prorable cost of the works will be defrayed by both Governments in the proportion of eighty-eight per cent (88%) by the United States of America and of twelve per cent (12%) by the United Mexican States.

Article IV. The direction and inspection of the works shall be under the International Boundary Commission, each Government employing for the construction of that portion of the work it undertakes, the agency that in accordance with its administrative organization should carry on the work.

Article V. The International Boundary Commission shall survey the ground to be used as the right of way to be occupied by the rectified channel, as well as the parts to be cut from both sides of said channel. Within thirty days after a cut has been made, it shall mark the boundaries on the ground, there being a strict superficial compensation in total of the areas taken from each country. Once the corresponding maps have been prepared, the Commission shall eliminate these areas from the provisions of Article II of the Convention of November 12, 1884, in similar manner to that adopted in the Convention of March 20, 1905 for the elimination of bancos.

Article VI. For the sole purpose of equalizing areas, the axis of the rectified channel shall be the international boundary line. The parcels of land that, as a result of these cuts or of merely taking the new axis of the channel as the boundary line, shall remain on the American side of the axis of the rectified channel shall be the territory and property of the United

¹ *Ibid.*, p. 4465. Report of consulting engineers annexed to the Minute, *ibid.*, p. 4470.

States of America, and the territory and property of the United Mexican States those on the opposite side, each Government mutually surrendering in favor of the other the acquired rights over such parcels.

In the completed rectified river channel — both in its normal and construction sections — and in any completed portion thereof, the permanent international boundary shall be the middle of the deepest channel of the river within such rectified river channel.

Article VII. Lands within the rectified channel, as well as those which, upon segregation, pass from the territory of one country to that of the other, shall be acquired in full ownership by the Government in whose territory said lands are at the present time; and the lands passing as provided in Article V hereof, from one country to the other, shall pass to each Government respectively in absolute sovereignty and ownership, and without encumbrance of any kind, and without private national titles.

Article VIII. The construction of works shall not confer on the contracting parties any property rights in or any jurisdiction over the territory of the other. The completed work shall constitute part of the territory and shall be the property of the country within which it lies.

Each Government shall respectively secure title, control, and jurisdiction of its half of the flood channel, from the axis of that channel to the outer edge of the acquired right of way on its own side, as this channel is described and mapped in the International Boundary Commission Minute number 129, and the maps, plans, and specifications attached thereto, which Minute, maps, plans, and specifications are attached hereto and made a part of this Convention. Each Government shall permanently retain full title, control, and jurisdiction of that part of the flood channel constructed as described, from the deepest channel of the running water in the rectified channel to the outer edge of such acquired right of way.

Article IX. Construction shall be suspended upon request of either Government, if it be proved that the works are being constructed outside of the conditions herein stipulated or fixed in the approved plan.

Article X. In the event there be presented private or national claims for the construction or maintenance of the rectified channel, or for causes connected with the works of rectification, each Government shall assume and adjust such claims as arise within its own territory.

Article XI. The International Boundary Commission is charged hereafter with the maintenance and preservation of the rectified channel. To this end the Commission shall submit, for the approval of both Governments, the regulations that should be issued to make effective said maintenance.

Article XII. Both Governments bind themselves to exempt from import duties all materials, implements, equipment, and supplies intended for the works, and passing from one country to the other.

. . .

77. TREATY¹ BETWEEN THE UNITED STATES OF AMERICA AND MEXICO RELATING TO THE UTILIZATION OF THE WATERS OF THE COLORADO AND TIJUANA RIVERS, AND OF THE RIO GRANDE (RIO BRAVO) FROM FORT QUITMAN, TEXAS, TO THE GULF OF MEXICO, SIGNED AT WASHINGTON ON 3 FEBRUARY 1944, AND SUPPLEMENTARY PROTOCOL, SIGNED AT WASHINGTON ON 14 NOVEMBER 1944²

The Government of the United States of America and the Government of the United Mexican States: animated by the sincere spirit of cordiality and friendly cooperation which happily governs the relations between them; taking into account the fact that Articles VI and VII of the Treaty of Peace, Friendship and Limits between the United States of America and the United Mexican States signed at Guadalupe Hidalgo on February 2, 1848, and Article IV of the boundary treaty between the two countries signed at the City of Mexico December 30, 1853 regulate the use of the waters of the Rio Grande (Rio Bravo) and the Colorado River for purposes of navigation only; considering that the utilization of these waters for other purposes is desirable in the interest of both countries, and desiring, moreover, to fix and delimit the rights of the two countries with respect to the waters of the Colorado and Tijuana Rivers, and of the Rio Grande (Rio Bravo) from Fort Quitman, Texas, United States of America, to the Gulf of Mexico, in order to obtain the most complete and satisfactory utilization thereof, have resolved to conclude a treaty.

I—PRELIMINARY PROVISIONS

Article 1

For the purpose of this Treaty it shall be understood that:

- (a) "The United States" means the United States of America.
- (b) "Mexico" means the United Mexican States.
- (c) "The Commission" means the International Boundary and Water Commission, United States and Mexico, as described in Article 2 of this Treaty.
- (d) "To divert" means the deliberate act of taking water from any channel in order to convey it elsewhere for storage, or to utilize it for domestic, agricultural, stock-raising or industrial purposes whether this be done by means of dams across the channel, partition weirs, lateral intakes, pumps or any other methods.
- (e) "Point of diversion" means the place where the act of diverting the water is effected.
- (f) "Conservation capacity of storage reservoirs" means that part of their total capacity devoted to holding and conserving the water for disposal

¹ Came into force on 2 November 1945, by the exchange of ratification.

² United Nations, *Treaty Series*, vol. 3, p. 314.

thereof as and when required, that is, capacity additional to that provided for silt retention and flood control.

(g) "Flood discharges and spills" means the voluntary or involuntary discharge of water for flood control as distinguished from releases for other purposes.

(h) "Return flow" means that portion of diverted water that eventually finds its way back to the source from which it was diverted.

(i) "Release" means the deliberate discharge of stored water for conveyance elsewhere or for direct utilization.

(j) "Consumptive use" means the use of water by evaporation, plant transpiration or other manner whereby the water is consumed and does not return to its source of supply. In general it is measured by the amount of water diverted less the part thereof which returns to the stream.

(k) "Lowest major international dam or reservoir" means the major international dam or reservoir situated farthest downstream.

(l) "Highest major international dam or reservoir" means the major international dam or reservoir situated farthest upstream.

Article 2

The International Boundary Commission established pursuant to the provisions of the Convention between the United States and Mexico signed in Washington March 1, 1889 to facilitate the carrying out of the principles contained in the Treaty of November 12, 1884 and to avoid difficulties occasioned by reason of the changes which take place in the beds of the Rio Grande (Rio Bravo) and the Colorado River shall hereafter be known as the International Boundary and Water Commission, United States and Mexico, which shall continue to function for the entire period during which the present Treaty shall continue in force. Accordingly, the term of the Convention of March 1, 1889 shall be considered to be indefinitely extended, and the Convention of November 21, 1900 between the United States and Mexico regarding that Convention shall be considered completely terminated.

The application of the present Treaty, the regulation and exercise of the rights and obligations which the two Governments assume thereunder, and the settlement of all disputes to which its observance and execution may give rise are hereby entrusted to the International Boundary and Water Commission, which shall function in conformity with the powers and limitations set forth in this Treaty.

The Commission shall in all respects have the status of an international body, and shall consist of a United States Section and a Mexican Section. The head of each Section shall be an Engineer Commissioner. Wherever there are provisions in this Treaty for joint agreement by the two Governments, or for the furnishing of reports, studies or plans to the two Governments, or similar provisions, it shall be understood that the particular matter in question shall be handled by or through the Department of State of the United States and the Ministry of Foreign Relations of Mexico.

The Commission or either of its two Sections may employ such assistants and engineering and legal advisers as it may deem necessary. Each Government shall accord diplomatic status to the Commissioner, designated by the other Government. The Commissioner, two principal engineers, a legal adviser, and a secretary, designated by each Government as members of

its Section of the Commission, shall be entitled in the territory of the other country to the privileges and immunities appertaining to diplomatic officers. The Commission and its personnel may freely carry out their observations, studies and field work in the territory of either country.

The jurisdiction of the Commission shall extend to the limitrophe parts of the Rio Grande (Rio Bravo) and the Colorado River, to the land boundary between the two countries, and to works located upon their common boundary, each Section of the Commission retaining jurisdiction over that part of the works located within the limits of its own country. Neither Section shall assume jurisdiction of control over works located within the limits of the country of the other without the express consent of the Government of the latter. The works constructed, acquired or used in fulfillment of the provisions of this Treaty and located wholly within the territorial limits of either country, although these works may be international in character, shall remain, except as herein otherwise specifically provided, under the exclusive jurisdiction and control of the Section of the Commission in whose country the works may be situated.

The duties and powers vested in the Commission by this Treaty shall be in addition to those vested in the International Boundary Commission by the Convention of March 1, 1889 and other pertinent treaties and agreements in force between the two countries except as the provisions of any of them may be modified by the present Treaty.

Each Government shall bear the expenses incurred in the maintenance of its Section of the Commission. The joint expenses, which may be incurred as agreed upon by the Commission, shall be borne equally by the two Governments.

Article 3

In matters in which the Commission may be called upon to make provision for the joint use of international waters, the following order of preferences shall serve as a guide:

1. Domestic and municipal uses.
2. Agriculture and stock-raising.
3. Electric power.
4. Other industrial uses.
5. Navigation.
6. Fishing and hunting.
7. Any other beneficial uses which may be determined by the Commission.

All of the foregoing uses shall be subject to any sanitary measures or works which may be mutually agreed upon by the two Governments, which hereby agree to give preferential attention to the solution of all border sanitation problems.

II—RIO GRANDE (RIO BRAVO)

Article 4

The waters of the Rio Grande (Rio Bravo) between Fort Quitman, Texas and the Gulf of Mexico are hereby allotted to the two countries in the following manner:

A. To Mexico:

(a) All of the waters reaching the main channel of the Rio Grande (Rio Bravo) from the San Juan and Alamo Rivers, including the return flow from the lands irrigated from the latter two rivers.

(b) One-half of the flow in the main channel of the Rio Grande (Rio Bravo) below the lowest major international storage dam, so far as said flow is not specifically allotted under this Treaty to either of the two countries.

(c) Two-thirds of the flow reaching the main channel of the Rio Grande (Rio Bravo) from the Conchos, San Diego, San Rodrigo, Escondido and Salado Rivers and the Las Vacas Arroyo, subject to the provisions of subparagraph (c) of paragraph B of this Article.

(d) One-half of all other flows not otherwise allotted by this Article occurring in the main channel of the Rio Grande (Rio Bravo), including the contributions from all the unmeasured tributaries, which are those not named in this Article, between Fort Quitman and the lowest major international storage dam.

B. To the United States:

(a) All of the waters reaching the main channel of the Rio Grande (Rio Bravo) from the Pecos and Devils Rivers, Goodenough Spring, and Alamito, Terlingua, San Felipe and Pinto Creeks.

(b) One-half of the flow in the main channel of the Rio Grande (Rio Bravo) below the lowest major international storage dam, so far as said flow is not specifically allotted under this Treaty to either of the two countries.

(c) One-third of the flow reaching the main channel of the Rio Grande (Rio Bravo) from the Conchos, San Diego, San Rodrigo, Escondido and Salado Rivers and the Las Vacas Arroyo, provided that this third shall not be less, as an average amount in cycles of five consecutive years, than 350,000 acre-feet (431,721,000 cubic meters) annually. The United States shall not acquire any right by the use of the waters of the tributaries named in this subparagraph, in excess of the said 350,000 acre-feet (431,721,000 cubic meters) annually, except the right to use one-third of the flow reaching the Rio Grande (Rio Bravo) from said tributaries, although such one-third may be in excess of that amount.

(d) One-half of all other flows not otherwise allotted by this Article occurring in the main channel of the Rio Grande (Rio Bravo), including the contributions from all the unmeasured tributaries, which are those not named in this Article, between Fort Quitman and the lowest major international storage dam.

In the event of extraordinary drought or serious accident to the hydraulic systems on the measured Mexican tributaries, making it difficult for Mexico to make available the run-off of 350,000 acre-feet (431,721,000 cubic meters) annually, allotted in subparagraph (c) of paragraph B of this Article to the United States as the minimum contribution from the aforesaid Mexican tributaries, any deficiencies existing at the end of the aforesaid five-year cycle shall be made up in the following five-year cycle with water from the said measured tributaries.

Whenever the conservation capacities assigned to the United States in at least two of the major international reservoirs, including the highest major reservoir, are filled with waters belonging to the United States, a cycle of

five years shall be considered as terminated and all debits fully paid, whereupon a new five-year cycle shall commence.

Article 5

The two Governments agree to construct jointly, through their respective Sections of the Commission, the following works in the main channel of the Rio Grande (Rio Bravo):

I. The dams required for the conservation, storage and regulation of the greatest quantity of the annual flow of the river in a way to ensure the continuance of existing uses and the development of the greatest number of feasible projects, within the limits imposed by the water allotments specified.

II. The dams and other joint works required for the diversion of the flow of the Rio Grande (Rio Bravo).

One of the storage dams shall be constructed in the section between Santa Helena Canyon and the mouth of the Pecos River; one in the section between Eagle Pass and Laredo, Texas (Piedras Negras and Nuevo Laredo in Mexico); and a third in the section between Laredo and Roma, Texas (Nuevo Laredo and San Pedro de Roma in Mexico). One or more of the stipulated dams may be omitted, and others than those enumerated may be built, in either case as may be determined by the Commission, subject to the approval of the two Governments.

In planning the construction of such dams the Commission shall determine:

- (a) The most feasible sites;
- (b) The maximum feasible reservoir capacity at each site;
- (c) The conservation capacity required by each country at each site, taking into consideration the amount and regimen of its allotment of water and its contemplated uses;
- (d) The capacity required for retention of silt;
- (e) The capacity required for flood control.

The conservation and silt capacities of each reservoir shall be assigned to each country in the same proportion as the capacities required by each country in such reservoir for conservation purposes. Each country shall have an undivided interest in the flood control capacity of each reservoir.

The construction of the international storage dams shall start within two years following the approval of the respective plans by the two Governments. The works shall begin with the construction of the lowest major international storage dam, but works in the upper reaches of the river may be constructed simultaneously. The lowest major international storage dam shall be completed within a period of eight years from the date of the entry into force of this Treaty.

The construction of the dams and other joint works required for the diversion of the flows of the river shall be initiated on the dates recommended by the Commission and approved by the two Governments.

The cost of construction, operation and maintenance of each of the international storage dams shall be prorated between the two Governments in proportion to the capacity allotted to each country for conservation purposes in the reservoir at such dam.

The cost of construction, operation and maintenance of each of the dams and other joint works required for the diversion of the flows of the river shall

be prorated between the two Governments in proportion to the benefits which the respective countries receive therefrom, as determined by the Commission and approved by the two Governments.

Article 6

The Commission shall study, investigate, and prepare plans for flood control works, where and when necessary, other than those referred to in Article 5 of this Treaty, on the Rio Grande (Rio Bravo) from Fort Quitman, Texas to the Gulf of Mexico. These works may include levees along the river, floodways and grade control structures, and works for the canalization, rectification and artificial channeling of reaches of the river. The Commission shall report to the two Governments the works which should be built, the estimated cost thereof, the part of the works to be constructed by each Government, and the part of the works to be operated and maintained by each Section of the Commission. Each Government agrees to construct, through its Section of the Commission, such works as may be recommended by the Commission and approved by the two Governments. Each Government shall pay the costs of the works constructed by it and the costs of operation and maintenance of the part of the works assigned to it for such purpose.

Article 7

The Commission shall study, investigate and prepare plans for plants for generating hydro-electric energy which it may be feasible to construct at the international storage dams on the Rio Grande (Rio Bravo). The Commission shall report to the two Governments in a Minute the works which should be built, the estimated cost thereof, and the part of the works to be constructed by each Government. Each Government agrees to construct, through its Section of the Commission, such works as may be recommended by the Commission and approved by the two Governments. Both Governments, through their respective Sections of the Commission, shall operate and maintain jointly such hydro-electric plants. Each Government shall pay half the cost of the construction, operation and maintenance of such plants, and the energy generated shall be assigned to each country in like proportion.

Article 8

The two Governments recognize that both countries have a common interest in the conservation and storage of waters in the international reservoirs and in the maximum use of these structures for the purpose of obtaining the most beneficial, regular and constant use of the waters belonging to them. Accordingly, within the year following the placing in operation of the first of the major international storage dams which is constructed, the Commission shall submit to each Government for its approval, regulations for the storage, conveyance and delivery of the waters of the Rio Grande (Rio Bravo) from Fort Quitman, Texas to the Gulf of Mexico. Such regulations may be modified, amended or supplemented when necessary by the Commission, subject to the approval of the two Governments. The following general rules shall severally govern until modified or amended by agreement of the Commission, with the approval of the two Governments:

- (a) Storage in all major international reservoirs above the lowest shall

be maintained at the maximum possible water level, consistent with flood control, irrigation use and power requirements.

(b) Inflows to each reservoir shall be credited to each country in accordance with the ownership of such inflows.

(c) In any reservoir the ownership of water belonging to the country whose conservation capacity therein is filled, and in excess of that needed to keep it filled, shall pass to the other country to the extent that such country may have unfilled conservation capacity, except that one country may at its option temporarily use the conservation capacity of the other country not currently being used in any of the upper reservoirs; provided that in the event of flood discharge or spill occurring while one country is using the conservation capacity of the other, all of such flood discharge or spill shall be charged to the country using the other's capacity, and all inflow shall be credited to the other country until the flood discharge or spill ceases or until the capacity of the other country becomes filled with its own water.

(d) Reservoir losses shall be charged in proportion to the ownership of water in storage. Releases from any reservoir shall be charged to the country requesting them, except that releases for the generation of electrical energy, or other common purpose, shall be charged in proportion to the ownership of water in storage.

(e) Flood discharges and spills from the upper reservoirs shall be divided in the same proportion as the ownership of the inflows occurring at the time of such flood discharges and spills, except as provided in subparagraph (c) of this Article. Flood discharges and spills from the lowest reservoir shall be divided equally, except that one country, with the consent of the Commission, may use such part of the share of the other country as is not used by the latter country.

(f) Either of the two countries may avail itself, whenever it so desires, of any water belonging to it and stored in the international reservoirs, provided that the water so taken is for direct beneficial use or for storage in other reservoirs. For this purpose the Commissioner of the respective country shall give appropriate notice to the Commission, which shall prescribe the proper measures for the opportune furnishing of the water.

Article 9

(a) The channel of the Rio Grande (Rio Bravo) may be used by either of the two countries to convey water belonging to it.

(b) Either of the two countries may, at any point on the main channel of the river from Fort Quitman, Texas to the Gulf of Mexico, divert and use the water belonging to it and may for this purpose construct any necessary works. However, no such diversion or use, not existing on the date this Treaty enters into force, shall be permitted in either country, nor shall works be constructed for such purpose, until the Section of the Commission in whose country the diversion or use is proposed has made a finding that the water necessary for such diversion or use is available from the share of that country, unless the Commission has agreed to a greater diversion or use as provided by paragraph (d) of this Article. The proposed use and the plans for the diversion works to be constructed in connection therewith shall be previously made known to the Commission for its information.

(c) Consumptive uses from the main stream and from the unmeasured

tributaries below Fort Quitman shall be charged against the share of the country making them.

(*d*) The Commission shall have the power to authorize either country to divert and use water not belonging entirely to such country, when the water belonging to the other country can be diverted and used without injury to the latter and can be replaced at some other point on the river.

(*e*) The Commission shall have the power to authorize temporary diversion and use by one country of water belonging to the other, when the latter does not need it or is unable to use it, provided that such authorization or the use of such water shall not establish any right to continue to divert it.

(*f*) In case of the occurrence of an extraordinary drought in one country with an abundant supply of water in the other country, water stored in the international storage reservoirs and belonging to the country enjoying such abundant water supply may be withdrawn, with the consent of the Commission for the use of the country undergoing the drought.

(*g*) Each country shall have the right to divert from the main channel of the river any amount of water, including the water belonging to the other country, for the purpose of generating hydro-electric power, provided that such diversion causes no injury to the other country and does not interfere with the international generation of power and that the quantities not returning directly to the river are charged against the share of the country making the diversion. The feasibility of such diversions not existing on the date this Treaty enters into force shall be determined by the Commission, which shall also determine the amount of water consumed, such water to be charged against the country making the diversion.

(*h*) In case either of the two countries shall construct works for diverting into the main channel of the Rio Grande (Rio Bravo) or its tributaries waters that do not at the time this Treaty enters into force contribute to the flow of the Rio Grande (Rio Bravo) such water shall belong to the country making such diversion.

(*i*) Main stream channel losses shall be charged in proportion to the ownership of water being conveyed in the channel at the times and places of the losses.

(*j*) The Commission shall keep a record of the waters belonging to each country and of those that may be available at a given moment, taking into account the measurement of the allotments, the regulation of the waters in storage, the consumptive uses, the withdrawals, the diversions, and the losses. For this purpose the Commission shall construct, operate and maintain on the main channel of the Rio Grande (Rio Bravo) and each Section shall construct, operate and maintain on the measured tributaries in its own country, all the gauging stations and mechanical apparatus necessary for the purpose of making computations and of obtaining the necessary data for such record. The information with respect to the diversions and consumptive uses on the unmeasured tributaries shall be furnished to the Commission by the appropriate Section. The cost of construction of any new gauging stations located on the main channel of the Rio Grande (Rio Bravo) shall be borne equally by the two Governments. The operation and maintenance of all gauging stations of the cost of such operation and maintenance shall be apportioned between the two Sections in accordance with determinations to be made by the Commission.

III—COLORADO RIVER

Article 10

Of the waters of the Colorado River, from any and all sources, there are allotted to Mexico:

(a) A guaranteed annual quantity of 1,500,000 acre-feet (1,850,234,000 cubic meters) to be delivered in accordance with the provisions of Article 15 of this Treaty.

(b) Any other quantities arriving at the Mexican points of diversion, with the understanding that in any year in which, as determined by the United States Section, there exists a surplus of waters of the Colorado River in excess of the amount necessary to supply uses in the United States and the guaranteed quantity of 1,500,000 acre-feet (1,850,234,000 cubic meters) annually to Mexico, the United States undertakes to deliver to Mexico, in the manner set out in Article 15 of this Treaty, additional waters of the Colorado River system to provide a total quantity not to exceed 1,700,000 acre-feet (2,096,931,000 cubic meters) a year. Mexico shall acquire no right beyond that provided by this subparagraph by the use of the waters of the Colorado River system, for any purpose whatsoever, in excess of 1,500,000 acre-feet (1,850,234,000 cubic meters) annually.

In the event of extraordinary drought or serious accident to the irrigation system in the United States, thereby making it difficult for the United States to deliver the guaranteed quantity of 1,500,000 acre-feet (1,850,234,000 cubic meters) a year, the water allotted to Mexico under subparagraph (a) of this Article will be reduced in the same proportion as consumptive uses in the United States are reduced.

Article 11

(a) The United States shall deliver all waters allotted to Mexico wherever these waters may arrive in the bed of the limitrophe section of the Colorado River, with the exceptions hereinafter provided. Such waters shall be made up of the waters of the said river, whatever their origin, subject to the provisions of the following paragraphs of this Article.

(b) Of the waters of the Colorado River allotted to Mexico by subparagraph (a) of Article 10 of this Treaty, the United States shall deliver, wherever such waters may arrive in the limitrophe section of the river, 1,000,000 acre-feet (1,233,489,000 cubic meters) annually from the time the Davis dam and reservoir are placed in operation until January 1, 1980 and thereafter, 1,125,000 acre-feet (1,387,675,000 cubic meters) annually, except that, should the main diversion structure referred to in subparagraph (a) of Article 12 of this Treaty be located entirely in Mexico and should Mexico so request, the United States shall deliver a quantity of water not exceeding 25,000 acre-feet (30,837,000 cubic meters) annually, unless a larger quantity may be mutually agreed upon, at a point, to be likewise mutually agreed upon, on the international land boundary near San Luis, Sonora, in which event the quantities of 1,000,000 acre-feet (1,233,489,000 cubic meters) and 1,125,000 acre-feet (1,387,657,000 cubic meters) provided hereinabove as deliverable in the limitrophe section of the river shall be reduced by the quantities to be delivered in the year concerned near San Luis, Sonora.

(c) During the period from the time the Davis dam and reservoir are placed in operation until January 1, 1980, the United States shall also

deliver to Mexico annually, of the water allotted to it, 500,000 acre-feet (616,745,000 cubic meters), and thereafter the United States shall deliver annually 375,000 acre-feet (462,558,000 cubic meters), at the international boundary line, by means of the All-American Canal and a canal connecting the lower end of the Pilot Knob Wasteway with the Alamo Canal or with any other Mexican Canal which may be substituted for the Alamo Canal. In either event the deliveries shall be made at an operating water surface elevation not higher than that of the Alamo Canal at the point where it crossed the international boundary line in the year 1943.

(d) All the deliveries of water specified above shall be made subject to the provisions of Article 15 of this Treaty.

Article 12

The two Governments agree to construct the following works:

(a) Mexico shall construct at its expense, within a period of five years from the date of the entry into force of this Treaty, a main diversion structure below the point where the northernmost part of the international land boundary line intersects the Colorado River. If such diversion structure is located in the limitrophe section of the river, its location, design and construction shall be subject to the approval of the Commission. The Commission shall thereafter maintain and operate the structure at the expense of Mexico. Regardless of where such diversion structure is located, there shall simultaneously be constructed such levees, interior drainage facilities and other works, or improvements to existing works, as in the opinion of the Commission shall be necessary to protect lands within the United States against damage from such floods and seepage as might result from the construction, operation and maintenance of this diversion structure. These protective works shall be constructed, operated and maintained at the expense of Mexico by the respective Sections of the Commission, or under their supervision, each within the territory of its own country.

(b) The United States, within a period of five years from the date of the entry into force of this Treaty, shall construct in its own territory and at its expense, and thereafter operate and maintain at its expense, the Davis storage dam and reservoir, a part of the capacity of which shall be used to make possible the regulation at the boundary of the waters to be delivered to Mexico in accordance with the provisions of Article 15 of this Treaty.

(c) The United States shall construct or acquire in its own territory the works that may be necessary to convey a part of the waters of the Colorado River allotted to Mexico to the Mexican diversion points on the international land boundary line referred to in this Treaty. Among these works shall be included: the canal and other works necessary to convey water from the lower end of the Pilot Knob Wasteway to the international boundary, and, should Mexico request it, a canal to connect the main diversion structure referred to in subparagraph (a) of this Article, if this diversion structure should be built in the limitrophe section of the river, with the Mexican system of canals at a point to be agreed upon by the Commission on the international land boundary near San Luis, Sonora. Such works shall be constructed or acquired and operated and maintained by the United States Section at the expense of Mexico. Mexico shall also pay the costs of any sites or rights of way required for such works.

(d) The Commission shall construct, operate and maintain in the limítrophe section of the Colorado River, and each Section shall construct, operate and maintain in the territory of its own country on the Colorado River below Imperial Dam and on all other carrying facilities used for the delivery of water to Mexico, all necessary gauging stations and other measuring devices for the purpose of keeping a complete record of the waters delivered to Mexico and of the flows of the river. All data obtained as to such deliveries and flows shall be periodically compiled and exchanged between the two Sections.

Article 13

The Commission shall study, investigate and prepare plans for flood control on the Lower Colorado River between Imperial Dam and the Gulf of California, in both the United States and Mexico, and shall, in a Minute, report to the two Governments the works which should be built, the estimated cost thereof, and the part of the works to be constructed by each Government. The two Governments agree to construct, through their respective Sections of the Commission, such works as may be recommended by the Commission and approved by the two Governments, each Government to pay the costs of the works constructed by it. The Commission shall likewise recommend the parts of the works to be operated and maintained jointly by the Commission and the parts to be operated and maintained by each Section. The two Governments agree to pay in equal shares the cost of operation and maintenance of the works assigned to it for such purpose.

Article 14

In consideration of the use of the All-American Canal for the delivery to Mexico, in the manner provided in Article 11 and 15 of this Treaty, of a part of its allotment of the waters of the Colorado River, Mexico shall pay to the United States:

(a) A proportion of the costs actually incurred in the construction of Imperial Dam and the Imperial Dam-Pilot Knob section of the All-American Canal, this proportion and the method and terms of repayment to be determined by the two Governments, which, for this purpose, shall take into consideration the proportionate uses of these facilities by the two countries, these determinations to be made as soon as Davis dam and reservoir are placed in operation.

(b) Annually, a proportionate part of the total costs of maintenance and operations of such facilities, these costs to be prorated between the two countries in proportion to the amount of water delivered annually through such facilities for use in each of the two countries.

In the event that revenues from the sale of hydro-electric power which may be generated at Pilot Knob become available for the amortization of part or all of the costs of the facilities named in subparagraph (a) of this Article, the part that Mexico should pay of the costs of said facilities shall be reduced or repaid in the same proportion as the balance of the total costs are reduced or repaid. It is understood that any such revenue shall not become available until the cost of any works which may be constructed for the generation of hydro-electric power at said location has been fully amortized from the revenues derived therefrom.

Article 15

A. The water allotted in subparagraph (a) of Article 10 of this Treaty shall be delivered to Mexico at the points of delivery specified in Article 11, in accordance with the following two annual schedules of deliveries by months, which the Mexican Section shall formulate and present to the Commission before the beginning of each calendar year:

SCHEDULE I

Schedule I shall cover the delivery, in the limitrophe section of the Colorado River, of 1,000,000 acre-feet (1,233,489,000 cubic meters) of water each year from the date Davis dam and reservoir are placed in operation until January 1, 1980 and the delivery of 1,125,000 acre-feet (1,387,675,000 cubic meters) of water each year thereafter. This schedule shall be formulated subject to the following limitations:

With reference to the 1,000,000 acre-foot (1,233,489,000 cubic meter) quantity:

(a) During the months of January, February, October, November and December the prescribed rate of delivery shall be not less than 600 cubic feet (17.0 cubic meters) nor more than 3,500 cubic feet (99.1 cubic meters) per second.

(b) During the remaining months of the year the prescribed rate of delivery shall be not less than 1,000 cubic feet (28.3 cubic meters) nor more than 3,500 cubic feet (99.1 cubic meters) per second.

With reference to the 1,125,000 acre-foot (1,387,675,000 cubic meter) quantity:

(a) During the months of January, February, October, November and December the prescribed rate of delivery shall be not less than 675 cubic feet (19.1 cubic meters) nor more than 4,000 cubic feet (113.3 cubic meters) per second.

(b) During the remaining months of the year the prescribed rate of delivery shall be not less than 1,125 cubic feet (31.9 cubic meters) nor more than 4,000 cubic feet (113.3 cubic meters) per second.

Should deliveries of water be made at a point on the land boundary near San Luis, Sonora, as provided for in Article 11, such deliveries shall be made under a sub-schedule to be formulated and furnished by the Mexican Section. The quantities and monthly rates of deliveries under such sub-schedule shall be in proportion to those specified for Schedule I, unless otherwise agreed upon by the Commission.

SCHEDULE II

Schedule II shall cover the delivery at the boundary line by means of the All-American Canal of 500,000 acre-feet (616,745,000 cubic meters) of water each year from the date Davis dam and reservoir are placed in operation until January 1, 1980 and the delivery of 375,000 acre-feet (462,558,000 cubic meters) of water each year thereafter. This schedule shall be formulated subject to the following limitations:

With reference to the 500,000 acre-foot (616,745,000 cubic meter) quantity:

(a) During the months of January, February, October, November and December the prescribed rate of delivery shall be not less than 300

cubic feet (8.5 cubic meters) nor more than 2,000 cubic feet (56.6 cubic meters) per second.

(b) During the remaining months of the year the prescribed rate of delivery shall be not less than 500 cubic feet (14.2 cubic meters) nor more than 2,000 cubic feet (56.6 cubic meters) per second.

With reference to the 375,000 acre-foot (462,558,000 cubic meter) quantity:

(a) During the months of January, February, October, November and December the prescribed rate of delivery shall be not less than 225 cubic feet (6.4 cubic meters) nor more than 1,500 cubic feet (42.5 cubic meters) per second.

(b) During the remaining months of the year the prescribed rate of delivery shall be not less than 375 cubic feet (10.6 cubic meters) nor more than 1,500 cubic feet (42.5 cubic meters) per second.

B. The United States shall be under no obligation to deliver, through the All-American Canal, more than 500,000 acre-feet (616,745,000 cubic meters) annually from the date Davis dam and reservoir are placed in operation until January 1, 1980 or more than 375,000 acre-feet (462,558,000 cubic meters) annually thereafter. If, by mutual agreement, any part of the quantities of water specified in this paragraph are delivered to Mexico at points on the land boundary otherwise than through the All-American Canal, the above quantities of water and the rates of deliveries set out under Schedule II of this Article shall be correspondingly diminished.

C. The United States shall have the option of delivering, at the point on the land boundary mentioned in subparagraph (c) of Article 11, any part or all of the water to be delivered at that point under Schedule II of this Article during the months of January, February, October, November and December of each year, from any source whatsoever, with the understanding that the total specified annual quantities to be delivered through the All-American Canal shall not be reduced because of the exercise of this option, unless such reduction be requested by the Mexican Section, provided that the exercise of this option shall not have the effect of increasing the total amount of scheduled water to be delivered to Mexico.

D. In any year in which there shall exist in the river water in excess of that necessary to satisfy the requirements in the United States and the guaranteed quantity of 1,500,000 acre-feet (1,850,234,000 cubic meters) allotted to Mexico, the United States hereby declares its intention to cooperate with Mexico in attempting to supply additional quantities of water through the All-American Canal as such additional quantities are desired by Mexico, if such use of the Canal and facilities will not be detrimental to the United States, provided that the delivery of any additional quantities through the All-American Canal shall not have the effect of increasing the total scheduled deliveries to Mexico. Mexico hereby declares its intention to cooperate with the United States by attempting to curtail deliveries of water through the All-American Canal in years of limited supply, if such curtailment can be accomplished without detriment to Mexico and is necessary to allow full use of all available water supplies, provided that such curtailment shall not have the effect of reducing the total scheduled deliveries of water to Mexico.

E. In any year in which there shall exist in the river water in excess of that necessary to satisfy the requirements in the United States and the

guaranteed quantity of 1,500,000 acre-feet (1,850,234,000 cubic meters) allotted to Mexico, the United States Section shall so inform the Mexican Section in order that the latter may schedule such surplus water to complete a quantity up to a maximum of 1,700,000 acre-feet (2,096,931,000 cubic meters). In this circumstance the total quantities to be delivered under Schedules I and II shall be increased in proportion to their respective total quantities and the two schedules thus increased shall be subject to the same limitations as those established for each under paragraph A of this Article.

F. Subject to the limitations as to rates of deliveries and total quantities set out in Schedules I and II, Mexico shall have the right, upon thirty days' notice in advance to the United States Section, to increase or decrease each monthly quantity prescribed by those schedules by not more than 20% of the monthly quantity.

G. The total quantity of water to be delivered under Schedule I of paragraph A of this Article may be increased in any year if the amount to be delivered under Schedule II is correspondingly reduced and if the limitations as to rates of delivery under each schedule are correspondingly increased and reduced.

IV—TIJUANA RIVER

Article 16

In order to improve existing uses and to assure any feasible further development, the Commission shall study and investigate, and shall submit to the two Governments for their approval:

- (1) Recommendations for the equitable distribution between the two countries of the waters of the Tijuana River system;
- (2) Plans for storage and flood control to promote and develop domestic, irrigation and other feasible uses of the waters of this system;
- (3) An estimate of the cost of the proposed works and the manner in which the construction of such works or the cost thereof should be divided between the two Governments;
- (4) Recommendations regarding the parts of the works to be operated and maintained by the Commission and the parts to be operated and maintained by each Section.

The two Governments through their respective Sections of the Commission shall construct such of the proposed works as are approved by both Governments, shall divide the work to be done or the cost thereof, and shall distribute between the two countries the waters of the Tijuana River in the proportions approved by the two Governments. The two Governments agree to pay in equal shares the costs of joint operation and maintenance of the works involved, and each Government agrees to pay the cost of operation and maintenance of the works assigned to it for such purpose.

V—GENERAL PROVISIONS

Article 17

The use of the channels of the international rivers for the discharge of flood or other excess waters shall be free and not subject to limitation by

either country, and neither country shall have any claim against the other in respect of any damage caused by such use. Each Government agrees to furnish the other Government, as far in advance as practicable, any information it may have in regard to such extraordinary discharges of water from reservoirs and flood flows on its own territory as may produce floods on the territory of the other.

Each Government declares its intention to operate its storage dams in such manner, consistent with the normal operations of its hydraulic systems, as to avoid as far as feasible, material damage in the territory of the other.

Article 18

Public use of the water surface of lakes formed by international dams shall, when not harmful to the services rendered by such dams, be free and common to both countries, subject to the police regulations of each country in its territory, to such general regulations as may appropriately be prescribed and enforced by the Commission with the approval of the two Governments for the purpose of the application of the provisions of this Treaty, and to such regulations as may appropriately be prescribed and enforced for the same purpose by each Section of the Commission with respect to the areas and borders of such parts of those lakes as lie within its territory. Neither Government shall use for military purposes such water surface situated within the territory of the other country except by express agreement between the two Governments.

Article 19

The two Governments shall conclude such special agreements as may be necessary to regulate the generation, development and disposition of electric power at international plants, including the necessary provisions for the export of electric current.

Article 20

The two Governments shall, through their respective Sections of the Commission, carry out the construction of works allotted to them. For this purpose the respective Sections of the Commission may make use of any competent public or private agencies in accordance with the laws of the respective countries. With respect to such works as either Section of the Commission may have to execute on the territory of the other, it shall, in the execution of such works, observe the laws of the place where such works are located or carried out, with the exceptions hereinafter stated.

All materials, implements, equipment and repair parts intended for the construction, operation and maintenance of such works shall be exempt from import and export customs duties. The whole of the personnel employed either directly or indirectly on the construction, operation or maintenance of the works may pass freely from one country to the other for the purpose of going to and from the place of location of the works, without any immigration restrictions, passports or labor requirements. Each Government shall furnish, through its own Section of the Commission, convenient means of identification to the personnel employed by it on the aforesaid works and verification certificates covering all materials, implements, equipment and repair parts intended for the works.

Each Government shall assume responsibility for and shall adjust ex-

clusively in accordance with its own laws all claims arising within its territory in connection with the construction, operation or maintenance of the whole or of any part of the works herein agreed upon, or of any works which may, in the execution of this Treaty, be agreed upon in the future.

Article 21

The construction of the international dams and the formation of artificial lakes shall produce no change in the fluvial international boundary, which shall continue to be governed by existing treaties and conventions in force between the two countries.

The Commission shall, with the approval of the two Governments, establish in the artificial lakes, by buoys or by other suitable markers, a practicable and convenient line to provide for the exercise of the jurisdiction and control vested by this Treaty in the Commission and its respective Sections. Such line shall also mark the boundary for the application of the customs and police regulations of each country.

Article 22

The provisions of the Convention between the United States and Mexico for the rectification of the Rio Grande (Rio Bravo) in the El Paso-Juárez Valley signed on February 1, 1933, shall govern so far as delimitation of the boundary, distribution of jurisdiction and sovereignty, and relations with private owners are concerned, in any places where works for the artificial channeling, canalization or rectification of the Rio Grande (Rio Bravo) and the Colorado River are carried out.

Article 23

The two Governments recognize the public interest attached to the works required for the execution and performance of this Treaty and agree to acquire, in accordance with their respective domestic laws, any private property that may be required for the construction of the said works, including the main structures and their appurtenances and the construction materials therefor, and for the operation and maintenance thereof, at the cost of the country within which the property is situated, except as may be otherwise specifically provided in this Treaty.

Each Section of the Commission shall determine the extent and location of any private property to be acquired within its own country and shall make the necessary request upon its Government for the acquisition of such property.

The Commission shall determine the cases in which it shall become necessary to locate works for the conveyance of water or electrical energy and for the servicing of any such works, for the benefit of either of the two countries, in the territory of the other country, in order that such works can be built pursuant to agreement between the two Governments. Such works shall be subject to the jurisdiction and supervision of the Section of the Commission within whose country they are located.

Construction of the works built in pursuance of the provisions of this Treaty shall not confer upon either of the two countries any rights either of property or of jurisdiction over any part whatsoever of the territory of the other. These works shall be part of the territory and be the property of the country wherein they are situated. However, in the case of any incidents

occurring on works constructed across the limitrophe part of a river and with supports on both banks, the jurisdiction of each country shall be limited by the center line of such works, which shall be marked by the Commission, without thereby changing the international boundary.

Each Government shall retain, through its own Section of the Commission and within the limits and to the extent necessary to effectuate the provisions of this Treaty, direct ownership, control and jurisdiction within its own territory and in accordance with its own laws, over all real property—including that within the channel of any river—rights of way and rights *in rem*, that it may be necessary to enter upon and occupy for the construction, operation or maintenance of all the works constructed, acquired or used pursuant to this Treaty. Furthermore, each Government shall similarly acquire and retain in its own possession the titles, control and jurisdiction over such works.

Article 24

The International Boundary and Water Commission shall have, in addition to the powers and duties otherwise specifically provided in this Treaty, the following powers and duties:

(a) To initiate and carry on investigations and develop plans for the works which are to be constructed or established in accordance with the provisions of this and other treaties or agreements in force between the two Governments dealing with boundaries and international waters, to determine, as to such works, their location, size, kind and characteristic specifications; to estimate the cost of such works; and to recommend the division of such costs between the two Governments, the arrangements for the furnishing of the necessary funds, and the dates for the beginning of the works, to the extent that the matters mentioned in this subparagraph are not otherwise covered by specific provisions of this or any other Treaty.

(b) To construct the works agreed upon or to supervise their construction and to operate and maintain such works or to supervise their operation and maintenance, in accordance with the respective domestic laws of each country. Each Section shall have, to the extent necessary to give effect to the provisions of this Treaty, jurisdiction over the works constructed exclusively in the territory of its country whenever such works shall be connected with or shall directly affect the execution of the provisions of this Treaty.

(c) In general to exercise and discharge the specific powers and duties entrusted to the Commission by this and other treaties and agreements in force between the two countries, and to carry into execution and prevent the violation of the provisions of those treaties and agreements. The authorities of each country shall aid and support the exercise and discharge of these powers and duties, and each Commissioner shall invoke when necessary the jurisdiction of the courts or other appropriate agencies of this country to aid in the execution and enforcement of these powers and duties.

(d) To settle all differences that may arise between the two Governments with respect to the interpretation or application of this Treaty, subject to the approval of the two Governments. In any case in which the Commissioners do not reach an agreement, they shall so inform their re-

spective governments reporting their respective opinions and the grounds therefor and the points upon which they differ, for discussion and adjustment of the difference through diplomatic channels and for application where proper of the general or special agreements which the two Governments have concluded for the settlement of controversies.

(e) To furnish the information requested of the Commissioners jointly by the two Governments on matters within their jurisdiction. In the event that the request is made by one Government alone, the Commissioner of the other Government must have the express authorization of his Government in order to comply with such request.

(f) The Commission shall construct, operate and maintain upon the limittrophe parts of the international streams, and each Section shall severally construct, operate and maintain upon the parts of the international streams and their tributaries within the boundaries of its own country, such stream gauging stations as may be needed to provide the hydrographic data necessary or convenient for the proper functioning of this Treaty. The data so obtained shall be compiled and periodically exchange between the two Sections.

(g) The Commission shall submit annually a joint report to the two Governments on the matters in its charge. The Commission shall also submit to the two Governments joint reports on general or any particular matters at such other times as it may deem necessary or as may be requested by the two Governments.

Article 25

Except as otherwise specifically provided in this Treaty, Articles III and VII of the Convention of March 1, 1889 shall govern the proceedings of the Commission in carrying out the provisions of this Treaty. Supplementary thereto the Commission shall establish a body of rules and regulations to govern its procedure, consistent with the provisions of this Treaty and of Articles III and VII of the Convention of March 1, 1889 and subject to the approval of both Governments.

Decisions of the Commission shall be recorded in the form of Minutes done in duplicate in the English and Spanish languages, signed by each Commissioner and attested by the Secretaries, and copies thereof forwarded to each Government within three days after being signed. Except where the specific approval of the two Governments is required by any provision of this Treaty, if one of the Governments fails to communicate to the Commission its approval or disapproval of a decision of the Commission within thirty days reckoned from the date of the Minute in which it shall have been pronounced, the Minute in question and the decisions which it contains shall be considered to be approved by that Government. The Commissioners, within the limits of their respective jurisdiction, shall execute the decisions of the Commission that are approved by both Governments.

If either Government disapproves a decision of the Commission the two Governments shall take cognizance of the matter, and if an agreement regarding such matter is reached between the two Governments, the agreement shall be communicated to the Commissioners, who shall take such further proceedings as may be necessary to carry out such agreement.

V—TRANSITORY PROVISIONS

Article 26

During a period of eight years from the date of the entry into force of this Treaty, or until the beginning of operation of the lowest major international reservoirs on the Rio Grande (Rio Bravo), should it be placed in operation prior to the expiration of said period, Mexico will cooperate with the United States to relieve, in times of drought, any lack of water needed to irrigate the lands now under irrigation in the Lower Rio Grande Valley in the United States, and for this purpose Mexico will release water from El Azúcar reservoir on the San Juan River and allow that water to run through its system of canals back into the San Juan River in order that the United States may divert such water from the Rio Grande (Rio Bravo). Such releases shall be made on condition that they do not affect the Mexican irrigation system, provided that Mexico shall, in any event, except in cases of extraordinary drought or serious accident to its hydraulic works, release and make available to the United States for its use the quantities requested, under the following conditions: that during the said eight years there shall be made available a total of 160,000 acre-feet (197,358,000 cubic meters) and up to 40,000 acre-feet (49,340,000 cubic meters) in any one year; that the water shall be made available as requested at rates not exceeding 750 cubic feet (21.2 cubic meters) per second; that when the rates of flow requested and made available have been more than 500 cubic feet (14.2 cubic meters) per second the period of release shall not extend beyond fifteen consecutive days; and that at least thirty days must elapse between any two periods of release during which rates of flow in excess of 500 cubic feet (14.2 cubic meters) per second have been requested and made available. In addition to the guaranteed flow, Mexico shall release from El Azúcar reservoir and conduct through its canal system and the San Juan River, for use in the United States during periods of drought and after satisfying the needs of Mexican users, any excess water that does not in the opinion of the Mexican Section have to be stored and that may be needed for the irrigation of lands which were under irrigation during the year 1943 in the Lower Rio Grande Valley in the United States.

Article 27

The provisions of Article 10, 11, and 15 of this Treaty shall not be applied during a period of five years from the date of the entry into force of this Treaty, or until the Davis dam and the major Mexican diversion structure on the Colorado River are placed in operation, should these works be placed in operation prior to the expiration of said period. In the meantime Mexico may construct and operate at its expense a temporary diversion structure in the bed of the Colorado River in territory of the United States for the purpose of diverting water into the Alamo Canal, provided that the plans for such structure and the construction and operation thereof shall be subject to the approval of the United States Section. During this period of time the United States will make available in the river at such diversion structure river flow now currently required in the United States, and the United States will cooperate with Mexico to the end that the latter may satisfy its irrigation requirements within the limits of those requirements for lands irrigated in Mexico from the Colorado River during the year 1943.

PROTOCOL

The Government of the United States of America and the Government of the United Mexican States agree and understand that:

Wherever, by virtue of the provisions of the Treaty between the United States of America and the United Mexican States, signed in Washington on February 3, 1944, 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, specific functions are imposed on, or exclusive jurisdiction is vested in, either of the Sections of the International Boundary and Water Commission, which involve the construction or use of works for storage or conveyance of water, flood control, stream gauging, or for any other purpose, which are situated wholly within the territory of the country of that Section, and which are to be used only partly for the performance of treaty provisions, such jurisdiction shall be exercised, and such functions, including the construction, operation and maintenance of the said works, shall be performed and carried out by the Federal agencies of that country which now or hereafter may be authorized by domestic law to construct, or to operate and maintain, such works. Such functions or jurisdictions shall be exercised in conformity with the provisions of the Treaty and in cooperation with the respective Section of the Commission, to the end that all international obligations and functions may be coordinated and fulfilled.

The works to be constructed or used on or along the boundary, and those to be constructed or used exclusively for the discharge of treaty stipulations, shall be under the jurisdiction of the Commission or of the respective Section, in accordance with the provisions of the Treaty. In carrying out the construction of such works the Sections of the Commission may utilize the services of public or private organizations in accordance with the laws of their respective countries.

This Protocol, which shall be regarded as an integral part of the aforementioned Treaty signed in Washington on February 3, 1944, shall be ratified and the ratifications thereof shall be exchanged in Washington. This Protocol shall be effective beginning with the day of the entry into force of the Treaty and shall continue effective so long as the Treaty remains in force.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS a treaty between the United States of America and the United Mexican States relating to the utilization of the waters of the Colorado and Tijuana Rivers, and of the Rio Grande (Rio Bravo) from Fort Quitman, Texas, to the Gulf of Mexico, was signed by their respective Plenipotentiaries in Washington on February 3, 1944, and a protocol supplementary to the said treaty was signed by their respective Plenipotentiaries in Washington on November 14, 1944, the originals of which treaty and protocol, in the English and Spanish languages, are word for word as follows:

AND WHEREAS the Senate of the United States of America by their Resolution of April 18, 1945, two-thirds of the Senators present concurring therein, did advise and consent to the ratification of the said treaty and protocol,

subject to certain understandings, the text of which Resolution is word for word as follows:

“*Resolved (two-thirds of the Senators present concurring therein)*, That the Senate advise and consent to the ratification of Executive A, Seventy-eighth Congress, second session, a treaty between the United States of America and the United Mexican States, signed at Washington on February 3, 1944, 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, and Executive H, Seventy-eighth Congress, second session a protocol, signed at Washington on November 14, 1944, supplementary to the treaty, subject to the following understandings, and that these understandings will be mentioned in the ratification of this treaty as conveying the true meaning of the treaty, and will in effect form a part of the treaty:

“(a) That no commitment for works to be built by the United States in whole or in part at its expense, or for expenditures by the United States, other than those specifically provided for in the treaty, shall be made by the Secretary of State of the United States, the Commissioner of the United States Section of the International Boundary and Water Commission, the United States Section of said Commission, or any other officer or employee of the United States, without prior approval of the Congress of the United States. It is understood that the works to be built by the United States, in whole or in part at its expense, and the expenditures by the United States, which are specifically provided for in the treaty, are as follows:

“1. The joint construction of the three storage and flood-control dams on the Rio Grande below Fort Quitman, Texas, mentioned in article 5 of the treaty.

“2. The dams and other joint works required for the diversion of the flow of the Rio Grande mentioned in subparagraph II of article 5 of the treaty, it being understood that the commitment of the United States to make expenditures under this subparagraph is limited to its share of the cost of one dam and works appurtenant thereto.

“3. Stream-gauging stations which may be required under the provisions of section (j) of article 9 of the treaty and of subparagraph (d) of article 12 of the treaty.

“4. The Davis Dam and Reservoir mentioned in subparagraph (b) of article 12 of the treaty.

“5. The joint flood-control investigations, preparation of plans, and reports on the Rio Grande below Fort Quitman required by the provisions of article 6 of the treaty.

“6. The joint flood-control investigations, preparations of plans, and reports on the lower Colorado River between the Imperial Dam and the Gulf of California required by article 13 of the treaty.

“7. The joint investigations, preparation of plans, and reports on the establishment of hydroelectric plants at the international dams on the Rio Grande below Fort Quitman provided for by article 7 of the treaty.

“8. The studies, investigations, preparation of plans, recommendations, reports, and other matters dealing with the Tijuana River system provided for by the first paragraph (including the numbered subparagraphs) of article 16 of the treaty.

“(b) Insofar as they affect persons and property in the territorial limits of the United States, the powers and functions of the Secretary of State of the United States, the Commissioner of the United States Section of the International Boundary and Water Commission, the United States Section of said Commission, and any other officer or employee of the United States, shall be subject to the statutory and constitutional controls and processes. Nothing contained in the treaty or protocol shall be construed as impairing the power of the Congress of the United States to define the terms of office of members of the United States Section of the International Boundary and Water Commission or to provide for their appointment by the President by and with the advice and consent of the Senate or otherwise.

“(c) That nothing contained in the treaty or protocol shall be construed as authorizing the Secretary of State of the United States, the Commissioner of the United States Section of the International Boundary and Water Commission, or the United States Section of said Commission, directly or indirectly to alter or control the distribution of water to users within the territorial limits of any of the individual States.

“(d) That ‘international dam or reservoir’ means a dam or reservoir built across the common boundary between the two countries.

“(e) That the words ‘international plants’, appearing in article 19, mean only hydroelectric generating plants in connection with dams built across the common boundary between the two countries.

“(f) That the words ‘electric current’, appearing in article 19, mean hydroelectric power generated at an international plant.

“(g) That by the use of the words ‘The jurisdiction of the Commission shall extend to the limitrophe parts of the Rio Grande (Rio Bravo) and the Colorado River, to the land boundary between the two countries, and to works located upon their common boundary * * *’ in the first sentence of the fifth paragraph of article 2, is meant: ‘The jurisdiction of the Commission shall extend and be limited to the limitrophe parts of the Rio Grande (Rio Bravo) and the Colorado River, to the land boundary between the two countries, and to works located upon their common boundary * * *.’

“(h) The word ‘agreements’ whenever used in subparagraph (a), (c), and (d) of article 24 of the treaty shall refer only to agreements entered into pursuant to and subject to the provisions and limitations of treaties in force between the United States of America and the United Mexican States.

“(i) The word ‘disputes’ in the second paragraph of article 2 shall have reference only to disputes between the Governments of the United States of America and the United Mexican States.

“(j) First, that the one million seven hundred thousand acre-feet specified in subparagraph (b) of article 10 includes and is not in addition to the one million five hundred thousand acre-feet, the delivery of which to Mexico is guaranteed in subparagraph (a) of article 10; second, that the one million five hundred thousand acre-feet specified in three places in said subparagraph (b) is identical with the one million five hundred thousand acre-feet specified in said subparagraph (a); third, that any use by Mexico under said subparagraph (b) of quantities of water arriving at the Mexican points of diversion in excess of said one million five

hundred thousand acre-feet shall not give rise to any future claim of right by Mexico in excess of said guaranteed quantity of one million five hundred thousand acre-feet of water.

“(k) The United States recognizes a duty to require that the protective structures to be constructed under article 12, paragraph (a), of this treaty, are so constructed, operated, and maintained as to adequately prevent damage to property and lands within the United States from the construction and operation of the diversion structure referred to in said paragraph.”

AND WHEREAS the said treaty and protocol were duly ratified by the President of the United States of America on November 1, 1945, in pursuance of the aforesaid advice and consent of the Senate and subject to the aforesaid understandings on the part of the United States of America;

AND WHEREAS the said treaty and protocol were duly ratified by the President of the United Mexican States on October 16, 1945, in pursuance and according to the terms of a Decree of September 27, 1945, of the Senate of the United Mexican States approving the said treaty and protocol and approving the said understandings on the part of the United States of America in all that refers to the rights and obligations between the parties;

AND WHEREAS it is provided in Article 28 of the said treaty that the treaty shall enter into force on the day of the exchange of ratifications;

AND WHEREAS it is provided in the said protocol that the protocol shall be regarded as an integral part of the said treaty and shall be effective beginning with the day of the entry into force of the said treaty;

AND WHEREAS the respective instruments of ratification of the said treaty and protocol were duly exchanged, and a protocol of exchange of instruments of ratification was signed in the English and Spanish languages, by the respective Plenipotentiaries of the United States of America and the United Mexican States on November 8, 1945, the English text of which protocol of exchange of instruments of ratification reads in part as follows:

“The ratification by the Government of the United States of America of the treaty and protocol aforesaid recites in their entirety the understandings contained in the resolution of April 18, 1945, of the Senate of the United States of America advising and consenting to ratification, the text of which resolution was communicated by the Government of the United States of America to the Government of the United Mexican States. The ratification by the Government of the United Mexican States of the treaty and protocol aforesaid is effected, in the terms of its instrument of ratification, in conformity to the Decree of September 27, 1945, of the Senate of the United Mexican States approving the treaty and protocol aforesaid and approving also the aforesaid understandings on the part of the United States of America in all that refers to the rights and obligations between both parties, and in which the Mexican Senate refrains from considering, because it is not competent to pass judgment upon them, the provisions which relate exclusively to the internal application of the treaty within the United States of America and by its own authorities, and which are included in the understandings set forth under the letter (a) in its first part to the period preceding the words ‘It is understood’ and under the letters (b) and (c).”

78. AGREEMENT¹ TO PROCEED WITH THE CONSTRUCTION OF AMISTAD DAM ON THE RIO GRANDE TO FORM PART OF THE SYSTEM OF INTERNATIONAL STORAGE DAMS PROVIDED FOR BY THE WATER TREATY OF FEBRUARY 3, 1944. SIGNED AT CIUDAD ACUÑA, OCTOBER 24, 1960²

Dwight D. Eisenhower, President of the United States of America, and Adolfo López Mateos, President of the United Mexican States, inspired by the true friendship that binds the Governments and peoples of the United States of America and Mexico and by the fruitful cooperation that has characterized their relations,

Considering that international hydraulic works constitute one of the most valued examples of this cooperation, the bases of which were established in the Water Treaty between the United States of America and Mexico signed on February 3, 1944;

Considering that Amistad Dam will complement Falcón Dam and will form part of the system of international dams provided for in the above-mentioned treaty;

Considering that Amistad Dam will serve to control floods of the Rio Grande, which repeatedly have caused very serious damage to border communities and agricultural areas of both countries; to provide additional waters for irrigation needs of both countries; and to permit production of hydroelectric energy as required;

Have agreed that:

The Government of the United States of America and the Government of Mexico will proceed with the construction of Amistad Dam as soon as possible after the two Governments have approved the technical recommendations that are to be made for that purpose by the International Boundary and Water Commission, United States and Mexico.

Done in two copies in the English and Spanish languages at Ciudad Acuña, Coahuila, Mexico, October 24, 1960.

DWIGHT D. EISENHOWER

A. L. MATEOS

¹ Came into force upon signature.

² *United States Treaties and other International Agreements*, TIAS 4624.

United Kingdom—United States

79. TREATY¹ BETWEEN GREAT BRITAIN AND THE UNITED STATES RELATING TO BOUNDARY WATERS, AND QUESTIONS ARISING BETWEEN THE UNITED STATES AND CANADA, SIGNED AT WASHINGTON, JANUARY 11, 1909²

... to prevent disputes regarding the use of boundary waters and to settle all questions which are now pending... and to make provision for the adjustment and settlement of all such questions as may hereafter arise...

Preliminary Article. For the purposes of this Treaty, boundary waters are defined as the waters from main shore to main shore of the lakes and rivers and connecting waterways, or the portions thereof, along which the international boundary between the United States and the Dominion of Canada passes, including all bays, arms, and inlets thereof, but not including tributary waters which in their natural channels would flow into such lakes, rivers, and waterways, or waters flowing from such lakes, rivers, and waterways, or the waters of rivers flowing across the boundary.

Article II. Each of the High Contracting Parties reserves to itself or to the several State Governments on the one side and the Dominion or Provincial Governments on the other, as the case may be, subject to any treaty provisions now existing with respect thereto, the exclusive jurisdiction and control over the use and diversion, whether temporary or permanent, of all waters on its own side of the line which in their natural channels would flow across the boundary or into boundary waters; but it is agreed that any interference with or diversion from their natural channel of such waters on either side of the boundary, resulting in any injury on the other side of the boundary, shall give rise to the same rights and entitle the injured parties to the same legal remedies as if such injury took place in the country where such diver-

¹ Came into force May 5, 1910 by the exchange of ratifications. The Senate of the United States by their resolution of March 3, 1909, resolved, as a part of its ratification "that the United States approves this Treaty with the understanding that nothing in this Treaty shall be construed as affecting, or changing, any existing territorial, or riparian rights in the water, or rights of the owners of lands under water, on either side of the international boundary at the rapids of the St. Mary's river at Sault Ste Marie, in the use of the waters flowing over such lands, subject to the requirements of navigation in boundary waters and of navigation canals, and without prejudice to the existing right of the United States and Canada, each to use the waters of the St. Mary's River, within its own territory; and further, that nothing in this Treaty shall be construed to interfere with the drainage of wet, swamp, and overflowed lands into streams flowing into boundary waters, and that this interpretation will be mentioned in the ratification of this Treaty as conveying the true meaning of the Treaty, and will, in effect, form part of the Treaty." [De Martens, *Nouveau Recueil Général de Traités*, 3^{ème} série, tome IV, p. 208 (note).] This reservation was accepted by Great Britain by the "Protocol of Exchange" below.

² *British and Foreign State Papers*, vol. 102, p. 137.

sion or interference occurs; but this provision shall not apply to cases already existing or to cases expressly covered by special agreement between the parties hereto.

It is understood, however, that neither of the High Contracting Parties intends by the foregoing provision to surrender any right which it may have to object to any interference with or diversions of waters on the other side of the boundary the effect of which would be productive of material injury to the navigation interests on its own side of the boundary.

Article III. It is agreed that, in addition to the uses, obstructions and diversions heretofore permitted or hereafter provided for by special agreement between the Parties hereto, no further or other uses or obstructions or diversions, whether temporary or permanent, of boundary waters on either side of the line, affecting the natural level or flow of boundary waters on the other side of the line, shall be made except by authority of the United States or the Dominion of Canada within their respective jurisdictions and with the approval, as hereinafter provided, of a joint commission, to be known as the International Joint Commission.

The foregoing provisions are not intended to limit or interfere with the existing rights of the Government of the United States on the one side and the Government of the Dominion of Canada on the other, to undertake and carry on governmental works in boundary waters for the deepening of channels, the construction of breakwaters, the improvement of harbours, and other governmental works for the benefit of commerce and navigation, provided that such works are wholly on its own side of the line and do not materially affect the level or flow of the boundary waters on the other, nor are such provisions intended to interfere with the ordinary use of such waters for domestic and sanitary purposes.

Article IV. The High Contracting Parties agree that, except in cases provided for by special agreement between them, they will not permit the construction or maintenance on their respective sides of the boundary of any remedial or protective works or any dams or other obstructions in waters flowing from boundary waters or in waters at a lower level than the boundary in rivers flowing across the boundary, the effect of which is to raise the natural level of waters on the other side of the boundary unless the construction or maintenance thereof is approved by the aforesaid International Joint Commission.

It is further agreed that the waters herein defined as boundary waters and waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other.

Article V. The High Contracting Parties agree that it is expedient to limit the diversion of waters from the Niagara River so that the level of Lake Erie and the flow of the stream shall not be appreciably affected. It is the desire of both Parties to accomplish this object with the least possible injury to investments which have already been made in the construction of power plants on the United States side of the river under grants of authority from the State of New York, and on the Canadian side of the river under licences authorized by the Dominion of Canada and the Province of Ontario.

So long as this Treaty shall remain in force, no diversion of the waters of the Niagara River above the Falls from the natural course and stream

thereof shall be permitted except for the purposes and to the extent hereinafter provided.

Article VI. The High Contracting Parties agree that the St. Mary and Milk Rivers and their tributaries (in the State of Montana and the Provinces of Alberta and Saskatchewan) are to be treated as one stream for the purposes of irrigation and power, and the waters thereof shall be apportioned equally between the two countries, but in making such equal apportionment more than half may be taken from one river and less than half from the other, by either country, so as to afford a more beneficial use to each. It is further agreed that in the division of such waters during the irrigation season, between the 1st of April and 31st October, inclusive, annually, the United States is entitled to a prior appropriation of 500 cubic feet per second of the waters of the Milk River, or so much of such amount as constitutes three-fourths of its natural flow, and that Canada is entitled to a prior appropriation of 500 cubic feet per second of the flow of St. Mary River, or so much of such amount as constitutes three fourths of its natural flow.

The channel of the Milk River in Canada may be used at the convenience of the United States for the conveyance, while passing through Canadian territory, of waters diverted from the St. Mary River. The provisions of Article II of this Treaty shall apply to any injury resulting to property in Canada from the conveyance of such waters through the Milk River.

The measurement and apportionment of the water to be used by each country shall from time to time be made jointly by the properly constituted reclamation officers of the United States and the properly constituted irrigation officers of His Majesty under the direction of the International Joint Commission.

Article VII. The High Contracting Parties agree to establish and maintain an International Joint Commission of the United States and Canada, composed of six commissioners, three on the part of the United States, appointed by the President thereof, and three on the part of the United Kingdom, appointed by His Majesty on the recommendation of the Governor in Council of the Dominion of Canada.

Article VIII. This International Joint Commission shall have jurisdiction over and shall pass upon all cases involving the use or obstruction or diversion of the waters, with respect to which, under Articles III and IV of this Treaty, the approval of this Commission is required, and in passing upon such cases the Commission shall be governed by the following rules and principles which are adopted by the High Contracting Parties for this purpose:

The High Contracting Parties shall have, each on its own side of the boundary, equal and similar rights in the use of the waters hereinbefore defined as boundary waters.

The following order of precedence shall be observed among the various uses enumerated hereinafter for these waters, and no use shall be permitted which tends materially to conflict with or restrain any other use which is given preference over it in this order of precedence:

1. Uses for domestic and sanitary purposes;

2. Uses for navigation, including the service of canals for the purposes of navigation;

3. Uses for power and for irrigation purposes.

The foregoing provisions shall not apply to or disturb any existing uses of boundary waters on either side of the boundary.

The requirement for an equal division may, in the discretion of the Commission, be suspended in the cases of temporary diversions along boundary waters at points where such equal division cannot be made advantageously on account of local conditions, and where such diversion does not diminish elsewhere the amount available for use on the other side.

The Commission, in its discretion, may make its approval in any case conditional upon the construction of remedial or protective works to compensate, so far as possible, for the particular use or diversion proposed, and in such cases may require that suitable and adequate provision, approved by the Commission, be made for the protection and indemnity against injury of any interests on either side of the boundary.

In cases involving the elevation of the natural level of waters on either side of the line as a result of the construction or maintenance on the other side of remedial or protective works or dams or other obstructions in boundary waters or in waters flowing therefrom or in waters below the boundary in rivers flowing across the boundary, the Commission shall require, as a condition of its approval thereof, that suitable and adequate provision, approved by it, be made for the protection and indemnity of all interests on the other side of the line which may be injured thereby.

The majority of the Commissioners shall have power to render a decision. In case the Commission is evenly divided upon any question or matter presented to it for decision, separate reports shall be made by the Commissioners on each side to their own Government. The High Contracting Parties shall thereupon endeavour to agree upon an adjustment of the question or matter of difference, and if an agreement is reached between them, it shall be reduced to writing in the form of a protocol, and shall be communicated to the Commissioners, who shall take such further proceedings as may be necessary to carry out such agreement.

Article IX. The High Contracting Parties further agree that any other questions or matters of difference arising between them involving the rights, obligations, or interests of either in relation to the other or to the inhabitants of the other, along the common frontier between the United States and the Dominion of Canada, shall be referred from time to time to the International Joint Commission for examination and report whenever either the Government of the United States or the Government of the Dominion of Canada shall request that such questions or matters of difference be so referred.

The International Joint Commission is authorized in each case so referred to examine into and report upon the facts and circumstances of the particular questions and matters referred, together with such conclusions and recommendations as may be appropriate, subject, however, to any restrictions or exceptions which may be imposed with respect thereto by the terms of the reference.

Such reports of the Commission shall not be regarded as decisions of the questions or matters so submitted either on the facts or the law, and shall in no way have the character of an arbitral award.

The Commission shall make a joint report to both Governments in all

cases in which all or a majority of the Commissioners agree, and in case of disagreement the minority may make a joint report to both Governments, or separate reports to their respective Governments.

In case the Commission is evenly divided upon any question or matter referred to it for report, separate reports shall be made by the Commissioners on each side to their own Government.

Article X. Any questions or matters of difference arising between the High Contracting Parties involving the rights, obligations, or interests of the United States or of the Dominion of Canada either in relation to each other or to their respective inhabitants, may be referred for decision to the International Joint Commission by consent of the two Parties, it being understood that on the part of the United States any such action will be by and with the advice and consent of the Senate, and on the part of His Majesty's Government with the consent of the Governor-General in Council. In each case so referred the said Commission is authorized to examine into and report upon the facts and circumstances of the particular questions and matters referred, together with such conclusions and recommendations as may be appropriate, subject, however, to any restrictions or exceptions which may be imposed with respect thereto by the terms of the reference.

A majority of the said Commission shall have power to render a decision or finding upon any of the questions or matters so referred.

If the said Commission is equally divided or otherwise unable to render a decision or finding as to any questions or matters so referred, it shall be the duty of the Commissioners to make a joint report to both Governments, or separate reports to their respective Governments, showing the different conclusions arrived at with regard to the matters or questions so referred, which questions or matters shall thereupon be referred for decision by the High Contracting Parties to an umpire chosen in accordance with the procedure prescribed in the 4th, 5th, and 6th paragraphs of Article XLV of the Hague Convention for the pacific settlement of international disputes, dated the 18th October, 1907. Such umpire shall have power to render a final decision with respect to those matters and questions so referred on which the Commission failed to agree.

Article XI. A duplicate original of all decisions rendered and joint reports made by the Commission shall be transmitted to and filed with the Secretary of State of the United States and the Governor-General of the Dominion of Canada, and to them shall be addressed all communications of the Commission.

Article XII. The International Joint Commission shall meet and organize at Washington promptly after the members thereof are appointed, and when organized the Commission may fix such times and places for its meetings as may be necessary, subject at all times to special call or direction by the two Governments. Each Commissioner, upon the first joint meeting of the Commission after his appointment, shall, before proceeding with the work of the Commission, make and subscribe a solemn declaration in writing that he will faithfully and impartially perform the duties imposed upon him under this Treaty, and such declaration shall be entered on the records of the proceedings of the Commission.

The United States and Canadian sections of the Commission may each appoint a secretary, and these shall act as joint secretaries of the Commis-

sion at its joint sessions, and the Commission may employ engineers and clerical assistants from time to time as it may deem advisable. The salaries and personal expenses of the Commission and of the secretaries shall be paid by their respective Governments, and all reasonable and necessary joint expenses of the Commission incurred by it shall be paid in equal moieties by the High Contracting Parties.

The Commission shall have power to administer oaths to witnesses and to take evidence on oath whenever deemed necessary in any proceeding, or enquiry, or matter within its jurisdiction under this Treaty, and all parties interested therein shall be given convenient opportunity to be heard, and the High Contracting Parties agree to adopt such legislation as may be appropriate and necessary to give the Commission the powers above mentioned on each side of the boundary, and to provide for the issue of subpoenas and for compelling the attendance of witnesses in proceedings before the Commission. The Commission may adopt such rules of procedure as shall be in accordance with justice and equity, and may make such examination in person and through agents or employees as may be deemed advisable.

Article XIII. In all cases where special agreements between the High Contracting Parties hereto are referred to in the foregoing Articles, such agreements are understood and intended to include not only direct agreements between the High Contracting Parties, but also any mutual arrangement between the United States and the Dominion of Canada expressed by concurrent or reciprocal legislation on the part of Congress and the Parliament of the Dominion.

PROTOCOL OF EXCHANGE¹

On proceeding to the exchange of the ratifications of the Treaty signed at Washington on the 11th January, 1909, between Great Britain and the United States, relating to boundary waters and questions arising along the boundary between the United States and the Dominion of Canada, the undersigned Plenipotentiaries, duly authorized thereto by their respective Governments, hereby declare that nothing in this Treaty shall be construed as affecting or changing any existing territorial or riparian rights in the water, or rights of the owners of lands under water, on either side of the international boundary at the rapids of the St. Mary's River at Sault Ste. Marie, in the use of the waters flowing over such lands, subject to the requirements of navigation in boundary waters and of navigation canals, and without prejudice to the existing right of the United States and Canada each to use the waters of the St. Mary's River within its own territory; and further, that nothing in this Treaty shall be construed to interfere with the drainage of wet, swamp, and overflowed lands into streams flowing into boundary waters, and also that this declaration shall be deemed to have equal force and effect as the Treaty itself and to form an integral part thereof.

¹ The British ratification of this instrument was deposited with the United States Government on July 23, 1910.

The exchange of ratifications then took place in the usual form.
In witness whereof they have signed the present Protocol of Exchange
and have affixed their seals thereto.

Done at Washington this 5th day of May, 1910.

IV. TREATIES RELATING TO ASIAN RIVERS IV. TRAITÉS SE RAPPORTANT AUX FLEUVES ASIATIQUES

(i) MULTIPARTITE TREATIES

(ii) TRAITÉS MULTILATÉRAUX

80. PROTOCOLE¹ RELATIF À LA DÉLIMITATION DE LA FRONTIÈRE TURCO-PERSANE, SIGNÉ À CONSTANTINOPOLE PAR LES REPRÉSENTANTS DE LA GRANDE-BRETAGNE, DE LA RUSSIE, DE LA PERSE ET DE LA TURQUIE, LE 4 (17) NOVEMBRE 1913²

. . .

Article 1. Il est convenu que la frontière entre la Perse et la Turquie sera tracée comme suit:

. . .

Il est entendu que les tribus qui ont l'habitude de passer l'été . . . aux sources de Gadyr et de Lavène [en Iran] resteront en jouissance de leurs pâturages aux mêmes conditions que par le passé.

. . .

De ce point la frontière suit le cours du Chatt-el-Arab jusqu'à la mer, en laissant sous la souveraineté ottomane le fleuve et toutes les îles qui s'y trouvent aux conditions et avec les exceptions suivantes:

. . .

c) Aucune atteinte ne sera portée aux droits, us et coutumes existants en ce qui concerne la pêche sur le rivage persan du Chatt-el-Arab, le mot « rivage » comprenant aussi les terres réunies à la côte par les eaux basses.

. . .

¹ Ce Protocole, ainsi que les procès-verbaux des séances de la Commission de délimitation de 1914, sont considérés valables par l'article I du Traité de frontière entre l'Irak et l'Iran, signé à Téhéran, le 4 juillet 1937, reproduit ci-dessous.

² C.U. Aitchison, *A Collection of Treaties, Engagements and Sanads relating to India and Neighbouring Countries*, vol. XIII, p. 126.

81. STATUTE OF THE COMMITTEE FOR CO-ORDINATION OF INVESTIGATIONS OF THE LOWER MEKONG BASIN¹ ESTABLISHED BY THE GOVERNMENTS OF CAMBODIA, LAOS, THAILAND AND THE REPUBLIC OF VIET-NAM IN RESPONSE TO THE DECISION TAKEN BY THE UNITED NATIONS ECONOMIC COMMISSION FOR ASIA AND THE FAR EAST. PHNOM-PENH (CAMBODIA), ON 31 OCTOBER 1957²

CHAPTER I

Establishment of the Committee

The Committee for Co-ordination of Investigations of the Lower Mekong Basin (hereinafter called the Committee) is established by the Governments of Cambodia, Laos, Thailand and the Republic of Viet-Nam (hereinafter called the participating governments), in response to the decision taken by the United Nations Economic Commission for Asia and the Far East (hereinafter called the Commission) at its thirteenth session. By this decision, reported in paragraph 277 of the Commission's annual report for the period 15 February 1956 to 28 March 1957, the Commission endorsed the wish of the participating governments that secretariat studies relating to the development of the lower Mekong basin, namely, the area of the drainage basin of the Mekong river situated in the territory of the participating governments, be continued jointly with the participating governments. The participating governments have set up the Committee to perform the functions contained in the present Statute.

CHAPTER II

Organization

Article 1. 1. The Committee shall be composed of four members.
2. Each participating government will appoint one member with plenipotentiary authority and such alternates, experts and advisers as it desires.

Article 2. The Chairmanship of the Committee shall be held in turn by the members of the Committee, in the alphabetical order of the member countries. Each member shall hold office for one year.

¹ Adopted at the meeting on 17 September 1957 of the Preparatory Committee of the four Governments and amended on 31 October 1957 at the first session of the Committee for Co-ordination and approved by the participating governments.

² *Report of the Committee for Co-ordination of Investigations of the Lower Mekong Basin*, Economic Commission for Asia and the Far East, (E/CN.11/475), Annexes I and II, p. 6.

CHAPTER III

Co-operation with the secretariat of the commission

Article 3. In accordance with the decision of the commission at its thirteenth session, the secretariat of the Commission shall co-operate with the Committee in the performance of the latter's functions.

CHAPTER IV

Functions

Article 4. The functions of the Committee are to promote, co-ordinate, supervise and control the planning and investigation of water resources development projects in the lower Mekong basin. To these ends the Committee may:

(a) Prepare and submit to participating governments plans for carrying out co-ordinated research, study and investigation;

(b) Make requests on behalf of the participating governments for special financial and technical assistance and receive and administer separately such financial and technical assistance as may be offered under the technical assistance programme of the United Nations, the specialized agencies and friendly governments;¹

(c) Draw up and recommend to participating governments criteria for the use of the water of the main river for the purpose of water resources development.

CHAPTER V

Sessions

Article 5. 1. Subject to the provisions of this Statute, the Committee shall adopt its own rules of procedure.

2. Meetings of the Committee shall be attended by all participating countries.

3. Decisions of the Committee shall be unanimous.

4. The Executive Secretary of the Commission or his representative may at any meeting make either oral or written statements concerning any questions under consideration.

CHAPTER VI

General provisions

Article 6. The Committee shall submit reports to participating governments and annually to the Commission. Such reports, or summaries

¹ It is understood that this paragraph will become operative as soon as all of the four governments concerned have individually notified the Executive Chairman of TAB that they have expressly authorized the Committee to make requests on their behalf for technical assistance relating to the development of the lower Mekong basin.

thereof, may be made available to other governments and international organizations on the recommendations of the Committee.

Article 7. The Committee may invite representatives of governments and of specialized agencies to attend meetings of the Committee in the capacity of observers.

Article 8. 1. It is understood that, while in all technical matters which are within the competence of this Committee, the participating governments shall act through this Committee, the stipulations contained in this statute shall not in any way affect, supersede or modify any of the agreements which are presently in force or which may be hereafter concluded between any of the interested governments relating to the Mekong river.

2. Amendments to the present Statute which may be proposed by any participating government, shall be examined by the Committee and shall take effect when approved by all participating governments.

RULES OF PROCEDURE¹

CHAPTER I

Sessions

Rule 1. The ordinary sessions of the Committee shall be held regularly three times a year. In addition, special meetings may be convened at any time on the request of any one or more of the members of the Committee or of the Executive Secretary of the Commission.

Rule 2. The Executive Secretary of the Commission shall, at least four weeks before the commencement of a meeting, send out invitations to the meeting, together with copies of the provisional agenda and of the basic relevant documents.

Rule 3. All meetings shall be closed meetings unless the Committee decides otherwise.

CHAPTER II

Co-operation with the secretariat of the commission

Rule 4. The Committee may request the Executive Secretary of the Commission to make the necessary arrangements for consultation, including the preparation of documents, the holding of meetings and the drafting of records.

CHAPTER III

General provisions

Rule 5. In the event of any matter arising which has not been foreseen by the present Rules, the pertinent rules of the Economic Commission for

¹ Adopted by the Committee for Co-ordination of Investigations of the Lower Mekong Basin at its first session. Based on a text drawn up at the meeting of 17 September 1957 of the Preparatory Committee of the four governments.

Asia and the Far East shall be applied, provided they are deemed suitable for the purposes of the Committee.

(ii) **BIPARTITE TREATIES**

(ii) **TRAITÉS BILATÉRAUX**

Afghanistan—Iran

82. **TERMS OF REFERENCE OF THE HELMAND RIVER DELTA COMMISSION AND AN INTERPRETATIVE STATEMENT RELATIVE THERETO, AGREED BY CONFEREES OF AFGHANISTAN AND IRAN ON SEPTEMBER 7, 1950¹**

TERMS OF REFERENCE

Helmand River Delta Commission

Purpose

To recommend to the Governments of Afghanistan and Iran an engineering basis for mutual accord regarding the apportionment of the waters of the Helmand River (known in Iran as the Hirmand), at or below Band-i-Kamal Khan for use in Seistan, Iran and Chakhansur, Afghanistan.

Designation

This Commission shall be known as the Helmand River Delta Commission.

Organization

The Commission shall consist of three engineers from three disinterested countries, expert in the management of water resources in arid regions, who shall be mutually acceptable to Afghanistan and Iran. In the Commission's investigations and deliberations, the Commissioners shall serve as individual professional men and not as representatives of the countries of which they are nationals or of any other country.

Functions

a. The Commission shall collect and study available data relative to:

- (1) Stream flow of the Helmand River at or below Band-i-Kamal Kahn, including annual and long-range cycles of drought, normal flow, and flood;
- (2) Past and present uses of the waters of the Helmand River in the delta area (e.g. Iranian Seistan and Afghan Chakhansur), including a study of the land under cultivation in the delta area;
- (3) Existing works in the delta area for control or diversion of the waters of the river;
- (4) Plans for new installations and methods which might result in a more scientific use of available water in the delta area.

b. The Commission shall review prior reports and documents (including those of Goldsmid and McMahan) pertaining to the apportionment of

¹ Report of the Helmand River Delta Commission, Afghanistan and Iran, February 1951.

the waters of the Helmand River between Iran (Persia) and Afghanistan. The Commission shall study available reports and records of officials and engineers of Iran or Afghanistan, or of engineers who are or have been employed by either country, or pertinent records in other countries. The Governments of Iran and Afghanistan shall supply to the Executive Secretary before the first meeting of the Commission or to the Commissioners during their sessions in the respective countries available reports and records for study by the Commission, but supplying such materials shall not be considered as establishing a precedent.

c. The Commission shall recommend the technical methods by which the share of the water of the Helmand River to which Iran may be entitled, pursuant to the terms of such mutual accord as may be reached, may be allocated to Iran at or below Band-i-Kamal Khan.

d. The Commission shall present its findings and recommendations to the Governments of Iran and Afghanistan. The findings and recommendations of the Commission shall be advisory only. In the event that the available data is insufficient for reasonable definition of an engineering basis for mutual accord between Afghanistan and Iran regarding the waters of the Helmand, the findings and recommendations shall present a programme for collection and development of the requisite engineering data.

Operations

The Commission—The three Commissioners shall constitute the Commission. The Commission shall adopt its own rules of procedure, choose its own presiding officer, and have authority to direct staff and operations.

Engineer-Secretary—To facilitate the organization and work of the Commission, Afghanistan and Iran shall agree upon an engineer-secretary, recommended by the United States Department of State, to serve as Executive-Secretary for the Commission and as engineer fact-finder in the initial collection and presentation to the Commission of available facts and data.

Assistants—Each Commissioner shall be entitled to select an engineering assistant to make studies, if such assistants are regarded as essential by the Commissioners. The said assistants to the Commissioners, if appointed, shall be nationals of neither Iran nor Afghanistan.

Meetings—It is contemplated that the Commissioners will meet as soon as possible after an initial “fact-finding” report can be completed and submitted to the Commission by the Engineer-Secretary. They will continue working together until the Commission has submitted its report to Afghanistan and Iran. Subsequent meetings may be held if requested by the Governments of Iran and Afghanistan.

Consultation—The Commissioners will be fully advised by the Engineer-Secretary as to his intended operations on their behalf in order that they may advise thereon. Time which the Commissioners devote to study and preparation for the Commission’s meetings shall be recorded for the purpose of compensation.

Local Assistance—Interpreters and other assistants, together with adequate transportation, as may be required by the Commission during its operations in the countries concerned, shall be furnished by the respective countries. Technical observers of Afghanistan may accompany the Commission in Afghanistan and technical observers of Iran may accompany the Commission in Iran, if the Commission so requests.

Correspondence—Copies of the official correspondence and the report

of the Commission with either of the two countries will be made available only to the Governments of Afghanistan, Iran, and the United States, and such correspondence together with the official report of the Commission will be delivered to the respective countries at such Embassy or other place as they may specify.

Language—The report of the Commission and the correspondence of the Commission shall be in the English language, which shall be authoritative.

INTERPRETATIVE STATEMENT

To be Read with the Terms of Reference for the Helmand River Delta Commission

(This statement was read into the record by an officer of the U.S. Department of State at the meeting on September 7, 1950, of representatives of Afghanistan and Iran to establish Terms of Reference for the Helmand River Delta Commission.)

The Department of State appreciates the close attention and cooperative effort of both sides in their desire to reach an agreement on the Terms of Reference. Persistent efforts have been made since September 1 to reduce remaining differences to such limits that they may be reconciled and final agreement reached today on the Terms of Reference, in order to permit the activation of the Commission and to allow it to depart for the field this year. The Department is sure both parties appreciate the numerous difficulties and the increased expense which would be involved in further postponement.

It is believed, on the basis of informal discussions with both parties, that agreement is possible on the draft known as Column C of the working chart plus the section "Operations" already agreed. It is further believed that both sides agree in principle as follows:

(1) It is the intent of both parties as expressed in these meetings that the Commission shall travel freely as required to accomplish its purpose.

(2) Further in accordance with the understanding previously reached (August 30) it is agreed that the first sentence of paragraph *b* "Functions" shall be amended to read:

"The Commission shall review prior reports and documents (including those of Goldsmid and McMahan) pertaining to the apportionment of the waters of the Helmand River between Iran (Persia) and Afghanistan."

Further, the Department understands that the language of Section *b* under "Functions" shall be read without prejudice to the positions of either Government regarding the validity of the findings of Goldsmid and McMahan.

(3) It is the intention of both parties that the Commission shall determine what quantities of water have in the past and do at present reach the delta area and shall study the effect on the quantities of water reaching the delta area of works now existing, in construction or in present contemplation. It is understood that this is provided for by items *a* (1) and *a* (4) under "Functions". This shall be a factual study for reference to both parties, who may then seek through direct negotiation or adjudication an agreement for appropriate allocation of the waters of the river for use in Iranian Seistan and Afghan Chakhansur. A safeguard to the interests of both countries is clearly provided in Section *d* under "Functions",

which states that " the findings and recommendations of the Commission shall be advisory only ".

On the basis of the foregoing the Department hopes that the representatives of the two Governments will find that adequate safeguards are provided for their respective interests and will find it possible to accept the draft proposal *c* plus the Section " Operations " already agreed upon as the Terms of Reference for the Commission.

Afghanistan—United Kingdom

83. TREATY¹ BETWEEN THE GOVERNMENT OF AFGHANISTAN AND HIS BRITANNIC MAJESTY'S GOVERNMENT FOR THE ESTABLISHMENT OF NEIGHBOURLY RELATIONS, SIGNED AT KABUL, NOVEMBER 22, 1921²

PREAMBLE

The British Government and the Government of Afghanistan, with a view to the establishment of neighbourly relations between them, have agreed to the Articles written hereunder, . . .

. . .

Article 2. The two High Contracting Parties mutually accept the Indo-Afghan Frontier as accepted by the Afghan Government under Article 5 of the Treaty concluded at Rawalpindi on August 8, 1919, corresponding to the 11th Ziqada, 1337 Hijra, and also the boundary west of the Khyber laid down by the British Commission in the months of August and September 1919, pursuant to the said Article, and shown on the map attached to this treaty by a black chain line; subject only to the realignment set forth in Schedule I annexed, which has been agreed upon in order to include within the boundaries of Afghanistan the place known as Tor Kham, and the whole bed of the Kabul River between Shilman Khwala Banda and Palosai and which is shown on the said map by a red chain line. The British Government agrees that the Afghan authorities shall be permitted to draw water in reasonable quantities through a pipe which shall be provided by the British Government from Landi Khana for the use of Afghan subjects at Tor Kham, and the Government of Afghanistan agrees that British officers and tribesmen living on the British side of the boundary shall be permitted without let or hindrance to use the aforesaid portion of the Kabul River for purposes of navigation and that all existing rights of irrigation from the aforesaid portion of the river shall be continued to British subjects.

. . .

¹ The exchange of the instruments of ratification took place at Kabul, February 6, 1922.

² League of Nations, *Treaty Series*, vol. 14, p. 48.

84. EXCHANGE OF NOTES¹ BETWEEN THE GOVERNMENT OF AFGHANISTAN AND HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM AND THE GOVERNMENT OF INDIA IN REGARD TO THE BOUNDARY BETWEEN AFGHANISTAN AND INDIA IN THE NEIGHBOURHOOD OF ARNAWAI AND DOKALIM, KABUL, FEBRUARY 3rd, 1934²

I

Sir R. Maconachie to Sardar Faiz Muhammad Khan

BRITISH LEGATION

Kabul, February 3rd, 1934

Your Excellency,

. . .

2. Further, I have the honour to inform your Excellency that His Majesty's Government in the United Kingdom and the Government of India approve and confirm the subsidiary proposals which are set out in Captain W. R. Hay's letter of the 10th July, 1932, addressed to Aliqadr Sadaqatmaab Habibullah Khan Tarzi in the following terms:

(a) That the people of Dokalim shall be allowed to take water required for the irrigation of their lands in Dokalim from the Arnawai Khwar above the boundary fixed; and

(b) That the people of Arnawai may be allowed to float wood required for local use down that portion of the Arnawai Khwar which forms the international boundary.

3. In regard, however, to the decision mentioned in paragraph 2(a) above, it will, of course, be understood that without the consent of the local British authorities no new water channel shall be constructed above the boundary fixed.

4. If the boundary line as shown in the annexes to the present note and the above-mentioned subsidiary proposals are acceptable to the Government of His Majesty King Muhammad Zahir Shah, I suggest that the present note and your Excellency's reply in similar terms be regarded as constituting, as from to-day's date, a definitive Agreement on this matter between the Royal Afghan Government on the one hand and His Majesty's Government in the United Kingdom and the Government of India on the other.

. . .

¹ Came into force February 3rd, 1934.

² League of Nations, *Treaty Series*, vol. 154, p. 350.

II

Sardar Faiz Muhammad Khan to Sir R. Maconachie

MINISTRY OF FOREIGN AFFAIRS

Monsieur le Ministre,

Kabul, *dated Dalv* 14th, 1312

(February 3rd, 1934)

. . .

2. In paragraph 2 it was stated that His Majesty's Government in the United Kingdom and the Government of India also approve and confirm the subsidiary proposals which are set out in Captain W. R. Hay's letter of the 10th July, 1932, addressed to Aliqadr Sadaqatmaab Habibullah Khan Tarzi, which proposals are as follows:

(a) That the people of Dokalim shall be allowed to take water required for the irrigation of their lands in Dokalim from the Arnawai Khwar above the boundary fixed;

(b) That the people of Arnawai shall be allowed to float wood required for local use down the portion of the Arnawai stream which forms the international boundary.

3. In regard to (a) above, it will of course be understood that no new water channel shall be constructed above the boundary fixed unless the consent of the local British authorities has first been obtained.

4. In accordance with the instructions received from my Government, I have the honour to state in reply to your note quoted that the Royal Government of Afghanistan under the rule of His Majesty Muhammad Zahir Shah confirm the boundary line, as demarcated by the said representatives and as shown in the facsimile copy of the original signed map and the accompanying description of the boundary pillars hereunto annexed, and also accept the subsidiary proposals set forth above. The Government of His Majesty Muhammad Zahir Shah accordingly agree that the present note and your Excellency's note shall be regarded as constituting, with effect from to-day's date, a definitive Agreement between the Royal Afghan Government on the one hand and His Majesty's Government in the United Kingdom and the Government of India on the other. In conclusion, I renew my profound respects.

. . .

Afghanistan—Union of Soviet Socialist Republics

85. FRONTIER AGREEMENT¹ WITH PROTOCOL AND EXCHANGE OF NOTES BETWEEN AFGHANISTAN AND THE UNION OF SOVIET SOCIALIST REPUBLICS, SIGNED AT MOSCOW, ON 13 JUNE 1946²

¹ Came into force on 17 January 1947, upon the exchange of the instruments of ratification at Kabul, in accordance with article 4.

² United Nations, *Treaty Series*, vol. 31, p. 158.

. . .

EXCHANGE OF NOTES

. . .

III

13 June 1945

Mr. Ambassador,

I have the honour to inform you that, guided by the desire to settle in a spirit of friendly relations between both Parties the question of the utilization of the waters of the river Kushka and the question of the construction of a dam on the river Murghab, the Soviet Government agrees to cancel the order prohibiting the Afghan Party from using water from the river Kushka north of Chihil Dukter as was provided in the documents of the Anglo-Russian Demarcation Commission of 1885-1888. Nevertheless, the Afghan Party shall not increase the quantity of water taken from the river Kushka in this area and shall observe the *status quo* in this respect.

The Soviet Government waives the right to construct a dam on the river Murghab and to utilize the Afghan bank of the river for this purpose, on the condition that the Afghan Party does not construct such a dam on its territory in the frontier sector as would diminish the flow of water from this river on to Soviet territory. . .

H. E. Sultan Ahmed Khan
Ambassador of Afghanistan
Moscow

13 June 1946

IV

Mr. Minister,

I have the honour to confirm receipt of your note of to-day's date which states the following:

[See Note III]

In connexion with the above, I have the honour to inform you that the Afghan Government agrees for its part with the settlement of the question of the use of water from the river Kushka and of the right to construct a Soviet dam on the river Murghab, contained in your above-mentioned note. . .

H. E. Mr. Molotov
Minister of Foreign Affairs of the
Union of Soviet Socialist Republics
Moscow

86. TREATY¹ WITH ANNEXES AND PROTOCOLS BETWEEN THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE ROYAL GOVERNMENT OF AFGHANISTAN CONCERNING THE REGIME OF THE SOVIET-AFGHAN STATE FRONTIER, SIGNED AT MOSCOW, ON 18 JANUARY 1958²

¹ Came into force on 5 October 1958, as from the date of the exchange of the instruments of ratification at Kabul, in accordance with article 49.

² United Nations, *Treaty Series*, vol. 321, p. 166.

PART II

REGULATIONS GOVERNING THE USE OF FRONTIER WATERS AND OF MAIN ROADS
INTERSECTING THE FRONTIER LINE*Article 7*

1. The term frontier waters in this Treaty means those waters along which the frontier line runs in accordance with the Soviet-Afghan frontier demarcation and redemarcation documents of 1947-1948.

2. The Contracting Parties shall take measures to ensure that in the use of frontier waters, and of the waters of rivers which flow to the frontier or into frontier waters, the provisions of this Treaty and the special agreements between the Government of the USSR and the Government of Afghanistan are observed and the mutual rights and interest of both Contracting Parties are respected.

3. In accordance with the general principles of international law, paragraph 2 of this article shall not apply to those waters of the Contracting Parties which are national internal waters and which are covered by the national legislation of the Contracting Parties.

Article 8

1. Both Contracting Parties shall be allowed free use of frontier waters up to the frontier line.

2. Where the frontier line runs along the middle of the main navigation channel of a frontier river, vessels (large and small ships and boats) of both Contracting Parties shall be entitled to navigate freely in the navigation channel, regardless of how the frontier line runs.

Article 9

1. The location and direction of frontier watercourses shall as far as possible be preserved unchanged. For that purpose the competent authorities of the Contracting Parties shall jointly take the necessary measures to remove such obstacles as may cause changes in the courses of frontier rivers, streams or canals or impede the flow of water along them. Where joint operations are undertaken by common consent of both Parties on the basis of this Treaty, the competent authorities of the two Contracting Parties shall decide the programme of work and shall agree to share the cost equally unless some other agreement is concluded.

2. In order to protect the banks against damage and to prevent displacement of the beds of frontier rivers, streams or canals, their banks must be strengthened wherever the competent authorities of the Contracting Parties jointly consider it necessary. These operations shall be executed and the relevant expenditure defrayed by the Party to which the bank belongs.

3. Neither Contracting Party shall cause an artificial displacement of river beds.

Should the bed of a frontier river, stream or canal be displaced as a result of natural phenomena (earthquakes, etc.), the Contracting Parties shall agree on a basis of equality to correct the bed by joint action. Such operations may be executed, in accordance with an agreement between the two Parties, by mixed commissions of the Contracting Parties, which shall decide on the programme of work, the recruitment of labour, the purchase of the necessary materials and also the manner of reimbursement of expenditure.

. . .

Article 11

1. The Contracting Parties shall take measures to prevent deliberate damage to the banks of a frontier river.
2. Where one Contracting Party occasions material loss to the other Contracting Party by failing to comply with paragraph 1 of this article, compensation for that loss shall be paid by the Party responsible therefor.

Article 12

1. Frontier watercourses shall be cleaned out on the sectors where such work is jointly considered essential by the competent authorities of the two Contracting Parties. The cost of cleaning in such cases shall be equally divided between the two Contracting Parties unless otherwise agreed.
2. In cleaning out frontier waters, the earth, stones, trees and other objects removed shall be thrown out to such a distance from the bank or levelled down in such a way as to avoid any danger that the banks might fall in, or the river bed be polluted, and so as to prevent the flow of water from being obstructed in time of flood.
3. The cleaning of those sectors of frontier water which are situated wholly in the territory of one of the Contracting Parties shall be carried out by that Party as it sees fit and at its own expense.

Article 13

The competent authorities of both Contracting Parties shall take the necessary measures to protect the frontier waters from pollution by acids and waste products and from fouling by any other means.

Article 14

Nationals of the two Contracting Parties shall be entitled to water their livestock at frontier rivers. Livestock brought for watering must not however cross into the territory of the other Party. Should livestock stray to the other side of the frontier, the competent authorities of the Contracting Parties shall take steps to ensure that the livestock is returned without delay.

Watering places shall be determined by frontier commissioners who shall notify the frontier commissioners of the other Party thereof.

. . .

Article 16

Questions concerning the use of waters that are connected with frontier waters shall be governed by special agreements between the Contracting Parties.

Article 17

The competent authorities of the Contracting Parties shall exchange as regularly as possible such information concerning the level and volume of water in frontier rivers and also concerning precipitation in the interior of the territory of the two Parties as might avert danger or damage from flooding. The competent authorities shall as necessary also agree on a mutual system of signals during periods of high water.

Article 18

1. No structures or buildings may be erected by or near a river which, in time of flood, would obstruct or impede, to the detriment of the other Party, water that has overflowed the banks from returning by natural drainage to the main river bed.
2. The competent authorities of the Contracting Parties shall agree on a system of drainage into frontier waters, the diversion of water and on other matters associated with the use of frontier waters.

Article 19

1. Existing bridges, dams, dikes and other similar structures on frontier watercourses shall be preserved and may be used.
2. Bridges, dams and other similar structures likely to hinder navigation or influence the flow of water shall not be erected on frontier watercourses except by agreement between the two Parties.
3. New dikes which might affect the flow of water and the state of the banks, and also cause damage thereto, may not be erected on frontier watercourses except by agreement between the two Parties.
4. Should the need arise for reconstruction or demolition of any installations on frontier rivers that might change the water level of those rivers, the necessary work may not be undertaken without the consent of the other Party.

PART III

FISHING, HUNTING, MINING, AGRICULTURE AND FORESTRY

Article 22

1. Nationals of the two Contracting Parties may fish in frontier waters up to the frontier line in accordance with the regulations in force in their respective territories, but are prohibited from:
 - (a) Using explosive, poisonous or narcotic substances that result in the destruction or mutilation of fish;

(b) Fishing in frontier waters at night. (Daylight shall be understood to mean the time between half an hour before sunrise and half an hour after sunset.)

2. Matters relating to the preservation and breeding of fish in frontier waters, the prohibition of the fishing of particular species of fish in specified reaches, fishing seasons and other economic measures concerning fishing may be regulated by special agreement between the Contracting Parties.

China (People's Republic of)—Union of Soviet Socialist Republics

87. AGREEMENT¹ BETWEEN THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE PEOPLE'S REPUBLIC OF CHINA ON JOINT RESEARCH OPERATIONS TO DETERMINE THE NATURAL RESOURCES OF THE AMUR RIVER BASIN AND THE PROSPECTS FOR DEVELOPMENT OF ITS PRODUCTIVE POTENTIALITIES AND ON PLANNING AND SURVEY OPERATIONS TO PREPARE A SCHEME FOR THE MULTI-PURPOSE EXPLOITATION OF THE ARGUN RIVER AND THE UPPER AMUR RIVER, SIGNED AT PEKING ON 18 AUGUST 1956²

Considering the interest of both Parties in investigating the prospects for developing the productive potentialities of the Amur River basin and in the multi-purpose exploitation thereof,

Have agreed as follows:

Article 1

Over the period 1956-1960 the Parties shall carry out joint research operations to determine the natural resources of the Amur River basin and the prospects for development of its productive potentialities in accordance with the indications given in annex 1 to this Agreement.

Article 2

Over the period 1956-1959 the Parties shall carry out joint planning and survey operations to prepare a scheme for the multi-purpose exploitation of the Argun River and the upper Amur River in accordance with the indications given in annex 2 to this Agreement.

¹ Came into force on the day of its signature.

² *Treaties, Agreements and Conventions in force, concluded by the USSR with foreign countries* (Published by the Ministry for Foreign Affairs of the USSR), vol. XVIII, p. 323 (Translated from Russian by the Secretariat of the United Nations).

Article 3

With the co-operation of the appropriate ministerial and departmental organizations, the Parties shall organize, through their Academies of Science, all-purpose field parties to carry out the operations mentioned in article 1 of this Agreement.

The two all-purpose field parties, using their own personnel and their own resources, shall carry out research operations to determine the natural resources and the prospects for developing the productive potentialities of areas in their own territories, whilst in frontier sectors they shall carry out joint research operations with equal participation by the Soviet and Chinese sides.

Research operations shall be carried out by the two field parties in accordance with the indications given in annex 1, and all reports on such operations shall be completed by 1960.

A joint Scientific Council on problems connected with the study of the productive potentialities of the Amur River basin, composed of equal numbers of representatives of the USSR and the People's Republic of China, shall be set up to provide uniform scientific and methodological guidance of the operations of both all-purpose field parties, to review their annual work programmes and to study and approve their scientific reports. The number of representatives and the statutes of the Scientific Council shall be decided by agreement between the Parties.

Annual research programmes shall be drawn up by the two field parties separately for their own territories and jointly for frontier sectors. The research programme for each year shall be drawn up not later than the end of the preceding year.

A plan for the siting and organization of a base system of hydrometric stations on the frontier sectors of the Amur basin rivers shall be prepared by the Soviet and Chinese hydrological institutions, by agreement between them.

Article 4

For the purposes of the operations mentioned in article 2 of this Agreement, the Soviet and Chinese organizations, using their own personnel and their own resources, shall set up upper Amur survey parties, each working in its own territory.

The survey operations shall be carried out in accordance with a single programme and procedure and on the basis of plans agreed upon by the Parties every year.

The scheme for the multi-purpose exploitation of the Argun River and the upper Amur River shall be prepared by Soviet organizations with the participation of the corresponding Chinese organizations. For this purpose the Chinese side shall assign a deputy chief project engineer and the necessary number of specialists by agreement with the Soviet side.

The hydrometric stations necessary for planning and survey operations on frontier sectors of the Argun River and on the upper and middle Amur River shall be organized by the Soviet side with the participation of the Chinese side.

Article 5

The Soviet and Chinese organizations shall, for information purposes, exchange data, reports and other documentation on research, planning and survey operations carried out in the Amur basin before 1956, and shall

exchange similar material in carrying out the operations mentioned in articles 1 and 2.

Article 6

In order that both sides may be kept informed of the matters under study by the all-purpose field parties and of the direction and progress of research and survey operations, and in order that joint research and survey work be carried out, the members of each field party shall be entitled to enter the territory in which the other is working and to carry out operations there, within the limits of the approved programmes and plans.

The formalities for entry into the territory of the other State shall be established by the competent organizations of the Contracting Parties.

Article 7

The Soviet organizations shall provide the Chinese organizations with technical assistance in carrying out the research and survey operations provided for in articles 1 and 2 of this Agreement in the territory of the People's Republic of China by sending Soviet specialists to the People's Republic of China and receiving Chinese specialists in the USSR for technical training and by supplying the People's Republic of China with equipment, apparatus and instruments for carrying out these operations, the quantities, types and dates of delivery to be decided by agreement between the Parties.

Article 8

At the request of the Chinese side, the Soviet organizations, using their own personnel and their own technical resources, shall make, at the expense of the Chinese side, an aerial photographic survey of the territory on the right banks of the Argun and Amur Rivers and shall prepare a map of the territory surveyed on the scale 1 : 25,000.

Ground preparations for the survey shall be carried out with the participation of the Chinese organizations. The area to be surveyed and the order of operations and the dates by which they are to be completed shall be decided by agreement between the Parties.

Article 9

All expenses arising from the presence of Soviet specialists in Chinese territory and Chinese specialists in Soviet territory for the purposes indicated in article 6 shall be borne by the sending Party.

The assignment of Soviet specialists to the People's Republic of China for the purposes indicated in articles 7 and 8 shall be subject to the conditions laid down in the Soviet-Chinese Agreement of 25 October 1950.¹

The technical training of Chinese specialists in the USSR as provided in article 7 shall be subject to the conditions laid down in the Soviet-Chinese Agreement of 6 December 1951.²

¹ The Agreement of 25 October 1950 has been superseded by the Agreement on the conditions for the assignment of Soviet specialists to the People's Republic of China and of Chinese specialists to the USSR with a view to the provision of technical assistance and other services, of 28 December 1957.

² The Agreement of 6 December 1951 has been superseded by the Agreement on the conditions for the technical training of Soviet and Chinese specialists and workers, of 28 December 1957.

Article 10

Payment for the equipment, apparatus and instruments supplied by the USSR and payment for expenses incurred in the provision of other kinds of technical assistance under this Agreement shall be made in accordance with the Soviet-Chinese Trade Agreement currently in force.

Article 11

The Soviet and Chinese organizations shall conclude the necessary contracts with each other concerning the quantities and dates of delivery of equipment, apparatus and instruments to be supplied, and concerning the extent of and the conditions for the services to be provided by the Parties to each other under this Agreement.

Article 12

Each Contracting Party shall be entitled to publish only such research materials and results as relate to its territory.

The conditions for the publication of results of joint research shall be decided by agreement between the Parties.

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ANNEX No. 1

TYPES OF RESEARCH OPERATIONS TO BE CARRIED OUT TO DETERMINE THE NATURAL RESOURCES OF THE AMUR RIVER BASIN AND THE PROSPECTS FOR DEVELOPMENT OF ITS PRODUCTIVE POTENTIALITIES

Research operations shall be carried out as indicated in the following sections:

1. Study of natural conditions

Survey of the physical and geographical characteristics of the Amur River basin (geomorphological, climatological, hydrological, pedological, pedologico-geochemical, geobotanical, silvicultural and piscicultural conditions) in order to determine the regions having the most suitable natural conditions for the establishment of integrated industrial developments, agriculture and transport facilities.

2. Geological surveys

Study of the geological structure of various areas of the Amur region offering particular interest as possible sources of minerals providing raw materials for industrial undertakings consuming power supplied by future hydro-electric stations on the Amur.

3. Surveys of water and water power resources

Study of the water power potential of the Amur River and of the main rivers of the Amur River basin and preparation of preliminary proposals relating to possible outline schemes for the regulation and use of its waters, with a view to the construction of hydro-electric power stations, the improvement of navigation conditions, the prevention of floods, the execution of land-improvement projects and the development of the fishing industry.

4. *Transport surveys*

Study of the present state of water transport in the Amur River basin and preparation of an outline scheme for the development of transport on the Amur River, its main tributaries and connecting railways and roads in the light of the prospective construction of cascades of hydro-electric power stations with large reservoirs.

Investigation of the possibility and advisability of linking the Amur River by water with the Tartary Straits (in the area of Lake Kizi and De-Kastri), with the Zaliv Petra Velikovo (by the Ussuri and Suifun Rivers) and with the Yellow Sea (by the Sungari and Liao Ho Rivers).

5. *Economic surveys*

Analysis of the economic state of the territories of the USSR and the People's Republic of China in the Amur River basin and preparation of a preliminary plan for their economic development (priority being given to electricity-consuming branches of industry and to agriculture and transport facilities).

Estimation of approximate outlays of materials and labour entailed by the multi-purpose development of the Amur River and formulation of principles for the distribution of those outlays between the different sectors of the scheme and between the USSR and the People's Republic of China.

Determination of the economic effectiveness of measures for the multi-purpose exploitation of the water resources of the Amur River basin (evaluation of the economic implications for the USSR and the People's Republic of China of the development of the natural resources and productive potentialities of the Amur River basin).

ANNEX No. 2

TYPES OF PLANNING AND SURVEY OPERATIONS FOR THE PREPARATION OF A SCHEME FOR THE MULTI-PURPOSE EXPLOITATION OF THE ARGUN RIVER AND THE UPPER AMUR RIVER

Planning and survey operations shall be carried out as indicated in the following sections:

A. *Survey operations*

1. Hydrometric operations to study the regime of the Argun and Amur Rivers from the source to the Maly Khingan range, and of their main tributaries on both banks.

The purpose of the hydrometric operations shall be to provide data to determine the variations in the level and flow of the rivers, their winter flow, their solid flow and the chemical composition of the water.

2. Geodetic and topographical operations:

(a) Preparation of longitudinal sections of the Argun and Amur Rivers up to the Maly Khingan range and of the lower reaches of their largest tributaries on both banks;

(b) Preparation of 1 : 10,000 scale maps of areas where it is proposed to site hydro-electric power stations and of larger-scaled maps of top-priority projects;

- (c) Surveys of flood areas of water reservoirs of top-priority projects, on the scale 1 : 25,000;
 - (d) Geodetic operations of various types connected with the hydrometric and geological operations;
 - (e) Simple triangulation operations with a view to the establishment of a network of base points for survey work;
 - (f) Levelling operations of various kinds with a view to co-ordinating heights in the network of geodetic points on both banks and establishing a basis for survey work.
3. Engineering and geological surveys:
- (a) Geological and geomorphological strip surveys along both banks and area surveys of installation sites;
 - (b) Profiling of installation sites by electrical means;
 - (c) Drilling operations at installation sites on banks and in beds of rivers; mining operations on banks at installation sites;
 - (d) Experimental hydrogeological operations;
 - (e) Special engineering surveys;
 - (f) Prospecting for and study of building materials in the area of top-priority projects under the scheme;
 - (g) Exploration of flood areas, for top-priority projects;
 - (h) Laboratory analyses of soils and chemical analyses of water;
 - (i) Preparation of geological cross-sections, longitudinal sections and diagrams.
4. Preparation of a hydrological description of the Argun and Amur Rivers.
5. Preparation of a report on the topographical and geodetic operations.
6. Preparation of a report on the engineering and geological surveys and notes on the geological basis for the scheme.

B. Planning operations

1. Hydraulic engineering surveys of the Argun and Amur Rivers and field planning of variants of the scheme.
2. Preparation of projections of economic development and electricity consumption in areas around the proposed power stations.
3. Study of problems of water transport on the Argun and Amur Rivers:
 - (a) Preparation of projections for the development of freight turnover;
 - (b) Calculation of economic dimensions for the waterway and for ships under different variants of the scheme;
 - (c) Determination of volumes of water to be discharged from reservoirs at the various stages of the scheme in order to maintain water transport;
 - (d) Provision of transport facilities to serve reservoirs of top-priority power stations.
4. Evaluation of the economic consequences of regulating the flow of water in order to reduce the frequency and scale of flooding of economically valuable territory on both banks caused by sudden rises in the river level and to create favourable conditions for land improvement.

5. Study of aspects of the fishing industry in relation to different variants of the scheme.
6. Estimation of losses due to flooding under different variants of the scheme.
7. Calculation of the regime of the river under planning conditions for different variants of the scheme.
8. Choice of optimum utilization plan, determination of basic parameters, of hydro-electric power stations; and selection of top-priority projects.
9. Design of power stations, in greater detail for those having top priority, and estimation of work and cost. Proposals for execution of work on top-priority power stations.
10. Main conclusions and proposals with regard to the scheme for the multi-purpose exploitation of the Argun and Upper Amur Rivers.

France—United Kingdom

88. FRANCO-BRITISH CONVENTION¹ ON CERTAIN POINTS CONNECTED WITH THE MANDATES FOR SYRIA AND THE LEBANON, PALESTINE AND MESOPOTAMIA, SIGNED AT PARIS, DECEMBER 23, 1920²

. . .

Article 3. The British and French Governments shall come to an agreement regarding the nomination of a commission, whose duty it will be to make a preliminary examination of any plan of irrigation formed by the Government of the French mandatory territory, the execution of which would be of a nature to diminish in any considerable degree the waters of the Tigris and Euphrates at the point where they enter the area of the British mandate in Mesopotamia.

. . .

Article 8. Experts nominated respectively by the Administrations of Syria and Palestine shall examine in common within six months after the signature of the present convention the employment, for the purposes of irrigation and the production of hydro-electric power, of the waters of the Upper Jordan and the Yarmuk and of their tributaries, after satisfaction of the needs of the territories under the French mandate.

In connection with this examination the French Government will give its representatives the most liberal instructions for the employment of the surplus of these waters for the benefit of Palestine.

In the event of no agreement being reached as a result of this examination, these questions shall be referred to the French and British Governments for decision.

To the extent to which the contemplated works are to benefit Palestine,

¹ This Convention does not entail ratification.

² League of Nations, *Treaty Series*, vol. 22, p. 355.

the Administration of Palestine shall defray the expenses of the construction of all canals, weirs, dams, tunnels, pipelines and reservoirs or other works of a similar nature, or measures taken with the object of reafforestation and the management of forests.¹

. . .

89. EXCHANGE OF NOTES² CONSTITUTING AN AGREEMENT BETWEEN THE BRITISH AND FRENCH GOVERNMENTS RESPECTING THE BOUNDARY LINE BETWEEN SYRIA AND PALESTINE FROM THE MEDITERRANEAN TO EL HAMME, PARIS, MARCH 7, 1923³

. . .

ENCLOSURE

The Final Report on the Demarcation of the frontier between the Great Lebanon and Syria on one side, and Palestine on the other side, from the Mediterranean Sea to El Hammé (in the Lower Valley of the Yarmuk) in pursuance of articles 1 and 2 of the Convention of Paris of December 23, 1920⁴

. . .

The Government of Palestine or persons authorized by the said Government shall have the right to build a dam to raise the level of the waters of Lakes Huleh and Tiberias above their normal level, on condition that they pay fair compensation to the owners and occupiers of the lands which will thus be flooded.

Any dispute arising between the said Government and the persons so authorized on the one hand, and the owners and occupiers of the land on the other hand, shall be finally settled by a commission consisting of four members, each of the two mandatory Powers nominating two of the members of such commission.

Any existing rights over the use of the waters of the Jordan by the inhabitants of Syria shall be maintained unimpaired.

. . .

The inhabitants of Syria and of the Lebanon shall have the same fishing . . . rights on Lakes Huleh and Tiberias and on the River Jordan between the

¹ The Protocol between France and the United Kingdom, relative to the settlement of the frontier between Syria and Jebel Druze on the one side and Trans-Jordan on the other side, signed at Paris, October 21, 1931, reaffirms the water régime relative to the Yarmuk and its tributaries as provided for in this article [*Report by the Government of the United Kingdom to the Council of the League of Nations on the Administration of Palestine and Trans-Jordan*, Jordan, 1931, Appendix V, I. 1, (c), (1932)].

² The two Notes are considered as being equivalent to ratification of the agreement which they entail.

³ League of Nations, *Treaty Series*, vol. 22, p. 364.

⁴ Signed at Beirut, February 3, 1922.

said lakes as the inhabitants of Palestine, but the Government of Palestine shall be responsible for the policing of the lakes.

. . .

90. AGREEMENT¹ OF GOOD NEIGHBOURLY RELATIONS CONCLUDED BETWEEN THE BRITISH AND FRENCH GOVERNMENTS ON BEHALF OF THE TERRITORIES OF PALESTINE ON THE ONE PART, AND ON BEHALF OF SYRIA AND GREAT LEBANON ON THE OTHER PART, SIGNED AT JERUSALEM, FEBRUARY 2, 1926²

. . .

Article III. All the inhabitants, whether settled or semi-nomadic, of both territories who, at the date of the signature of this Agreement enjoy grazing, watering or cultivation rights, or own land on the one or the other side of the frontier shall continue to exercise their rights as in the past. . . .

All rights derived from local laws or customs concerning the use of the waters, streams, canals and lakes for the purposes of irrigation or supply of water to the inhabitants shall remain as at present. The same rule shall apply to village rights over communal properties.

The provisions of the Agreement of February 3rd, 1922, reserving fishing and navigation rights in the lakes of Tiberias and Huleh and the Jordan shall be extended to all the water courses in the ceded area.

. . .

France—Turkey

91. ACCORD³ ENTRE LA FRANCE ET LA TURQUIE EN VUE DE RÉALISER LA PAIX, SIGNÉ À ANGORA, LE 20 OCTOBRE 1921, ENTRE M. FRANKLIN-BOUILLON, ANCIEN MINISTRE, ET YOUSSEUF KEMAL BEY, MINISTRE DES AFFAIRES ÉTRANGÈRES DU GOUVERNEMENT DE LA GRANDE ASSEMBLÉE NATIONALE D'ANGORA⁴

. . .

Article XII. Les eaux de Koveik seront réparties entre la ville d'Alep et la région au nord restée turque de manière à donner équitablement satisfaction aux deux Parties.

¹ Came into force February 2, 1926.

² League of Nations, *Treaty Series*, vol. 56, p. 81.

³ Cet accord a été approuvé par le Gouvernement français, le 28 octobre 1921, approbation qui a entraîné « de plano » celle du Gouvernement turc.

⁴ Société des Nations, *Recueil des Traités*, vol. 54, p. 178.

La ville d'Alep pourra également faire à ses frais une prise d'eau sur l'Euphrate en territoire turc pour faire face aux besoins de la région.

92. CONVENTION¹ D'AMITIÉ ET DE BON VOISINAGE ENTRE LA FRANCE ET LA TURQUIE, SIGNÉE À ANGORA, LE 30 MAI 1926²

Le Gouvernement de la République turque et le Gouvernement de la République française, agissant en vertu des pouvoirs qui lui sont reconnus par les actes internationaux sur la Syrie et le Liban, animés du commun désir de resserrer l'amitié qui les lie et d'établir, sur les bases mêmes de l'Accord d'Angora du 20 octobre 1921, des relations de bon voisinage entre la Turquie, d'une part, et les pays détachés de l'Empire ottoman et placés sous l'autorité de la République française, d'autre part, ont décidé de conclure une convention à cet effet . . .

Article XIII. Par application de l'Article XII de l'Accord d'Angora du 20 octobre 1921, une étude sera entreprise immédiatement par les soins du Haut Commissariat français et aux frais de la Syrie jusqu'à concurrence de deux cent mille francs, afin d'établir un programme permettant de satisfaire aux besoins des régions actuellement irriguées par les eaux de Koveik, et à ceux de la ville et de la région d'Alep, soit en augmentant le débit du Koveik, soit en empruntant une prise d'eau sur l'Euphrate en territoire turc, soit en combinant ces deux méthodes.

Le Gouvernement turc de son côté prêtera à cette étude sa pleine collaboration et s'engage à décréter d'utilité publique les travaux nécessaires à la réalisation de ce programme.

93. PROTOCOLE³ ENTRE LA FRANCE ET LA TURQUIE RELATIF À LA SURVEILLANCE DE LA FRONTIÈRE, AU RÉGIME FRONTALIER, AU RÉGIME FISCAL APPLICABLE AUX TROUPEAUX FRANCHISSANT LA FRONTIÈRE ET AU CONTRÔLE DE NOMADES, PRIS EN EXÉCUTION DE LA CONVENTION D'AMITIÉ ET BON VOISINAGE DU 30 MAI 1926, ANKARA, LE 29 JUIN 1929⁴

¹ L'échange des instruments de ratification a eu lieu à Angora, le 12 août 1926. Cette Convention n'apporte aucune modification aux stipulations de l'Accord d'Angora du 20 octobre 1921, dont elle constitue un supplément, conformément au Protocole de signature qui l'accompagne.

² Société des Nations, *Recueil des Traités*, vol. 54, p. 196.

³ Entré en vigueur à la date de sa signature.

⁴ *Rapport à la Société des Nations sur la situation de la Syrie et du Liban*, année 1929, annexe 3, p. 143.

CHAPITRE III

Régime frontalier

. . . .

Article 6. Les habitants sédentaires ou semi-sédentaires ayant, à la date de la signature du présent Protocole, . . . des droits . . . d'abreuvoir . . ., de l'un ou de l'autre côté de la frontière (zone de 5 km de part et d'autre de la frontière), continueront, comme par le passé, à jouir de leurs droits. . .

. . . .

94. PROTOCOLE FINAL D'ABORNEMENT ¹ DE LA COMMISSION D'ABORNEMENT DE LA FRONTIÈRE TURCO-SYRIENNE AGISSANT CONFORMÉMENT AU TRAITÉ D'ANGORA DU 20 OCTOBRE 1921, À LA CONVENTION D'AMITIÉ ET DE BON VOISINAGE DU 30 MAI 1926 ET AU PROTOCOLE D'ABORNEMENT DU 22 JUIN 1929. ALEP, LE 3 MAI 1930 ²

. . . .

II. En ce qui concerne les questions soulevées par le mitoyenneté du fleuve [Tigre]:

Le voisinage du Tigre, imposant des obligations particulières aux riverains, nécessite l'établissement de règles concernant les droits de chaque Etat souverain dans leurs rapports réciproques.

La solution de toutes les questions telles que : navigation, pêche, exploitation industrielle et agricole des eaux, police du fleuve, doit être basée sur le principe de complète égalité.

Elle fera l'objet de conventions uniformes qu'il appartiendra à la Commission permanente de frontières d'élaborer.

. . . .

India—Nepal

95. AGREEMENT³ BETWEEN THE GOVERNMENT OF INDIA AND THE GOVERNMENT OF NEPAL ON THE KOSI PROJECT, SIGNED AT KATHMANDU, APRIL 25, 1954⁴

This agreement made this twenty fifth day of April, 1954, between the Government of the Kingdom of Nepal (hereinafter referred to as the 'Government') and the Government of India (hereinafter referred to as the 'Union').

¹ Ce Protocole ne comporte pas de ratification.

² *Rapport à la Société des Nations sur la situation de la Syrie et du Liban*, Année 1930, Annexe 1, p. 177.

³ Came into force upon signature according to article 18 of the agreement.

⁴ *Nepal, Trade and Information Directory*, New Delhi, 1960-61, p. 108.

1. SUBJECT MATTER.—Whereas the Union is desirous of constructing a barrage, head-works and other appurtenant work about 3 miles upstream of Hanuman Nagar town on the Kosi River with afflux and flood banks, and canals and protective works, on land lying within the territories of Nepal, for the purpose of flood control, irrigation, generation of hydro-electric power and prevention of erosion of Nepal areas on the right side of the river, upstream of the barrage (hereinafter referred to as the 'project');

And whereas the Government has agreed to the construction of the said barrage, head-works and other connected works by and at the cost of the Union, in consideration of the benefits hereinafter appearing:

NOW THE PARTIES AGREE AS FOLLOWS:

(i) The barrage will be located about 8 miles upstream of Hanuman Nagar town.

(ii) Details of the Project.—The general layout of the barrage, the areas within afflux bank, flood embankments and the lines of communication are shown in the plan annexed to this agreement as Annexure A.

(iii) For the purpose of clauses 3 and 8 of the agreement, the land under the ponded areas and boundaries as indicated by the plan specified in sub-clause (ii) above, shall be deemed to be submerged.

2. (i) PRELIMINARY INVESTIGATION AND SURVEYS.—The Government shall authorise and give necessary facilities to the canal and other officers of the Union or other persons acting under the general or special orders of such officers to enter upon such land as necessary with such men, animals, vehicles, equipment, plant, machinery and instruments as necessary and undertake such surveys and investigations required in connection with the said Project before, during and after the construction, as may be found necessary from time to time by the Chief Engineer, Public Works Department (Kosi Project) in the Irrigation Branch of the Bihar Government. These surveys and investigations will comprise aerial and ground surveys, hydraulic, hydrometric, hydrological and geological surveys including construction of drillholes for surface and sub-surface explorations; investigations for communication and for materials of construction; and all other surveys and investigations necessary for the proper design, construction and maintenance of the barrage and all its connected works mentioned under the Project.

(ii) The Government will also authorise and give necessary facilities for investigations of storage or detention dams on the Kosi or its tributaries, soil conservation measures such as Check Dams, afforestation, etc., required for a complete solution of the Kosi Problem in the future.

3. AUTHORITY FOR EXECUTION OF WORKS AND OCCUPATION OF LAND AND OTHER PROPERTY.—(i) The Government will authorise the Union to proceed with the execution of the said project as and when the Project or a part of the Project receives sanction of the said Union and notice has been given by the Union to the Government of its intention to commence work on the Project and shall permit access by the engineer and all other officers, servants and nominees of the Union with such men, animals, vehicles, plants, machinery, equipment and instruments as may be necessary for the direction and execution of the project to all such lands and places and shall permit the occupation, for such period as may be necessary of all

such lands and places as may be required for the proper execution of the Project.

(ii) The land required for the purposes mentioned in Clause 3 (i) above shall be acquired by the Government and compensation therefor shall be paid by the Union in accordance with provisions of clause 8 hereof.

(iii) The Government will authorise officers of the Union to enter on land outside the limits or boundaries of the barrage and its connected works in case of any accident happening or being apprehended to any of the said works and to execute all works which may be necessary for the purpose of repairing or preventing such accident: compensation, in every case, shall be tendered by the Union to the proprietors or the occupiers of the said land for all damages done to the same through the Government in order that compensation may be awarded in accordance with clause 8 hereof.

(iv) The Government will permit the Union to quarry the construction materials required for the project from the various deposits as Chatra Dharan Bazar or other places in Nepal.

4. USE OF WATER AND POWER.—Without prejudice to the right of Government to withdraw for irrigation or any other purpose in Nepal such supplies of water as may be required from time to time, the Union will have the right to regulate all the supplies in the Kosi River at the Barrage site and to generate power at the same site for the purposes of the Project.

(i) The Government shall be entitled to use up to 50 per cent of the hydro-electric power generated at the Barrage site Power House on payment of such tariff rates as may be fixed for the sale of power by the Union in consultation with Government.

5. SOVEREIGNTY AND JURISDICTION.—The Union shall be the owner of all lands acquired by the Government under the provisions of clause 3 hereof which shall be transferred by them to the Union and of all water rights secured to it under clause 4 (i).

Provided that the sovereignty rights and territorial jurisdiction of the Government in respect of such lands shall continue unimpaired by such transfer.

6. ROYALTIES.—(i) The Government will receive royalty in respect of power generated and utilized in the Indian Union at rates to be settled by agreement hereafter.

Provided that no royalty will be paid on the power sold to Nepal.

(ii) The Government shall be entitled to receive payment of royalties from the Union in respect of stone, gravel and ballast obtained from the Nepal territory and used in the construction and future maintenance of the barrage and other connected works at rates to be settled by agreement hereafter.

(iii) The Union shall be at liberty to use and remove clay, sand and soil without lot or hindrance from lands acquired by the Government and transferred to the Union.

(iv) Use of timber from Nepal forests, required for the construction, shall be permitted on payment of compensation. Provided no compensation will be payable to the Government for such quantities of timber as may be decided upon by the Government and the Union to be necessary for use on the spurs or other training works required for the prevention of caving and erosion of the right bank in Nepal.

Provided likewise that no compensation will be payable by the Union for any timber obtained from the forest lands acquired by the Government and transferred to the Union.

7. CUSTOMS DUTIES.—The Government shall charge no customs duty or duty of any kind, during construction and subsequent maintenance, on any articles or materials required for the purpose of the project and the work connected therewith or for the bona fide use of the Union.

8. COMPENSATION FOR LAND AND PROPERTY.—(i) For assessing the compensation to be awarded by the Union to the Government in cash (a) lands required for the execution of the various works as mentioned in clause 3 (ii) and (b) submerged lands, will be divided into the following classes:

1. Cultivated lands.
2. Forest lands.
3. Village lands and houses and other immovable property standing on them.
4. Waste lands.

All lands recorded in the register of lands in the territory of Nepal as actually cultivated shall be deemed to be cultivated lands for the purposes of this clause.

(ii) The Union shall pay compensation (a) to the Government for the loss of land revenue as at the time of acquisition in respect of the area acquired and (b) to whomsoever it may be due for the Project and transferred to the Union.

The assessment of such compensation, and the manner of payment, shall be determined hereafter by mutual agreement between the Government and the Union.

(iii) All lands required for the purposes of the Project shall be jointly measured by the duly authorised officers of the Government and the Union respectively.

9. COMMUNICATIONS.—(i) The Government agrees that the Union may construct and maintain roads, tramways, ropeways etc., required for the project in Nepal and shall provide land for these purposes on payment of compensation as provided in clause 8.

(ii) Subject to the territorial jurisdiction of the Government the ownership and the control of the metalled roads, tramways and railway shall vest in the Union. The roads will be essentially departmental roads of the Irrigation Department of the Union and any concession in regard to their use by commercial and non-commercial vehicles of Nepal shall not be deemed to confer any right of way.

(iii) The Government agrees to permit, on the same terms as for other users, the use of all roads, waterways and other avenues of transport and communications in Nepal for bonafide purposes of the construction and maintenance of the barrage and other connected works.

(iv) The bridge over Hanuman Nagar Barrage will be open to public traffic but the Union shall have the right to close the traffic over the bridge for repairs, etc.

(v) The Government agrees to permit installation of telegraph, telephone and telegraph in the project area to authorised servants of the Government

for business in emergencies provided such use does not in any way interfere with the construction and operation of Projects.

10. **USE OF RIVER CRAFT.**—All navigation rights in the Kosi River in Nepal will rest with the Government. The use of any watercraft like boat launches and timber rafts within two miles of the Barrage and headworks shall not be allowed except by special licence under special permits to be issued by the Executive Engineer, Barrage. Any unauthorised watercraft found within this limit shall be liable to prosecution.

11. **FISHING RIGHTS:**—All the fishing rights in the Kosi river in Nepal except within two miles of the Barrage shall vest in the Government of Nepal. No fishing will be permitted within two miles of the Barrage and Headworks.

12. **USE OF NEPALI LABOUR.**—The Union shall give preference to Nepali labour, personnel and contractors to the extent available and in its opinion suitable for the construction of the project but shall be at liberty to import labour of all classes to the extent necessary.

13. **ADMINISTRATION OF THE PROJECT AREAS IN NEPAL.**—The Union shall carry out inside the project areas in the territory of Nepal functions such as the establishment and administration of schools, hospitals, provision of water-supply and electricity, drainage, tramway lines and other civic amenities.

14. The Government shall be responsible for the maintenance of law and order in the project areas within the territory of Nepal. The Government and Union shall, from time to time consider and make suitable arrangements calculated to achieve the above object.

15. If so desired by the Union, the Government agrees to establish special court or courts in the project area to ensure expeditious disposal of cases arising within the project area. The Union shall bear the cost involved in the establishment of such courts, if the Government so desires.

16. **FUTURE KOSI CONTROL WORKS.**—If further investigations indicate the necessity of storage or detention dams and other soil conservation measures on the Kosi and its tributaries, the Government agree to grant their consent to them on conditions similar to those mentioned herein.

17. **ARBITRATION.**—If any question, differences or objections whatever shall arise in any way, connected with or arising out of this agreement or the meaning or operation of any part thereof or the rights, duties or liabilities of either party, except as to decisions of any such matter as thereinbefore otherwise provided for, every such matter shall be referred for arbitration to two persons—one to be appointed by the Government and the other by the Union—whose decision shall be final and binding, provided that in the event of disagreement between the two arbitrators, they shall refer the matter under dispute for decision to an umpire to be jointly appointed by the two arbitrators before entering on the reference.

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CO-ORDINATION COMMITTEE FOR KOSI PROJECT

Whereas it is considered desirable to establish a forum for discussion of problems of common interest and in order to expedite decisions for the

early completion of the Kosi Project, it is agreed between the Union of India and the Government of Nepal to set up a Co-ordination Committee. The Committee will consist of three representatives from each country to be nominated by the respective Governments. It is further agreed that the Chairman of the Committee will be a Minister of the Government of Nepal and the Secretary will be the Administrator of the Kosi Project. The Committee will consider such matters of common interest concerning the project including land acquisition, rehabilitation of displaced population, maintenance of law and order, soil conservation measures and such other items as may be referred to the Committee for consideration by the Government of Nepal or the Union from time to time.

2. The Committee shall meet as and when necessary at Kathmandu or at the barrage site or such other place as may be necessary at the discretion of the Committee.

3. Travelling allowance for the journeys undertaken by the Committee shall be met by the Union according to normal rates in the Union.

All other expenditure on staff, etc., of the Committee will be met by the Union.

96. AGREEMENT¹ BETWEEN HIS MAJESTY'S GOVERNMENT OF NEPAL AND THE GOVERNMENT OF INDIA ON THE GANDAK IRRIGATION AND POWER PROJECT, SIGNED AT KATHMANDU, DECEMBER 4, 1959²

PREAMBLE

Whereas His Majesty's Government of Nepal and the Government of India consider that it is in the common interests of both Nepal and India to construct a barrage, canal head regulators and other appurtenant works about 100 feet below the existing Tribeni canal head regulator and of taking out canal systems for purposes of irrigation and development of power for Nepal and India (hereinafter referred to as "the Project").

And Whereas in view of the common benefits, His Majesty's Government have agreed to the construction of the said barrage, canal head regulators and other connected works as shown in the Plan annexed to this Agreement to the extent that they lie within the territory of Nepal, by and at the cost of the Government of India.

NOW THE PARTIES AGREE AS FOLLOWS

1. INVESTIGATION AND SURVEYS

His Majesty's Government authorise the Project Officers and other persons acting under the general or special orders of such officers to move in the area indicated in the said Plan with men, material and equipment as may be required for the surveys and investigations in connection with the Project, before, during and after construction, as may be found necessary from time to time. These surveys include ground, aerial, hydraulic, hy-

¹ Came into force upon signature according to article 13 of the Agreement.

² *Nepal, Trade and Information Directory*, New Delhi, 1960-61, p. 113.

drometric, hydrological and geological surveys; investigations for communication and for the alignment of canals and for materials required for the construction and maintenance of the Project.

2. AUTHORITY FOR THE EXECUTION OF WORKS AND THEIR MAINTENANCE

(i) His Majesty's Government authorise the Government of India to proceed with the execution of the Project and for this purpose His Majesty's Government shall acquire all such lands as the Government of India may require and will permit the access to, the movement within and the residence in the area indicated in the Plan of officers and field staff with labour force, draught animals, vehicles, plant, machinery, equipment and instruments as may be necessary for the execution of the Project and for its operation and maintenance after its completion.

(ii) In case of any apprehended danger or accident to any of the structures, the officers of the Government of India will execute all works which may be necessary for repairing the existing works or preventing such accidents and/or danger in the areas indicated in the Plan. If any of such works have to be constructed on lands which do not belong to the Government of India, His Majesty's Government will authorise these works to be executed and acquire such additional lands as may be necessary for the purpose. In all such cases the Government of India shall pay reasonable compensation for the lands so acquired as for damage, if any, arising out of the execution of these works.

3. LAND ACQUISITION

(i) His Majesty's Government will acquire or requisition, as the case may be, all such lands as are required by the Government of India for the Project, *i.e.*, for the purpose of investigation, construction and maintenance of the Project and the Government of India shall pay reasonable compensation for such lands acquired or requisitioned.

(ii) His Majesty's Government shall transfer to the Government of India such lands belonging to His Majesty's Government as are required for the purposes of the Project on payment of reasonable compensation by the Government of India.

(iii) Lands requisitioned under para. (i) shall be held by the Government of India for the duration of the requisition; and lands acquired under sub-clause (i) or transferred under sub-clause (ii) shall vest in the Government of India as proprietor and subject to payment of land revenue (Malpot) at the rates at which it is leviable on agricultural lands in the neighbourhood.

(iv) When such land vesting in the Government of India or any part thereof ceases to be required by the Government of India for the purposes of the Project, the Government of India will reconvey the same to His Majesty's Government free of charge.

4. QUARRYING

His Majesty's Government shall permit the Government of India on payment of reasonable royalty to quarry materials such as block stones, boulders, shingle and sand required for the construction and maintenance of the Project from the areas indicated in the said Plan.

5. COMMUNICATIONS

(i) His Majesty's Government shall allow the Government of India to construct and maintain such portion of the main Western Canal which falls in the Nepal territory and to construct and maintain communications for the construction and maintenance of the Project. The roads will be essentially departmental roads of the Project and their use by commercial and non-commercial vehicles of Nepal will be regulated as mutually agreed upon between His Majesty's Government and Government of India.

(ii) The bridge over the Gandak Barrage will be open to public traffic but the Government of India shall have the right to close the traffic over the bridge for repair, etc.

(iii) The Government of India agree to provide locking arrangements for facility of riverine traffic across the Barrage free from payment of any tolls whatever, provided that this traffic will be regulated by the Project staff in accordance with the rules mutually agreed upon between His Majesty's Government and the Government of India.

(iv) His Majesty's Government agree to permit installations of telegraph, telephone, and radio communications as approximately indicated in the Plan for the bona fide purpose of the construction, maintenance and operation of the Project.

(v) The Government of India shall permit the use of internal telegraph, telephone and radio communications as indicated in the Plan to the authorised servants of His Majesty's Government in emergencies, provided such use does not interfere with the construction, maintenance and operation of the Project.

6. OWNERSHIP, OPERATION AND MAINTENANCE OF WORKS

Subject to the provisions of sub-clause (v) of clause 7, all works connected with the Project in the territory of Nepal will remain the property of and be operated and maintained by the Government of India.

7. IRRIGATION FOR NEPAL

(i) The Government of India shall construct at their own cost the Western Nepal Canal including the distributory system thereof down to a minimum discharge of 20 cusecs for providing flow irrigation in the gross commanded area estimated to be about 40,000 acres.

(ii) The Government of India shall construct the Eastern Nepal Canal from the tail end of the Don Branch Canal up to river Bagmati including the distributory system down to a minimum discharge of 20 cusecs at their own cost for providing flow irrigation in Nepal for the gross commanded area estimated to be 103,500 acres.

(iii) His Majesty's Government shall be responsible for the construction of channels below 20 cusecs capacity for irrigation in Nepal but the Government of India shall contribute such sum of money as they may consider reasonable to meet the cost of construction.

(iv) The Nepal Eastern Canal and the Nepal Western Canal shall be completed, as far as possible, within one year of the completion of the barrage.

(v) The canal systems including the service roads situated in Nepal territory except the main Western Canal, shall be handed over to His Majesty's Government for operation and maintenance at their cost.

8. POWER DEVELOPMENT AND RESERVATION FOR NEPAL

(i) The Government of India agree to construct one Power House with an installed capacity of 15,000 KW in the Nepal territory on the Main Western Canal.

(ii) The Government of India also agree to construct a transmission line from the Power House in Nepal to the Bihar border near Bhaisalotan and from Sagauli to Raxaul in Bihar in order to facilitate supply of power on any point in the Bihar Grid up to and including Raxaul.

(iii) The Government of India shall supply power to His Majesty's Government at the Power House and/or at any point in the Grid up to and including Raxaul to an aggregate maximum of 10,000 KW up to 60% load factor at power factor not below 0.85. The charges for supply at the Power House shall be the actual cost of production, and on any point on the Grid up to Raxaul it shall be the cost of production plus the cost of transmission on such terms and conditions as may be mutually agreed upon.

(iv) His Majesty's Government will be responsible for the construction at their own cost of the transmission and distribution system for supply of power within Nepal from the Power House or from any point on the Grid up to and including Raxaul.

(v) The ownership and management of the Power House shall be transferred to His Majesty's Government on one year's notice in writing given by them to the Government of India after the full load of 10,000 KW at 60% load factor has developed in Nepal from this Power House.

(vi) The ownership of the transmission system constructed by the Government of India at its cost shall remain vested in the Government of India, but, on transfer of the Power House, the Government of India shall continue the arrangements for transmission of power, if so desired by His Majesty's Government, on payment of the cost of transmission, provided that His Majesty's Government shall have the right to purchase the transmission system from the Power House to Bhaisalotan situated in the Nepal territory on payment of the original cost minus depreciation.

(vii) The Government of India shall be free to regulate the flow into or close the Main Western Canal Head Regulator temporarily, if such works are found to be necessary in the interest of the efficient maintenance and operation of the Canal or the Power House, provided that in such situations the Government of India agree to supply the minimum essential power from the Bihar Grid to the extent possible on such terms and conditions as may be mutually agreed upon.

9. PROTECTION OF NEPAL'S RIPARIAN RIGHTS

His Majesty's Government will continue to have the right to withdraw for irrigation or any other purpose from the river or its tributaries in Nepal such supplies of water as may be required by them from time to time and His Majesty's Government agree that they shall not exercise this right in such manner as is likely, in the opinion of the parties hereto, prejudicially to affect the water requirements of the Project as set out in the schedule annexed hereto.

10. PRO RATA REDUCTION OF SUPPLIES DURING PERIOD OF SHORTAGES

Whenever the supply of water available for irrigation falls short of the requirements of the total area under the Project for which irrigation has to

be provided the shortage shall be shared on *pro rata* basis between the Government of India and His Majesty's Government.

11. SOVEREIGNTY AND JURISDICTION

Nothing in this Agreement shall be deemed to derogate from the sovereignty and territorial jurisdiction of His Majesty's Government in respect of lands acquired by His Majesty's Government and made available to the Government of India for investigation, execution and maintenance of the Project.

12. ARBITRATION

(1) Any dispute or difference arising out of or in any way touching or concerning the construction, effect or meaning of this Agreement, or of any matter contained herein or the respective rights and liabilities of the parties hereunder, if not settled by discussion, shall be determined in accordance with the provisions of this clause.

(2) Any of the parties may by notice in writing inform the other party of its intention to refer to arbitration any such dispute or difference mentioned in sub-clause (1); and within 90 days of the delivery of such notice, each of the two parties shall nominate an arbitrator for jointly determining such dispute or difference and the award of the arbitrators shall be binding on the parties.

(3) In case the arbitrators are unable to agree, the parties hereto may consult each other and appoint an Umpire whose award shall be final and binding on them.

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SCHEDULE OF WATER

REQUIREMENTS OF THE GANDAK PROJECT IN CUSECS (Vide clause 9 of the Agreement)

<i>Months</i>	<i>Western Canal system and power house in Nepal</i>	<i>Eastern Canal system and power house in India</i>	<i>Total</i>
January	6,960	4,550	11,500
February	6,100	3,900	10,000
March	5,960	3,690	9,650
April	5,760	4,340	10,100
May	8,270	7,980	16,250
June	11,190	14,000	25,190
July	15,240	13,980	29,220
August	14,980	14,600	28,980
September	14,980	14,000	28,980
October	16,060	14,110	30,170
November	11,070	13,240	24,310
December	10,410	9,290	19,700

India—Pakistan

97. INDO-PAKISTAN AGREEMENT¹ ON EAST PAKISTAN BORDER DISPUTES, SIGNED AT NEW DELHI, ON 23 OCTOBER 1959²

Minister-level Conference on Indo-East Pakistan Border questions. Agreed decisions and procedures to end disputes and incidents along the Indo-East Pakistan border areas.

. . .

7. Use of Common rivers:

The need for evolving some procedures for the purpose of mutual consultations in regard to utilisation of water resources of common rivers was recognised by both sides.

The Indian Delegation assured that India will raise no objection to the development activities in connection with the Karnafuli dam project in East Pakistan on considerations of submergence of some area in India. It was agreed that immediate steps should be taken for the demarcation of that portion of the boundary where some area might be permanently flooded when the Karnafuli dam in East Pakistan is raised to its full height so that the Governments of Pakistan and India can, in the light of the resulting area flooded, discuss how the claims of the Government of India regarding the loss, if any, caused by the flooding of the Indian territory should be settled.

. . .

It was also agreed that the decision of the tribunal shall be by majority and final and binding on both parties.

9. It was agreed that neither country will train its border rivers so as to cut into the territory of the other.

. . .

98. THE INDUS WATERS TREATY³ CONCLUDED BETWEEN INDIA AND PAKISTAN, SIGNED AT KARACHI ON 19th SEPTEMBER 1960⁴

PREAMBLE. The Government of India and the Government of Pakistan, being equally desirous of attaining the most complete and satisfactory utilisation of the waters of the Indus system of rivers and recognising the

¹ Came into force on 23 October, 1959.

² United Nations, *Treaty Series*, vol. 362, p. 4.

³ Ratifications exchanged January 12, 1961. Entered into force upon the exchange of ratifications, and took effect retrospectively from the 1st of April 1960, according to Article 12 (2) of the treaty.

⁴ *The Indian Journal of International law*, vol. 1, October 1960 - January 1961, p. 341.

need, therefore, of fixing and delimiting, in a spirit of goodwill and friendship, the rights and obligations of each in relation to the other concerning the use of these waters and of making provision for the settlement, in a cooperative spirit, of all such questions as may hereafter arise in regard to the interpretation or application of the provisions agreed upon herein, have resolved to conclude a Treaty in furtherance of these objectives, . . .

ARTICLE 1: *Definitions.* As used in this Treaty:

(1) The terms "Article" and "Annexure" mean respectively an Article of, and an Annexure to, this Treaty. Except as otherwise indicated, references to Paragraphs are to the paragraphs in the Article or in the Annexure in which the reference is made.

(2) The term "Tributary" of a river means any surface channel, whether in continuous or intermittent flow and by whatever name called, whose waters in the natural course would fall into that river, e.g. a tributary, a torrent, a natural drainage, an artificial drainage, a *nadi*, a *nallah*, a *nai*, a *khad*, a *cho*. The term also includes any sub-tributary or branch of subsidiary channel, by whatever name called, whose waters, in the natural course, would directly or otherwise flow into that surface channel.

(3) The term "The Indus," "The Jhelum," "The Chenab," "The Ravi," "The Beas" or "The Sutlej" means the named river (including Connecting Lakes, if any) and all its Tributaries: Provided however that

- (i) None of the rivers named above shall be deemed to be a tributary;
- (ii) The Chenab shall be deemed to include the river Panjnad; and
- (iii) The river Chandra and the river Bhaga shall be deemed to be Tributaries of The Chenab.

(4) The term "Main" added after Indus, Jhelum, Chenab, Sutlej, Beas or Ravi means the main stem of the named river excluding its Tributaries, but including all channels and creeks of the main stem of that river and such Connecting Lakes as form part of the main stem itself. The Jhelum Main shall be deemed to extent up to Verinag, and the Chenab Main up to the confluence of the river Chandra and the river Bhaga.

(5) The term "Eastern Rivers" means The Sutlej, The Beas and The Ravi taken together.

(6) The term "Western Rivers" means The Indus, The Jhelum and The Chenab taken together.

(7) The term "the Rivers" means all the rivers, The Sutlej, The Beas, The Ravi, The Indus, The Jhelum and The Chenab.

(8) The term "Connecting Lake" means any lake which receives water from, or yields water to, any of the Rivers; but any lake which occasionally and irregularly receives only the spill of any of the Rivers and returns only the whole or part of that spill is not a Connecting Lake.

(9) The term "Agricultural Use" means the use of water for irrigation, except for irrigation of household gardens and public recreational gardens.

(10) The term "Domestic Use" means the use of water for:

- (a) Drinking, washing, bathing, recreation, sanitation (including the conveyance and dilution of sewage and of industrial and other wastes), stock and poultry, and other like purposes;

- (b) Household and municipal purposes (including use for household gardens and public recreational gardens); and
- (c) Industrial purposes (including mining, milling and other like purposes);

but the term does not include Agricultural Use or use for the generation of hydro-electric power.

(11) The term "Non-Consumptive Use" means any control or use of water for navigation, floating of timber or other property, flood protection or flood control, fishing or fish culture, wild life or other like beneficial purposes, provided that, exclusive of seepage and evaporation of water incidental to the control or use, the water (undiminished in volume within the practical range of measurement) remains in, or is returned to, the same river or its Tributaries; but the term does not include Agricultural Use or use for the generation of hydro-electric power.

(12) The term "Transition Period" means the period beginning and ending as provided in Article II (6).

(13) The term "Bank" means the International Bank for Reconstruction and Development.

(14) The term "Commissioner" means either of the Commissioners appointed under the provisions of Article VIII (1) and the term "Commission" means the Permanent Indus Commission constituted in accordance with Article VIII (3).

(15) The term "interference with the waters" means:

- (a) Any act of withdrawal therefrom; or
- (b) Any man-made obstruction to their flow which causes a change in the volume (within the practical range of measurement) of the daily flow of the waters: Provided however that an obstruction which involves only an insignificant and incidental change in the volume of the daily flow, for example, fluctuations due to afflux caused by bridge piers or a temporary by-pass, etc., shall not be deemed to be an interference with the waters.

(16) The term "Effective Date" means the date on which this Treaty takes effect in accordance with the provisions of Article XII, that is, the first of April 1960.

ARTICLE 2: *Provisions regarding Eastern Rivers*

(1) All the waters of the Eastern Rivers shall be available for the unrestricted use of India, except as otherwise expressly provided in this Article.

(2) Except for Domestic Use and Non-Consumptive Use, Pakistan shall be under an obligation to let flow, and shall not permit any interference with, the waters of the Sutlej Main and the Ravi Main in the reaches where these rivers flow in Pakistan and have not yet finally crossed into Pakistan. The points of final crossing are the following: (a) near the new Hasta Bund upstream of Suleimanke in the case of the Sutlej Main, and (b) about one and a half miles upstream of the syphon for the B-R-B-D Link in the case of the Ravi Main.

(3) Except for Domestic Use, Non-Consumptive Use and Agricultural Use (as specified in Annexure B), Pakistan shall be under an obligation to

let flow, and shall not permit any interference with, the waters (while flowing in Pakistan) of any Tributary which in its natural course joins the Sutlej Main or the Ravi Main before these rivers have finally crossed into Pakistan.

(4) All the waters, while flowing in Pakistan, of any Tributary which, in its natural course, joins the Sutlej Main or the Ravi Main after these rivers have finally crossed into Pakistan shall be available for the unrestricted use of Pakistan: Provided however that this provision shall not be construed as giving Pakistan any claim or right to any releases by India in any such Tributary. If Pakistan should deliver any of the waters of any such Tributary, which on the Effective Date joins the Ravi Main after this river has finally crossed into Pakistan, into a reach of the Ravi Main upstream of this crossing, India shall not make use of these waters; each Party agrees to establish such discharge observation stations and make such observations as may be necessary for the determination of the component of water available for the use of Pakistan on account of the aforesaid deliveries by Pakistan, and Pakistan agrees to meet the cost of establishing the aforesaid discharge observation stations and making the aforesaid observations.

(5) There shall be a Transition Period during which, to the extent specified in Annexure H, India shall

- (i) Limit its withdrawals for Agricultural Use,
- (ii) Limit abstractions for storages, and
- (iii) Make deliveries to Pakistan from the Eastern Rivers.

(6) The Transition Period shall begin on 1st April 1960 and it shall end on 31st March 1970, or, if extended under the provisions of Part 8 of Annexure H, on the date up to which it has been extended. In any event, whether or not the replacement referred to in Article IV (1) has been accomplished, the Transition Period shall end not later than 31st March 1973.

(7) If the Transition Period is extended beyond 31st March 1970, the provisions of Article V (5) shall apply.

(8) If the Transition Period is extended beyond 31st March 1970, the provisions of Paragraph (5) shall apply during the period of extension beyond 31st March 1970.

(9) During the Transition Period, Pakistan shall receive for unrestricted use the waters of the Eastern Rivers which are to be released by India in accordance with the provisions of Annexure H. After the end of the Transition Period, Pakistan shall have no claim or right to releases by India of any of the waters of the Eastern Rivers. In case there are any releases, Pakistan shall enjoy the unrestricted use of the waters so released after they have finally crossed into Pakistan: Provided that in the event that Pakistan makes any use of these waters, Pakistan shall not acquire any right whatsoever, by prescription or otherwise, to a continuance of such releases or such use.

ARTICLE 3: *Provisions regarding Western Rivers*

(1) Pakistan shall receive for unrestricted use all those waters of the Western Rivers which India is under obligation to let flow under the provisions of Paragraph (2).

(2) India shall be under an obligation to let flow all the waters of the

Western Rivers, and shall not permit any interference with these waters, except for the following uses, restricted (except as provided in item (c) (ii) of Paragraph 5 of Annexure C) in the case of each of the rivers, The Indus, The Jhelum and the Chenab, to the drainage basin thereof:

- (a) Domestic Use;
- (b) Non-Consumptive Use;
- (c) Agricultural Use, as set out in Annexure C; and
- (d) Generation of hydro-electric power, as set out in Annexure D.

(3) Pakistan shall have the unrestricted use of all waters originating from sources other than the Eastern Rivers which are delivered by Pakistan into The Ravi or The Sutlej, and India shall not make use of these waters. Each Party agrees to establish such discharge observation stations and make such observations as may be considered necessary by the Commission for the determination of the component of water available for the use of Pakistan on account of the aforesaid deliveries by Pakistan.

(4) Except as provided in Annexures D and E, India shall not store water of, or construct any storage works on, the Western Rivers.

ARTICLE 4: *Provisions regarding Eastern Rivers and Western Rivers*

(1) Pakistan shall use its best endeavours to construct and bring into operation, with due regard to expedition and economy, that part of a system of works which will accomplish the replacement, from the Western Rivers and other sources, of water supplies for irrigation canals in Pakistan which, on 15th August 1947, were dependent on water supplies from the Eastern Rivers.

(2) Each Party agrees that any Non-Consumptive Use made by it shall be so made as not to materially change, on account of such use, the flow in any channel to the prejudice of the uses on that channel by the other Party under the provisions of this Treaty. In executing any scheme of flood protection or flood control each Party will avoid, as far as practicable, any material damage to the other Party, and any such scheme carried out by India on the Western Rivers shall not involve any use of water or any storage in addition to that provided under Article III.

(3) Nothing in this Treaty shall be construed as having the effect of preventing either Party from undertaking schemes of drainage, river training, conservation of soil against erosion and dredging, or from removal of stones, gravel or sand from the beds of the Rivers: Provided that

- (a) In executing any of the schemes mentioned above, each Party will avoid, as far as practicable, any material damage to the other Party;
- (b) Any such scheme carried out by India on the Western Rivers shall not involve any use of water or any storage in addition to that provided under Article III;
- (c) Except as provided in Paragraph (5) and Article VII (1) (b), India shall not take any action to increase the catchment area, beyond the area on the Effective Date, of any natural or artificial drainage or drain which crosses into Pakistan, and shall not undertake such construction or remodelling of any drainage or drain which so crosses or falls into a drainage or drain as might cause material damage in Pakistan or entail the construction of a new drain

- or enlargement of an existing drainage or drain in Pakistan; and
- (d) Should Pakistan desire to increase the catchment area, beyond the area on the Effective Date, of any natural or artificial drainage or drain, which receives drainage waters from India, or except in an emergency, to pour any waters into it in excess of the quantities received by it as on the Effective Date, Pakistan shall, before undertaking any work for these purposes, increase the capacity of that drainage or drain to the extent necessary so as not to impair its efficacy for dealing with drainage waters received from India as on the Effective Date.
- (4) Pakistan shall maintain in good order its portions of the drainages mentioned below with capacities not less than the capacities as on the Effective Date:
- (i) Hudiyara Drain
 - (ii) Kasur Nala
 - (iii) Salimshah Drain
 - (iv) Fazilka Drain.
- (5) If India finds it necessary that any of the drainages mentioned in Paragraph (4) should be deepened or widened in Pakistan, Pakistan agrees to undertake to do so as a work of public interest, provided India agrees to pay the cost of the deepening or widening.
- (6) Each Party will use its best endeavours to maintain the natural channels of the Rivers, as on the Effective Date, in such condition as will avoid, as far as practicable, any obstruction to the flow in these channels likely to cause material damage to the other Party.
- (7) Neither Party will take any action which would have the effect of diverting the Ravi Main between Madhopur and Lahore, or the Sutlej Main between Harike and Sulcimanke, from its natural channel between high banks.
- (8) The use of the natural channels of the Rivers for the discharge of flood or other excess waters shall be free and not subject to limitation by either Party, and neither Party shall have any claim against the other in respect of any damage caused by such use. Each Party agrees to communicate to the other Party, as far in advance as practicable, any information it may have in regard to such extraordinary discharges of water from reservoirs and flood flows as may affect the other Party.
- (9) Each Party declares its intention to operate its storage dams, barrages and irrigation canals in such manner, consistent with the normal operations of its hydraulic systems, as to avoid, as far as feasible, material damage to the other Party.
- (10) Each Party declares its intention to prevent, as far as practicable, undue pollution of the waters of the Rivers which might affect adversely uses similar in nature to those to which the waters were put on the Effective Date, and agrees to take all reasonable measures to ensure that, before any sewage or industrial waste is allowed to flow into the Rivers, it will be treated, where necessary, in such manner as not materially to affect those uses: Provided that the criterion of reasonableness shall be the customary practice in similar situations on the Rivers.

(11) The Parties agree to adopt, as far as feasible, appropriate measures for the recovery, and restoration to owners, of timber and other property floated or floating down the Rivers, subject to appropriate charges being paid by the owners.

(12) The use of water for industrial purposes under Articles II (2), II (3), and III (2) shall not exceed:

- (a) In the case of an industrial process known on the Effective Date, such quantum of use as was customary in that process on the Effective Date;
- (b) In the case of an industrial process not known on the Effective Date:
 - (i) Such quantum of use as was customary on the Effective Date in similar or in any way comparable industrial processes; or
 - (ii) If there was no industrial process on the Effective Date similar or in any way comparable to the new process, such quantum of use as would not have a substantially adverse effect on the other Party.

(13) Such part of any water withdrawn for Domestic Use under the provisions of Articles II (3) and III (2) as is subsequently applied to Agricultural Use shall be accounted for as part of the Agricultural Use specified in Annexure B and Annexure C respectively; each Party will use its best endeavours to return to the same river (directly or through one of its Tributaries) all water withdrawn therefrom for industrial purposes and not consumed either in the industrial processes for which it was withdrawn or in some other Domestic Use.

(14) In the event that either Party should develop a use of the waters of the Rivers which is not in accordance with the provisions of this Treaty, that Party shall not acquire by reason of such use any right, by prescription or otherwise, to a continuance of such use.

(15) Except as otherwise required by the express provisions of this Treaty, nothing in this Treaty shall be construed as affecting existing territorial rights over the waters of any of the Rivers or the beds or banks thereof, or as affecting existing property rights under municipal law over such waters or beds or banks.

ARTICLE 5: *Financial provisions*

(1) In consideration of the fact that the purpose of part of the system of works referred to in Article IV (1) is the replacement, from the Western Rivers and other sources, of water supplies for irrigation canals in Pakistan which, on 15th August 1947, were dependent on water supplies from the Eastern Rivers, India agrees to make a fixed contribution of Pounds Sterling 62,060,000 towards the costs of these works. The amount in Pounds Sterling of this contribution shall remain unchanged irrespective of any alteration in the par value of any currency.

(2) The sum of Pounds Sterling 62,060,000 specified in Paragraph (1) shall be paid in ten equal annual instalments on the 1st of November of each year. The first of such annual instalments shall be paid on 1st November 1960, or if the Treaty has not entered into force by that date, then within one month after the Treaty enters into force.

(3) Each of the instalments specified in Paragraph (2) shall be paid to the Bank for the credit of the Indus Basin Development Fund to be established and administered by the Bank, and payment shall be made in Pounds Sterling, or in such other currency or currencies as may from time to time be agreed between India and the Bank.

(4) The payments provided for under the provisions of Paragraph (3) shall be made without deduction or set-off on account of any financial claims of India on Pakistan arising otherwise than under the provisions of this Treaty: Provided that this provision shall in no way absolve Pakistan from the necessity of paying in other ways debts to India which may be outstanding against Pakistan.

(5) If, at the request of Pakistan, the Transition Period is extended in accordance with the provisions of Article II (6) and of Part 8 of Annexure H, the Bank shall there upon pay to India out of the Indus Basin Development Fund the appropriate amount specified in the Table below:

<i>Period of aggregate extension of transition period</i>	<i>Payment to India</i>
	£ Stg.
One year	3,125,000
Two years	6,406,250
Three years	9,850,000

(6) The provisions of Article IV (1) and Article V (1) shall not be construed as conferring upon India any right to participate in the decisions as to the system of works which Pakistan constructs pursuant to Article IV (1) or as constituting an assumption of any responsibility by India or as an agreement by India in regard to such works.

(7) Except for such payments as are specifically provided for in this Treaty, neither Party shall be entitled to claim any payment for observance of the provisions of this Treaty or to make any charge for water received from it by the other Party.

ARTICLE 6: *Exchange of data*

(1) The following data with respect to the flow in, and utilisation of the waters, of the Rivers shall be exchanged regularly between the Parties:

- (a) Daily (or as observed or estimated less frequently) gauge and discharge data relating to flow of the Rivers at all observation sites.
- (b) Daily extractions for or releases from reservoirs.
- (c) Daily withdrawals at the heads of all canals operated by government or by a government agency (hereinafter in this Article called canals), including link canals.
- (d) Daily escapages from all canals, including link canals.
- (e) Daily deliveries from link canals.

These data shall be transmitted monthly by each Party to the other as soon as the data for a calendar month have been collected and tabulated, but not later than three months after the end of the month to which they relate: Provided that such of the data specified above as are considered by either Party to be necessary for operational purposes shall be supplied daily or at

less frequent intervals, as may be requested. Should one Party request the supply of any of these data by telegram, telephone, or wireless, it shall reimburse the other Party for the cost of transmission.

(2) If, in addition to the data specified in Paragraph (1) of this Article, either Party requests the supply of any data relating to the hydrology of the Rivers, or to canal or reservoir operation connected with the Rivers, or to any provision of this Treaty, such data shall be supplied by the other Party to the extent that these are available.

ARTICLE VII: *Future co-operation*

(1) The two Parties recognize that they have a common interest in the optimum development of the Rivers, and, to that end, they declare their intention to co-operate, by mutual agreement, to the fullest possible extent. In particular:

- (a) Each Party, to the extent it considers practicable and on agreement by the other Party to pay the costs to be incurred, will, at the request of the other Party, set up or install such hydrologic observation stations within the drainage basins of the Rivers, and set up or install such meteorological observation stations relating thereto and carry out such observations thereat, as may be requested, and will supply the data so obtained.
- (b) Each Party, to the extent it considers practicable and on agreement by the other Party to pay the costs to be incurred, will, at the request of the other Party, carry out such new drainage works as may be required in connection with new drainage works of the other Party.
- (c) At the request of either Party, the two Parties may, by mutual agreement, co-operate in undertaking engineering works on the Rivers.

The formal arrangements, in each case, shall be as agreed upon between the Parties.

(2) If either Party plans to construct any engineering work which would cause interference with the waters of any of the Rivers and which, in its opinion, would affect the other Party materially, it shall notify the other Party of its plans and shall supply such data relating to the work as may be available and as would enable the other Party to inform itself of the nature, magnitude and effect of the work. If a work would cause interference with the waters of any of the Rivers but would not, in the opinion of the Party planning it, affect the other Party materially, nevertheless the Party planning the work shall, on request, supply the other Party with such data regarding the nature, magnitude and effect, if any, of the work as may be available.

ARTICLE VIII: *Permanent Indus Commission*

(1) India and Pakistan shall each create a permanent post of Commissioner for Indus Waters, and shall appoint to this post, as often as a vacancy occurs, a person who should ordinarily be a high-ranking engineer competent in the field of hydrology and water-use. Unless either Government should decide to take up any particular question directly with the other Government, each Commissioner will be the representative of his Government for

all matters arising out of this Treaty, and will serve as the regular channel of communication on all matters relating to the implementation of the Treaty, and, in particular, with respect to

- (a) The furnishing or exchange of information or data provided for in the Treaty; and
 - (b) The giving of any notice or response to any notice provided for in the Treaty.
- (2) The status of each Commissioner and his duties and responsibilities towards his Government will be determined by that Government.
 - (3) The two Commissioners shall together form the Permanent Indus Commission.
 - (4) The purpose and functions of the Commission shall be to establish and maintain co-operative arrangements for the implementation of this Treaty, to promote co-operation between the Parties in the development of the waters of the Rivers and, in particular,
 - (a) To study and report to the two Governments on any problem relating to the development of the waters of the Rivers which may be jointly referred to the Commission by the Two Governments: in the event that a reference is made by one Government alone, the Commissioner of the other Government shall obtain the authorization of his Government before he proceeds to act on the reference;
 - (b) To make every effort to settle promptly, in accordance with the provisions of Article IX (1), any question arising thereunder;
 - (c) To undertake, once in every five years, a general tour of inspection of the Rivers for ascertaining the facts connected with various developments and works on the Rivers;
 - (d) To undertake promptly, at the request of either Commissioner, a tour of inspection of such works or sites on the Rivers as may be considered necessary by him for ascertaining the facts connected with those works or sites; and
 - (e) To take, during the Transition Period, such steps as may be necessary for the implementation of the provisions of Annexure H.
 - (5) The Commission shall meet regularly at least once a year, alternately in India and Pakistan. This regular annual meeting shall be held in November or in such other month as may be agreed upon between the Commissioners. The Commission shall also meet when requested by either Commissioner.
 - (6) To enable the Commissioners to perform their functions in the Commission, each Government agrees to accord to the Commissioner of the other Government the same privileges and immunities as are accorded to representatives of member States to the principal and subsidiary organs of the United Nations under Sections 11, 12 and 13 of Article IV of the Convention on the Privileges and Immunities of the United Nations (dated 13th February, 1946) during the periods specified in those Sections. It is understood and agreed that these privileges and immunities are accorded to the Commissioners not for the personal benefit of the individuals themselves but in order to safeguard the independent exercise of their functions in connection with the Commission; consequently, the Government appointing the Commissioner not only has the right but is under a duty to waive the immunity of its Commissioner in any case where, in the opinion of the

appointing Government, the immunity would impede the course of justice and can be waived without prejudice to the purpose for which the immunity is accorded.

(7) For the purposes of the inspections specified in Paragraph (4) (c) and (d), each Commissioner may be accompanied by two advisers or assistants to whom appropriate facilities will be accorded.

(8) The Commission shall submit to the Government of India and to the Government of Pakistan, before the first of June of every year, a report on its work for the year ended on the preceding 31st of March, and may submit to the two Governments other reports at such times as it may think desirable.

(9) Each Government shall bear the expenses of its Commissioner and his ordinary staff. The cost of any special staff required in connection with the work mentioned in Article VII (1) shall be borne as provided therein.

(10) The Commission shall determine its own procedures.

ARTICLE 9: *Settlement of differences and disputes*

(1) Any question which arises between the Parties concerning the interpretation or application of this Treaty or the existence of any fact which, if established, might constitute a breach of this Treaty shall first be examined by the Commission, which will endeavour to resolve the question by agreement.

(2) If the Commission does not reach agreement on any of the questions mentioned in Paragraph (1), then a difference will be deemed to have arisen, which shall be dealt with as follows:

(a) Any difference which, in the opinion of either Commissioner, falls within the provisions of Part 1 of Annexure F shall, at the request of either Commissioner, be dealt with by a Neutral Expert in accordance with the provisions of Part 2 of Annexure F;

(b) If the difference does not come within the provisions of Paragraph (2) (a), or if a Neutral Expert, in accordance with the provisions of Paragraph 7 of Annexure F, has informed the Commission that, in his opinion, the difference, or a part thereof, should be treated as a dispute, then a dispute will be deemed to have arisen which shall be settled in accordance with the provisions of Paragraphs (3), (4) and (5):

Provided that, at the discretion of the Commission, any difference may either be dealt with by a Neutral Expert in accordance with the provisions of Part 2 of Annexure F or be deemed to be a dispute to be settled in accordance with the provisions of Paragraphs (3), (4) and (5), or may be settled in any other way agreed upon by the Commission.

(3) As soon as a dispute to be settled in accordance with this and the succeeding paragraphs of this Article has arisen, the Commission shall, at the request of either Commissioner, report the fact to the two Governments, as early as practicable, stating in its report the points on which the Commission is in agreement and the issues in dispute, the views of each Commissioner on these issues and his reasons therefor.

(4) Either Government may, following receipt of the report referred to in Paragraph (3), or if it comes to the conclusion that this report is being unduly delayed in the Commission, invite the other Government to resolve

the dispute by agreement. In doing so it shall state the names of its negotiators and their readiness to meet with the negotiators to be appointed by the other Government at a time and place to be indicated by the other Government. To assist in these negotiations, the two Governments may agree to enlist the services of one or more mediators acceptable to them.

(5) A Court of Arbitration shall be established to resolve the dispute in the manner provided by Annexure G

- (a) Upon agreement between the Parties to do so; or
- (b) At the request of either Party, if, after negotiations have begun pursuant to Paragraph (4), in its opinion the dispute is not likely to be resolved by negotiation or mediation; or
- (c) At the request of either Party, if, after the expiry of one month following receipt by the other Government of the invitation referred to in Paragraph (4), that Party comes to the conclusion that the other Government is unduly delaying the negotiations.

(6) The provisions of Paragraphs (3), (4) and (5) shall not apply to any difference while it is being dealt with by a Neutral Expert.

ARTICLE 10: *Emergency provision.* If, at any time prior to 31st March 1965, Pakistan should represent to the Bank that, because of the outbreak of large-scale international hostilities arising out of causes beyond the control of Pakistan, it is unable to obtain from abroad the materials and equipment necessary for the completion, by 31st March 1973, of that part of the system of works referred to in Article IV (1) which relates to the replacement referred to therein (hereinafter referred to as the "replacement element"), and if, after consideration of this representation in consultation with India, the Bank is of the opinion that

- (a) These hostilities are on a scale of which the consequence is that Pakistan is unable to obtain in time such materials and equipment as must be procured from abroad for the completion, by 31st March 1973, of the replacement element, and
- (b) Since the Effective Date, Pakistan has taken all reasonable steps to obtain the said materials and equipment and, with such resources of materials and equipment as have been available to Pakistan both from within Pakistan and from abroad, has carried forward the construction of the replacement element with due diligence and all reasonable expedition,

the Bank shall immediately notify each of the Parties accordingly. The Parties undertake, without prejudice to the provisions of Article XII (3) and (4), that, on being so notified, they will forthwith consult together and enlist the good offices of the Bank in their consultation, with a view to reaching mutual agreement as to whether or not, in the light of all the circumstances then prevailing, any modifications of the provisions of this Treaty are appropriate and advisable and, if so, the nature and the extent of the modifications.

ARTICLE 11: *General provisions*

- (1) It is expressly understood that
- (a) This Treaty governs the rights and obligations of each Party in

relation to the other with respect only to the use of the waters of the Rivers and matters incidental thereto; and

- (b) Nothing contained in this Treaty, and nothing arising out of the execution thereof, shall be construed as constituting a recognition or waiver (whether tacit, by implication or otherwise) of any rights or claims whatsoever of either of the Parties other than those rights or claims which are expressly recognized or waived in this Treaty.

Each of the Parties agrees that it will not invoke this Treaty, anything contained therein, or anything arising out of the execution thereof, in support of any of its own rights or claims whatsoever or in disputing any of the rights or claims whatsoever of the other Party, other than those rights or claims which are expressly recognized or waived in this Treaty.

(2) Nothing in this Treaty shall be construed by the Parties as in any way establishing any general principle of law or any precedent.

(3) The rights and obligations of each Party under this Treaty shall remain unaffected by any provisions contained in, or by anything arising out of the execution of, any agreement establishing the Indus Basin Development Fund.

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ANNEXURE A

EXCHANGE OF NOTES BETWEEN THE GOVERNMENT OF INDIA AND THE GOVERNMENT OF PAKISTAN

- I. *Note dated 19th September 1960, from the High Commissioner for India in Pakistan, Karachi, to the Minister for Foreign Affairs and Commonwealth Relations, Government of Pakistan*

19th September, 1960

Excellency:

I have been instructed by my Government to communicate to you the following:

“The Government of India agrees that, on the ratification of the Indus Waters Treaty 1960, the Inter-Dominion Agreement on the Canal Water Dispute signed at New Delhi on 4th May 1948 (of which a copy is annexed hereto) and the rights and obligations of either party thereto claimed under, or arising out of, that Agreement shall be without effect as from 1st April 1960.

“The position of the Government of India stated above and Your Excellency’s Note of to-day’s date stating the position of the Government of Pakistan on this question will form part of Annexure A to the Indus Waters Treaty 1960.”

II. *Note dated 19th September 1960, from the Minister for Foreign Affairs and Commonwealth Relations, Government of Pakistan, to the High Commissioner for India in Pakistan, Karachi*

19th September 1960

Excellency:

I have been instructed by my Government to communicate to you the following:

“The Government of Pakistan agrees that, on the ratification of the Indus Waters Treaty 1960, the document on the Canal Water Dispute signed at New Delhi on 4th May 1948 (of which a copy is annexed hereto) and the rights and obligations of either party thereto claimed under, or arising out of, that document shall be without effect as from 1st April 1960.

“The position of the Government of Pakistan stated above and Your Excellency’s Note of to-day’s date stating the position of the Government of India on this question will form part of Annexure A to the Indus Waters Treaty 1960.”

ANNEXURE B

AGRICULTURAL USE BY PAKISTAN FROM CERTAIN TRIBUTARIES OF THE RAVI

(ARTICLE II (3))

1. The provisions of this Annexure shall apply with respect to the Agricultural Use by Pakistan from certain Tributaries of the Ravi under the provisions of Article II (3) and, subject to the provisions of this Annexure, such use shall be unrestricted.

2. Pakistan may withdraw from the Basantar Tributary of the Ravi such waters as may be available and necessary for the irrigation of not more than 100 acres annually.

3. In addition to the area specified in Paragraph 2, Pakistan may also withdraw such waters from each of the following Tributaries of the Ravi as may be available and as may be necessary for the irrigation of that part of the following areas cultivated on *sailab* as on the Effective Date which cannot be so cultivated after that date: Provided that the total area whether irrigated or cultivated on *sailab* shall not exceed the limits specified below, except during a year of exceptionally heavy floods when *sailab* may extend to areas which were not cultivated on *sailab* as on the Effective Date and when such areas may be cultivated in addition to the limits specified:

<i>Name of Tributary</i>	<i>Maximum Annual Cultivation (acres)</i>
Basantar	14,000
Bein	26,600
Tarnah	1,800
Ujh	3,000

4. The provisions of Paragraphs 2 and 3 shall not be construed as giving Pakistan any claim or right to any releases by India in the Tributaries mentioned in these paragraphs.

5. Not later than 31st March 1961, Pakistan shall furnish to India a statement by Districts and Tehsils showing (i) the area irrigated and

(ii) the area cultivated on *sailab*, as on the Effective Date, from the waters of each of the Tributaries specified in Paragraphs 2 and 3.

6. As soon as the statistics for each crop year (commencing with the beginning of *kharif* and ending with the end of the following *rabi*) have been compiled at the District Headquarters, but not later than the 30th November following the end of that crop year, Pakistan shall furnish to India a statement arranged by Tributaries and showing for each of the Districts and Tehsils irrigated or cultivated on *sailab* from the Tributaries mentioned in Paragraphs 2 and 3:

- (i) the area irrigated, and
- (ii) The area cultivated on *sailab*.

ANNEXURE C

AGRICULTURAL USE BY INDIA FROM THE WESTERN RIVERS

(ARTICLE III (2)(c))

1. The provisions of this Annexure shall apply with respect to the Agricultural Use by India from the Western Rivers under the provisions of Article III (2)(c) and, subject to the provisions of this Annexure, such use shall be unrestricted.

2. As used in this Annexure, the term "Irrigated Cropped Area" means the total area under irrigated crops in a year, the same area being counted twice if it bears different crops in *kharif* and *rabi*. The term shall be deemed to exclude small blocks of *ghair mumkin* lands in an irrigated field, lands on which cultivation is dependent on rain or snow and to which no irrigation water is applied, areas naturally inundated by river flow and cultivated on *sailab* thereafter, any area under floating gardens or *demb* lands in and along any lakes, and any area under waterplants growing within the water-spread of any lake or in standing water in a natural depression.

3. India may withdraw from the Chanab Main such waters as India may need for Agricultural Use on the following canals limited to the maximum withdrawals noted against each:

<i>Name of Canal</i>	<i>Maximum Withdrawals for Agricultural Use</i>
(a) Ranbir Canal	1,000 cusecs from 15th April to 14th October, and 350 cusecs from 15th October to 14th April
(b) Pratap Canal	400 cusecs from 15th April to 14th October, and 100 cusecs from 15th October to 14th April.

Provided that:

- (i) The maximum withdrawals shown above shall be exclusive of any withdrawals which may be made through these canals for purposes of silt extraction on condition that the waters withdrawn for silt extraction are returned to the Chenab.
- (ii) India may make additional withdrawals through the Ranbir Canal up to 250 cusecs for hydro-electric generation on condition that the waters so withdrawn are returned to the Chenab.

- (iii) If India should construct a barrage across the Chenab Main below the head regulators of these two canals, the withdrawals to be then made, limited to the amounts specified in (a) and (b) above, during each 10-day period or sub-period thereof, shall be as determined by the Commission in accordance with sound irrigation practice and, in the absence of agreement between the Commissioners, by a Neutral Expert in accordance with the provisions of Annexure F.

4. Apart from the irrigation from the Ranbir and Pratap Canals under the provisions of Paragraph 3, India may continue to irrigate from the Western Rivers those areas which were so irrigated as on the Effective Date.

5. In addition to such withdrawals as may be made in accordance with the provisions of Paragraphs 3 and 4, India may, subject to the provisions of Paragraphs 6, 7, 8 and 9, make further withdrawals from the Western Rivers to the extent India may consider necessary to meet the irrigation needs of the areas specified below:

<i>Particulars</i>	<i>Maximum Irrigated Cropped Area (over and above the cropped area irrigated under the provisions of Paragraphs 3 and 4) (acres)</i>
(a) From the Indus, in its drainage basin	70,000
(b) From the Jhelum, in its drainage basin	400,000
(c) From the Chenab,	
(i) In its drainage basin	225,000 of which not more than 100,000 acres will be in the Jammu District.
(ii) Outside its drainage basin in the area west of the Deg Nadi (also called Devak River), the aggregate capacity of irrigating channels leading out of the drainage basin of the Chenab to this area not to exceed 120 cusecs	6,000

Provided that

- (i) In addition to the maximum Irrigated Cropped Area specified above, India may irrigate road-side trees from any source whatever;
- (ii) The maximum Irrigated Cropped Area shown against items (a), (b) and (c)(i) above shall be deemed to include cropped areas, if any, irrigated from an open well, a tube-well, a spring, a lake (other than a Connecting Lake) or a tank, in excess of the areas so irrigated as on the Effective Date; and
- (iii) The aggregate of the areas specified against items (a), (b) and (c)(i) above may be re-distributed among the three drainage basins in such manner as may be agreed upon between the Commissioners.

6. (a) Within the limits of the maximum Irrigated Cropped Areas specified against items (b) and (c)(i) in Paragraph 5, there shall be no restriction on the development of such of these areas as may be irrigated

from an open well, a tube-well, a spring, a lake (other than a Connecting Lake) or a tank.

(b) Within the limits of the maximum Irrigated Cropped Areas specified against items (b) and (c) in Paragraph 5, there shall be no restriction on the development of such of these areas as may be irrigated from General Storage (as defined in Annexure E): the areas irrigated from General Storage may, however, receive irrigation from river flow also; but, unless the Commissioners otherwise agree, only in the following periods:

(i) From the Jhelum: 21st June to 20th August;

(ii) From the Chenab: 21st June to 31st August:

Provided that withdrawals for such irrigation, whether from General Storage or from river flow, are controlled by Government.

7. Within the limits of the maximum Irrigated Cropped Areas specified against items (b) and (c) in Paragraph 5, the development of these areas by withdrawals from river flow (as distinct from withdrawals from General Storage *cum* river flow in accordance with Paragraph 6 (b)) shall be regulated as follows:

(a) Until India can release water from Conservation Storage (as defined in Annexure E) in accordance with sub-paragraphs (b) and (c) below, the new area developed shall not exceed the following:

(i) From the Jhelum, 150,000 acres,

(ii) From the Chenab, 25,000 acres during the Transition Period and 50,000 acres after the end of the Transition Period.

(b) In addition to the areas specified in (a) above, there may be developed from the Jhelum or the Chenab an aggregate area of 150,000 acres if there is re-released annually from Conservation Storage, in accordance with Paragraph 8, a volume of 0.2 MAF into the Jhelum and a volume of 0.1 MAF into the Chenab; provided that India shall have the option to store on and release into the Chenab the whole or a part of the volume of 0.2 MAF specified above for release into the Jhelum.

(c) Any additional areas over and above those specified in (a) and (b) above may be developed if there is released annually from Conservation Storage a volume of 0.2 MAF into the Jhelum or the Chenab, in accordance with Paragraph 8, in addition to the releases specified in (b) above.

8. The releases from Conservation Storage, as specified in Paragraphs 7(b) and 7(c), shall be made in accordance with a schedule to be determined by the Commission which shall keep in view, first, the effect, if any, on Agricultural Use by Pakistan consequent on the reduction in supplies available to Pakistan as a result of the withdrawals made by India under the provisions of Paragraph 7 and, then, the requirements, if any, of hydro-electric power to be developed by India from these releases. In the absence of agreement between the Commissioners, the matter may be referred under the provisions of Article IX (2)(a) for decision to a Neutral Expert.

9. On those Tributaries of the Jhelum on which there is any Agricultural Use or hydro-electric use by Pakistan, any new Agricultural Use by India shall be so made as not to affect adversely the then existing Agricultural Use or Hydro-electric use by Pakistan on those Tributaries.

10. Not later than 31st March 1961, India shall furnish to Pakistan a statement showing, for each of the Districts and Tehsils irrigated from the Western Rivers, the Irrigated Cropped Area as on the Effective Date (excluding only the area irrigated under the provisions of Paragraph 3), arranged in accordance with items (a), (b) and (c) (i) of Paragraph 5: Provided that, in the case of areas in the Punjab, the date may be extended to 30th September 1961.

11. (a) As soon as the statistics for each crop year (commencing with the beginning of *khariif* and ending with the end of the following *rabi*) have been compiled at the District Headquarters, but not later than the 30th November following the end of that crop year, India shall furnish to Pakistan a statement showing for each of the Districts and Tehsils irrigated from the Western Rivers, the total Irrigated Cropped Areas (excluding the area irrigated under the provisions of Paragraph 3) arranged in accordance with items (a), (b), (c) (ii) of paragraph 5: Provided that, in the case of areas in the Punjab, the 30th November date specified above may be extended to the following 30th June in the event of failure of communications.

(b) If the limits specified in Paragraph 7 (a) or 7 (b) are exceeded for any crop year, the statement shall also show the figures for Irrigated Cropped Areas falling under Paragraph 6 (a) and 6 (b) respectively, unless appropriate releases from Conservation Storage under the provisions of Paragraph 8 have already begun to be made.

ANNEXURE D

GENERATION OF HYDRO-ELECTRIC POWER BY INDIA ON THE WESTERN RIVERS

(ARTICLE III (2) (d))

1. The provisions of this Annexure shall apply with respect to the use by India of the waters of the Western Rivers for the generation of hydro-electric power under the provisions of Article III (2) (d) and, subject to the provisions of this Annexure, such use shall be unrestricted: Provided that the design, construction and operation of new hydro-electric plants which are incorporated in a Storage Work (as defined in Annexure E) shall be governed by the relevant provisions of Annexure E.

Part 1—Definitions

2. As used in this Annexure:

- (a) "Dead Storage" means that portion of the storage which is not used for operational purposes and "Dead Storage Level" means the level corresponding to Dead Storage.
- (b) "Live Storage" means all storage above Dead Storage.
- (c) "Pondage" means Live Storage of only sufficient magnitude to meet fluctuation in the discharge of the turbines arising from variations in the daily and the weekly loads of the plant.
- (d) "Full Pondage Level" means the level corresponding to the maximum Pondage provided in the design in accordance with Paragraph 8(c).

- (e) "Surcharge Storage" means uncontrollable storage occupying space above the Full Pondage Level.
- (f) "Operating Pool" means the storage capacity between Dead Storage level and Full Pondage Level.
- (g) "Run-of-River Plant" means a hydro-electric plant that develops power without Live Storage as an integral part of the plant, except for Pondage and Surcharge Storage.
- (h) "Regulating Basin" means the basin whose only purpose is to even out fluctuations in the discharge from the turbines arising from variations in the daily and the weekly loads of the plant.
- (i) "Firm Power" means the hydro-electric power corresponding to the minimum mean discharge at the site of a plant, the minimum mean discharge being calculated as follows:
 The average discharge for each 10-day period (1st to 10th, 11th to 20th and 21st to the end of the month) will be worked out for each year for which discharge data, whether observed or estimated, are proposed to be studied for purposes of design. The mean of the yearly values for each 10-day period will then be worked out. The lowest of the mean values thus obtained will be taken as the minimum mean discharge. The studies will be based on data for as long a period as available but may be limited to the latest 5 years in the case of Small Plants (as defined in Paragraph 18)-and to the latest 25 years in the case of other Plants (as defined in Paragraph 8).
- (j) "Secondary Power" means the power, other than Firm Power, available only during certain periods of the year.

Part 2—Hydro-Electric Plants in Operation, or under Construction, as on the Effective Date

3. There shall be no restriction on the operation of the following hydro-electric plants which were in operation as on the Effective Date:

<i>Name of Plant</i>	<i>Capacity (exclusive of standby units) (kilowatts)</i>
(i) Pahalgam	186
(ii) Bandipura	30
(iii) Dachhigam	40
(iv) Ranbir Canal	1,200
(v) Udhampur	640
(vi) Poonch	160

4. There shall be no restriction on the completion by India, in accordance with the design adopted prior to the Effective Date, or on the operation by India, of the following hydro-electric plants which were actually under construction on the Effective Date, whether or not the plant was on that date in partial operation:

<i>Name of Plant</i>	<i>Designed Capacity (exclusive of standby units) (kilowatts)</i>
(i) Mahora	12,000
(ii) Ganderbal	15,000
(iii) Kupwara	150
(iv) Bhadarwah	600
(v) Kishtwar	350
(vi) Rajouri	650
(vii) Chinani	14,000
(viii) Nichalani Banihal	600

5. As soon as India finds it possible to do so, but not later than 31st March 1961, India shall communicate to Pakistan the information specified in Appendix I to this Annexure for each of the plants specified in Paragraphs 3 and 4. If any such information is not available or is not pertinent to the design of the plant or to the conditions at the site, it will be so stated.

6. (a) If any alteration proposed in the design of any of the plants specified in Paragraphs 3 and 4 would result in a material change in the information furnished to Pakistan under the provisions of Paragraph 5, India shall, at least 4 months in advance of making the alteration, communicate particulars of the change to Pakistan in writing and the provisions of Paragraph 7 shall then apply.

(b) In the event of an emergency arising which requires repairs to be undertaken to protect the integrity of any of the plants specified in Paragraphs 3 and 4, India may undertake immediately the necessary repairs or alterations and, if these repairs or alterations result in a change in the information furnished to Pakistan under the provisions of Paragraph 5, India shall as soon as possible communicate particulars of the change to Pakistan in writing. The provisions of Paragraph 7 shall then apply.

7. Within three months of the receipt of the particulars specified in Paragraph 6, Pakistan shall communicate to India in writing any objection it may have with regard to the proposed change on the ground that the change involves a material departure from the criteria set out in Paragraphs 8 or 18 of this Annexure or Paragraph 11 of Annexure E as the case may be. If no objection is received by India from Pakistan within the specified period of three months, then Pakistan shall be deemed to have no objection. If a question arises as to whether or not the change involves a material departure from such of the criteria mentioned above as may be applicable, then either Party may proceed to have the question resolved in accordance with the provisions of Article IX (1) and (2).

Part 3—New-Run-of-River Plants

8. Except as provided in Paragraph 18, the design of any new Run-of-River Plant (hereinafter in this Part referred to as a Plant) shall conform to the following criteria:

- (a) The works themselves shall not be capable of raising artificially the water level in the Operating Pool above the Full Pondage Level specified in the design.

- (b) The design of the works shall take due account of the requirements of Surcharge Storage and of Secondary Power.
- (c) The maximum Pondage in the Operating Pool shall not exceed twice the Pondage required for Firm Power.
- (d) There shall be no outlets below the Dead Storage Level, unless necessary for sediment control or any other technical purpose; any such outlet shall be of the minimum size, and located at the highest level consistent with sound and economical design and with satisfactory operation of the works.
- (e) If the conditions at the site of a Plant make a gated Spillway necessary, the bottom level of the gates in normal closed position shall be located at the highest level consistent with sound and economical design and satisfactory construction and operation of the works.
- (f) The intakes for the turbines shall be located at the highest level consistent with satisfactory and economical construction and operation of the Plant as a Run-of-River Plant and with customary and accepted practice of design for the designated range of the Plant's operation.
- (g) If any Plant is constructed on the Chenab Main at a site below Kotry (Longitude 74°-59' East and Latitude 33°-09' North), a Regulating Basin shall be incorporated.

9. To enable Pakistan to satisfy that the design of a Plant conforms to the criteria mentioned in Paragraph 8, India shall, at least six months in advance of the beginning of the construction of river works connected with the Plant, communicate to Pakistan, in writing, the information specified in Appendix II to this Annexure. If any such information is not available or is not pertinent to the design of the Plant or to the conditions at the site, it will be so stated.

10. Within three months of the receipt by Pakistan of the information specified in Paragraph 9, Pakistan shall communicate to India, in writing, any objection that it may have with regard to the proposed design on the ground that it does not conform to the criteria mentioned in Paragraph 8. If no objection is received by India from Pakistan within the specified period of three months, then Pakistan shall be deemed to have no objection.

11. If a question arises as to whether or not the design of a Plant conforms to the criteria set out in Paragraph 8, then either Party may proceed to have the question resolved in accordance with the provisions of Article IX (1) and (2).

12. (a) If any alteration proposed in the design of a Plant before it comes into operation would result in a material change in the information furnished to Pakistan under the provisions of Paragraph 9, India shall immediately communicate particulars of the change to Pakistan in writing and the provisions of Paragraphs 10 and 11 shall then apply, but the period of three months specified in Paragraph 10 shall be reduced to two months.

(b) If any alteration proposed in the design of a Plant after it comes into operation would result in a material change in the information furnished to Pakistan under the provisions of Paragraph 9, India shall, at least four months in advance of making the alteration, communicate particulars of the change to Pakistan in writing and the provisions of Paragraphs 10 and 11 shall then apply, but the period of three months specified in Paragraph 10 shall be reduced to two months.

13. In the event of an emergency arising which requires repairs to be undertaken to protect the integrity of a Plant, India may undertake immediately the necessary repairs or alterations; if these repairs or alterations result in a change in the information furnished to Pakistan under the provisions of Paragraph 9, India shall, as soon as possible, communicate particulars of the change to Pakistan in writing to enable Pakistan to satisfy itself that after such change the design of the Plant conforms to the criteria specified in Paragraph 8. The provisions of Paragraphs 10 and 11 shall then apply.

14. The filling of Dead Storage shall be carried out in accordance with the provisions of Paragraphs 18 or 19 of Annexure E.

15. Subject to the provisions of Paragraph 17, the works connected with a Plant shall be so operated that (a) the volume of water received in the river upstream of the Plant, during any period of seven consecutive days, shall be delivered into the river below the Plant during the same seven-day period, and (b) in any one period of 24 hours within that seven-day period, the volume delivered into the river below the Plant shall be not less than 30%, and not more than 130%, of the volume received in the river above the Plant during the same 24-hour period: Provided however that:

- (i) Where a Plant is located at a site on the Chenab Main below Ramban, the volume of water received in the river upstream of the Plant in any one period of 24 hours shall be delivered into the river below the Plant within the same period of 24 hours;
- (ii) Where a Plant is located at a site on the Chenab Main above Ramban, the volume of water delivered into the river below the Plant in any one period of 24 hours shall not be less than 50% and not more than 103%, of the volume received above the Plant during the same 24-hour period; and
- (iii) Where a Plant is located on a Tributary of The Jhelum on which Pakistan has any Agricultural Use or hydro-electric use, the water released below the Plant may be delivered, if necessary, into another Tributary but only to the extent that the then existing Agricultural Use or hydro-electric use by Pakistan on the former Tributary would not be adversely affected.

16. For the purpose of Paragraph 15, the period of 24 hours shall commence at 8 A.M. daily and the period of 7 consecutive days shall commence at 8 A.M. on every Saturday. The time shall be Indian Standard Time.

17. The provisions of Paragraph 15 shall not apply during the period when the Dead Storage at a Plant is being filled in accordance with the provisions of Paragraph 14. In applying the provisions of Paragraph 15:

- (a) A tolerance of 10% in volume shall be permissible; and
- (b) Surcharge Storage shall be ignored.

18. The provisions of Paragraphs 8, 9, 10, 11, 12, and 13 shall not apply to a new Run-of-River Plant which is located on a Tributary and which conforms to the following criteria (hereinafter referred to as a Small Plant):

- (a) The aggregate designed maximum discharge through the turbines does not exceed 300 cusecs;

- (b) No storage is involved in connection with the Small Plant, except the Pondage and the storage incidental to the diversion structure; and
- (c) The crest of the diversion structure across the Tributary, or the top level of the gates, if any, shall not be higher than 20 feet above the mean bed of the Tributary at the site of the structure.

19. The information specified in Appendix III to this Annexure shall be communicated to Pakistan by India at least two months in advance of the beginning of construction of the river works connected with a Small Plant. If any such information is not available or is not pertinent to the design of the Small Plant or to the conditions at the site, it will be so stated.

20. Within two months of the receipt by Pakistan of the information specified in Appendix III, Pakistan shall communicate to India, in writing, any objection that it may have with regard to the proposed design on the ground that it does not conform to the criteria mentioned in Paragraph 18. If no objection is received by India from Pakistan within the specified period of two months, then Pakistan shall be deemed to have no objection.

21. If a question arises as to whether or not the design of a Small Plant conforms to the Criteria set out in Paragraph 18, then either Party may proceed to have the question resolved in accordance with the provisions of Article IX(1) and (2).

22. If any alteration in the design of a Small Plant, whether during the construction period or subsequently, results in a change in the information furnished to Pakistan under the provisions of Paragraph 19, then India shall immediately communicate the change in writing to Pakistan.

23. If, with any alteration proposed in the design of a Small Plant, the design would cease to comply with the criteria set out in Paragraph 18, then the provisions of Paragraph 18 to 22 inclusive shall no longer apply and, in lieu thereof, the provisions of Paragraphs 8 to 13 inclusive shall apply.

Part 4—New Plants on Irrigation Channels

24. Notwithstanding the foregoing provisions of this Annexure, there shall be no restriction on the construction and operation by India of new hydro-electric plants on any irrigation channel taking off the Western Rivers, provided that

- (a) The works incorporate no storage other than Pondage and the Dead Storage incidental to the diversion structure, and
- (b) No additional supplies are run in the irrigation channel for the purpose of generating hydro-electric power.

Part 5—General

25. If the change referred to in Paragraphs 6(a) and 12 is not material, India shall communicate particulars of the change to Pakistan, in writing, as soon as the alteration has been made or the repairs have been undertaken. The provisions of Paragraph 7 or Paragraph 23, as the case may be, shall then apply.

APPENDIX I TO ANNEXURE D
(Paragraph 5)

1. Location of Plant
General map showing the location of the site; if on a Tributary, its situation with respect to the main river.
2. Hydraulic Data
 - (a) Stage-area and stage-capacity curves of the reservoir, forebay and Regulating Basin.
 - (b) Full Pondage Level, Dead Storage Level and Operating Pool.
 - (c) Dead Storage capacity.
3. Particulars of Design
 - (a) Type of spillway, length and crest level; size, number and top level of spillway gates.
 - (b) Outlet works: function, type, size, number, maximum designed capacity and sill levels.
 - (c) Aggregate designed maximum discharge through the turbines.
 - (d) Maximum aggregate capacity of power units (exclusive of standby units) for Firm Power and Secondary Power.
 - (e) Regulating Basin and its outlet works: dimensions and maximum discharge capacity.
4. General
Probable date of completion of river works, and dates on which various stages of the plant would come into operation.

APPENDIX II TO ANNEXURE D
(Paragraph 9)

1. Location of Plant
General map showing the location of the site; if on a Tributary, its situation with respect to the main river.
2. Hydrologic Data:
 - (a) General map (Scale: 1/4 inch or more = mile) showing the discharge observation site or sites or rainfall gauge stations on whose data the design is based. In case of a Plant on a Tributary, this map should also show the catchment area of the Tributary above the site.
 - (b) Observed or estimated daily river discharge data on which the design is based (observed data will be given for as long a period as available; estimated data will be given for as long a period as possible; in both cases data may be limited to the latest 25 years).
 - (c) Flood data, observed or estimated (with details of estimation).
 - (d) Gauge-discharge curve or curves for site or sites mentioned in (a) above.
3. Hydraulic Data
 - (a) Stage-area and stage-capacity curves of the reservoir, forebay and Regulating Basin, with contoured survey maps on which based.
 - (b) Full Pondage Level, Dead Storage Level and Operating Pool together with the calculations for the Operating Pool.

- (c) Dead Storage capacity
 - (d) Estimated evaporation losses in the reservoir, Regulating Basin, head-race, forebay and tail-race.
 - (e) Maximum designed flood discharge, discharge-capacity curve for spillway and maximum designed flood level.
 - (f) Designated range of operation.
4. Particulars of Design
- (a) Dimensioned plan showing dam, spillway, intake and outlet works, diversion works, head-race and forebay, powerhouse, tail-race and Regulating Basin.
 - (b) Type of dam, length and height above mean bed of river.
 - (c) Cross-section of the river at the site; mean bed level.
 - (d) Type of spillway, length and crest level; size, number and top level of spillway gates.
 - (e) Type of intake, maximum designed capacity, number and size, sill levels; diversion works.
 - (f) Head-race and tail-race: length, size, maximum designed capacity.
 - (g) Outlet works: function, type, size, number, maximum designed capacity and sill levels.
 - (h) Discharge proposed to be passed through the Plant, initially and ultimately, and expected variations in the discharge on account of the daily and the weekly load fluctuations.
 - (i) Maximum aggregate capacity of power units (exclusive of standby units) for Firm Power and Secondary Power.
 - (j) Regulating Basin and its outlet works: type, number, size, sill levels and designed maximum discharge capacity.
5. General
- (a) Estimated effect of proposed development on the flow pattern below the last plant downstream (with details of estimation).
 - (b) Probable date of completion of river works, and dates on which various stages of the Plant would come into operation.

APPENDIX III TO ANNEXURE D
(Paragraph 19)

1. Location of Small Plant

General map showing the location of the site on the Tributary and its situation with respect to the main river.

2. Hydrologic Data

- (a) Observed or estimated daily Tributary discharge (observed data will be given for as long a period as available; estimated data will be given for as long a period as possible; in both cases, data may be limited to the latest five years).
- (b) Flood data, observed or estimated (with details of estimation).
- (c) Gauge-discharge curve relating to discharge site.

3. Hydraulic Data

- (a) Stage-area and stage-capacity curves of the forebay with survey map on which based.

- (b) Full Pondage Level, Dead Storage Level and Operating Pool together with the calculations for the Operating Pool.
- 4. Particulars of Design
 - (a) Dimensioned plan showing diversion works, outlet works, head-race and forebay, powerhouse and tail-race.
 - (b) Type of diversion works, length and height of crest or top level of gates above the mean bed of the Tributary at the site.
 - (c) Cross-section of the Tributary at the site; mean bed level.
 - (d) Head-race and tail-race: length, size and designed maximum capacity.
 - (e) Aggregate designed maximum discharge through the turbines.
 - (f) Spillway, if any: type, length and crest level; size, number and top level of gates.
 - (g) Maximum aggregate capacity of power units (exclusive of standby units) for Firm Power and Secondary Power.

ANNEXURE E

STORAGE OF WATERS BY INDIA ON THE WESTERN RIVERS

(ARTICLE III (4))

1. The provisions of this Annexure shall apply with respect to the storage of water on the Western Rivers, and to the construction and operation of Storage Works thereon, by India under the provisions of Article III (4).
2. As used in this Annexure:
 - (a) "Storage Work" means a work constructed for the purpose of impounding the waters of a stream; but excludes
 - (i) A Small Tank,
 - (ii) The works specified in Paragraphs 3 and 4 of Annexure D, and
 - (iii) A new work constructed in accordance with the provisions of Annexure D.
 - (b) "Reservoir Capacity" means the gross volume of water which can be stored in the reservoir.
 - (c) "Dead Storage Capacity" means that portion of the Reservoir Capacity which is not used for operational purposes, and "Dead Storage" means the corresponding volume of water.
 - (d) "Live Storage Capacity" means the Reservoir Capacity excluding Dead Storage Capacity, and "Live Storage" means the corresponding volume of water.
 - (e) "Flood Storage Capacity" means that portion of the Reservoir Capacity which is reserved for the temporary storage of flood waters in order to regulate downstream flows, and "Flood Storage" means the corresponding volume of water.
 - (f) "Surcharge Storage Capacity" means the Reservoir Capacity between the crest of an uncontrolled spillway or the top of the

crest gates in normal closed position and the maximum water elevation above this level for which the dam is designed, and "Surcharge Storage" means the corresponding volume of water.

- (g) "Conservation Storage Capacity" means the Reservoir Capacity excluding Flood Storage Capacity, Dead Storage Capacity and Surcharge Storage Capacity, and "Conservation Storage" means the corresponding volume of water.
- (h) "Power Storage Capacity" means that portion of the Conservation Storage Capacity which is designated to be used for generating electric energy, and "Power Storage" means the corresponding volume of water.
- (i) "General Storage Capacity" means the Conservation Storage Capacity excluding Power Storage Capacity, and "General Storage" means the corresponding volume of water.
- (j) "Dead Storage Level" means the level of water in a reservoir corresponding to Dead Storage Capacity, below which level the reservoir does not operate.
- (k) "Full Reservoir Level" means the level of water in a reservoir corresponding to Conservation Storage Capacity.
- (l) "Multi-purpose Reservoir" means a reservoir capable of and intended for use for more than one purpose.
- (m) "Single-purpose Reservoir" means a reservoir capable of and intended for use for only one purpose.
- (n) "Small Tank" means a tank having a Live Storage of less than 700 acre-feet and fed only from a non-perennial small stream: Provided that the Dead Storage does not exceed 50 acre-feet.

3. There shall be no restriction on the operation as heretofore by India or those Storage Works which were in operation as on the Effective Date or on the construction and operation of Small Tanks.

4. As soon as India finds it possible to do so, but not later than 31st March, 1961, India shall communicate to Pakistan in writing the information specified in the Appendix to this Annexure for such Storage Works as were in operation as on the Effective Date. If any such information is not available or is not pertinent to the design of the Storage work or to the conditions at the site, it will be so stated.

1. (a) If any alteration proposed in the design of any of the Storage Works referred to in Paragraph 3 would result in a material change in the information furnished to Pakistan under the provisions of Paragraph 4, India shall, at least 4 months in advance of making the alteration, communicate particulars of the change to Pakistan in writing and the provisions of Paragraph 6 shall then apply.

(b) In the event of an emergency arising which requires repairs to be undertaken to protect the integrity of any of the Storage Works referred to in Paragraph 3, India may undertake immediately the necessary repairs or alterations and, if these repairs or alterations result in a change in the information furnished to Pakistan under the provisions of Paragraph 4, India shall as soon as possible communicate particulars of the change to Pakistan in writing. The provisions of Paragraph 6 shall then apply.

6. Within three months of the receipt of the particulars specified in Paragraph 5, Pakistan shall communicate to India in writing any object-

tion it may have with regard to the proposed change on the ground that the change involves a material departure from the criteria set out in Paragraph 11. If no objection is received by India from Pakistan within the specified period of three months, then Pakistan shall be deemed to have no objection. If a question arises as to whether or not the change involves a material departure from such of the criteria mentioned above as may be applicable, then either Party may proceed to have the question resolved in accordance with the provisions of Article IX (1) and (2).

7. The aggregate storage capacity of all Single-purpose and Multi-purpose Reservoirs which may be constructed by India after the Effective Date on each of the River Systems specified in Column (2) of the following table shall not exceed, for each of the categories shown in Columns (3), (4) and (5), the quantities specified therein:

CONSERVATION STORAGE CAPACITY				
<i>River System</i>		<i>General Storage Capacity</i>	<i>Power Storage Capacity</i>	<i>Flood Storage Capacity</i>
(1)	(2)	(3)	(4)	(5)
			<i>million acre-feet</i>	
(a)	The Indus	0.25	0.15	Nil
(b)	The Jhelum (excluding the Jhelum Main)	0.50	0.25	0.75
(c)	The Jhelum Main	Nil	Nil	As provided in para- graph 9
(d)	The Chenab (excluding the Chenab Main)	0.50	0.60	Nil
(e)	The Chenab Main	Nil	0.60	Nil

Provided that

- (i) The storage specified in Column (3) above may be used for any purpose whatever, including the generation of electric energy;
- (ii) the storage specified in Column (4) above may also be put to Non-Consumptive Use (other than flood protection or flood control) or to Domestic Use;
- (iii) India shall have the option to increase the Power Storage Capacity specified against item (d) above by making a reduction by an equal amount in the Power Storage Capacity specified against item (b) or (e) above; and
- (iv) Storage Works to provide the Power Storage Capacity on the Chenab Main specified against item (e) above shall not be constructed at a point below Naunat (Latitude 33° 19' N. and Longitude 75°59'E).

8. The figure specified in Paragraph 7 shall be exclusive of the following:

- (a) Storage in any Small Tank.
- (b) Any natural storage in a Connecting Lake, that is to say, storage not resulting from any man-made works.

- (c) Waters which, without any man-made channel or works, spill into natural depressions or borrow-pits during floods.
- (d) Dead Storage.
- (e) The volume of Pondage for hydro-electric plants under Annexure D and under Paragraph 21 (a).
- (f) Surcharge Storage.
- (g) Storage in a Regulating Basin (as defined in Annexure D).
- (h) Storage incidental to a barrage on the Jhelum Main or on the Chenab Main not exceeding 10,000 acre-feet.

9. India may construct on the Jhelum Main such works as it may consider necessary for flood control of the Jhelum Main and may complete any such works as were under construction on the Effective Date: Provided that

- (i) Any storage which may be effected by such works shall be confined to off-channel storage in side valleys, depressions or lakes and will not involve any storage in the Jhelum Main itself; and
- (ii) Except for the part held in lakes, borrow-pits or natural depressions, the stored waters shall be released as quickly as possible after the flood recedes and returned to the Jhelum Main lower down.

These works shall be constructed in accordance with the provisions of Paragraph 11(d).

10. Notwithstanding the provisions of Paragraph 7, any Storage Work to be constructed on a Tributary of The Jhelum on which Pakistan has any Agricultural Use or hydro-electric use shall be so designed and operated as not to adversely affect the then existing Agricultural Use or hydro-electric use on that Tributary.

11. The design of any Storage Work (other than a Storage Work falling under Paragraph 3) shall conform to the following criteria:—

- (a) The Storage Work shall not be capable of raising artificially the water level in reservoir higher than the designed Full Reservoir Level except to the extent necessary for Flood Storage, if any, specified in the design.
- (b) The design of the works shall take due account of the requirements of Surcharge Storage.
- (c) The volume between the Full Reservoir Level and the Dead Storage Level of any reservoir shall not exceed the Conservation Storage Capacity specified in the design.
- (d) With respect to the Flood Storage mentioned in Paragraph 9, the design of the works on the Jhelum Main shall be such that no water can spill from the Jhelum Main into the off-channel storage except when the water level in the Jhelum Main rises above the low flood stage.
- (e) Outlets or other works of sufficient capacity shall be provided to deliver into the river downstream the flow of the river received upstream of the Storage Work, except during freshets or floods. These outlets or works shall be located at the highest level consistent with sound and economical design and with satisfactory operation of the Storage Work.
- (f) Any outlets below the Dead Storage Level necessary for sediment

control or any other technical purpose shall be of the minimum size, and located at the highest level, consistent with sound and economical design and with satisfactory operation of the Storage Work.

- (g) If a power plant is incorporated in the Storage Work, the intakes for the turbines shall be located at the highest level consistent with satisfactory and economical construction and operation of the plant and with customary and accepted practice of design for the designated range of the plant's operation.

12. To enable Pakistan to satisfy itself that the design of a Storage Work (other than a Storage Work falling under Paragraph 3) conforms to the criteria mentioned in Paragraph 11, India shall, at least six months in advance of the beginning of construction of the Storage Work, communicate to Pakistan in writing the information specified in the Appendix to this Annexure; if any such information is not available or is not pertinent to the design of the Storage Work or to the conditions at the site, it will be so stated:

Provided that, in the case of a Storage Work falling under Paragraph 9,

- (i) If the work is a new work, the period of six months shall be reduced to four months, and
 (ii) If the work is a work under construction on the Effective Date, the information shall be furnished not later than 31st December 1960.

13. Within three months (or two months, in the case of a Storage Work specified in Paragraph 9) of the receipt by Pakistan of the information specified in Paragraph 12, Pakistan shall communicate to India in writing any objection that it may have with regard to the proposed design on the ground that the design does not conform to the criteria mentioned in Paragraph 11. If no objection is received by India from Pakistan within the specified period of three months (or two months, in the case of a Storage Work specified in Paragraph 9), then Pakistan shall be deemed to have no objection.

14. If a question arises as to whether or not the design of a Storage Work (other than a Storage Work falling under Paragraph 3) conforms to the criteria set out in Paragraph 11, then either Party may proceed to have the question resolved in accordance with the provisions of Article IX(1) and (2).

15. (a) If any alteration proposed in the design of a Storage Work (other than a Storage Work falling under Paragraph 3) before it comes into operation would result in a material change in the information furnished in Pakistan under the provisions of Paragraph 12, India shall immediately communicate particulars of the change to Pakistan in writing and the provisions of Paragraphs 13 and 14 shall then apply, but where a period of three months is specified in Paragraph 13, that period shall be reduced to two months.

(b) If any alteration proposed in the design of a Storage Work (other than a Storage Work falling under Paragraph 3), after it comes into operation would result in a material change in the information furnished to Pakistan under the provisions of Paragraph 12, India shall, at least four months in advance of making the alteration, communicate particulars of the change to Pakistan in writing and the provisions of Paragraphs 13

and 14 shall then apply, but where a period of three months is specified in Paragraph 13, that period shall be reduced to two months.

16. In the event of an emergency arising which requires repairs to be undertaken to protect the integrity of a Storage Work (other than a Storage Work falling under Paragraph 3), India may undertake immediately the necessary repairs or alterations; if these repairs or alterations result in a change in the information furnished to Pakistan under the provisions of Paragraph 12, India shall, as soon as possible, communicate particulars of the change to Pakistan in writing to enable Pakistan to satisfy itself that after such change the design of the work conforms to the criteria specified in Paragraph 11. The provisions of Paragraphs 13 and 14 shall then apply.

17. The Flood Storage specified against item (b) in Paragraph 7 may be effected only during floods when the discharge of the river exceeds the amount specified for this purpose in the design of the work; the storage above Full Reservoir Level shall be released as quickly as possibly after the flood recedes.

18. The annual filling of Conservation Storage and the initial filling below the Dead Storage Level, at any site, shall be carried out at such times and in accordance with such rules as may be agreed upon between the Commissioners. In case the Commissioners are unable to reach agreement, India may carry out the filling as follows:

- (a) If the site is on The Indus, between 1st July and 20th August;
- (b) If the site is on The Jhelum, between 21st June and 20th August; and
- (c) If the site is on The Chenab, between 21st June and 31st August at such rate as not to reduce, on account of this filling, the flow in the Chenab Main above Merala to less than 55,000 cusecs.

19. The Dead Storage shall not be depleted except in an unforeseen emergency. If so depleted, it will be refilled in accordance with the conditions of its initial filling.

20. Subject to the provisions of Paragraph 8 of Annexure C, India may make releases from Conservation Storage in any manner it may determine.

21. If a hydro-electric power plant is incorporated in a Storage Work (other than a Storage Work falling under Paragraph 3), the plant shall be so operated that:

- (a) The maximum Pondage (as defined in Annexure D) shall not exceed the Pondage required for the firm power of the plant, and the water-level in the reservoir corresponding to maximum Pondage shall not, on account of this Pondage, exceed the Full Reservoir Level at any time; and
- (b) Except during the period in which a filling is being carried out in accordance with the provisions of Paragraph 18 or 19, the volume of water delivered into the river below the work during any period of seven consecutive days shall not be less than the volume of water received in the river upstream of the work in that seven-day period.

22. In applying the provisions of Paragraph 21(b):

- (a) The period of seven consecutive days shall commence at 8 A.M. on every Saturday and the time shall be Indian Standard Time;

- (b) A tolerance of 10% in volume shall be permissible and adjusted as soon as possible; and
- (c) Any temporary uncontrollable retention of water due to variation in river supply will be accounted for.

23. When the Live Storage Capacity of a Storage Work is reduced by sedimentation, India may, in accordance with the relevant provisions of this Annexure, construct new Storage Works or modify existing Storage Works so as to make up the storage capacity lost by sedimentation.

24. If a power plan incorporated in a Storage Work (other than a Storage Work falling under Paragraph 3) is used to operate a peak power plant and lies on any Tributary of The Jhelum on which there is any Agricultural Use by Pakistan, a Regulating Basin (as defined in Annexure D) shall be incorporated.

25. If the change referred to in Paragraph 5(a) or 15 is not material, India shall communicate particulars of the change to Pakistan, in writing, as soon as the alteration has been made or the repairs have been undertaken. The provisions of Paragraph 6 or Paragraphs 13 and 14, as the case may be, shall then apply.

APPENDIX TO ANNEXURE E

(Paragraphs 4 and 12)

1. Location of Storage Work

General map showing the location of the site; if on a Tributary, its situation with respect to the main river.

2. Hydrologic Data

- (a) General map (Scale: 1/4 inch or more = 1 mile) showing the discharge observation site or sites or rainfall gauge stations, on whose data the design is based. In case of a work on a Tributary, this map should also show the catchment area of the Tributary above the site.
- (b) Observed or estimated daily river discharge data on which the design is based (observed data will be given for as long a period as available; estimated data will be given for as long a period as possible; in both cases data may be limited to the latest 25 years).
- (c) Flood data, observed or estimated (with details of estimation).
- (d) Gauge-discharge curve or curves for site or sites mentioned in (a) above.
- (e) Sediment data.

3. Hydraulic Data

- (a) Stage-area and stage-capacity curves of the reservoir with contoured survey maps on which based.
- (b) Reservoir Capacity, Dead Storage Capacity, Flood Storage Capacity, Conservation Storage Capacity, Power Storage Capacity, General Storage Capacity and Surcharge Storage Capacity.
- (c) Full Reservoir Level, Dead Storage Level and levels corresponding to Flood Storage and Surcharge Storage.
- (d) Estimated evaporation losses in the reservoir.

- (e) Maximum designed flood discharge and discharge-capacity curve for spillway.
 - (f) If a power plant is incorporated in a Storage Work:
 - (i) Stage-area and stage-capacity curves of forebay and Regulating Basin, with contoured survey maps on which based.
 - (ii) Estimated evaporation losses in the Regulating Basin, head-race, borebay and tail-race.
 - (iii) Designated range of operation.
4. Particulars of Design
- (a) Dimensioned plan showing dam, spillway, diversion works and outlet works.
 - (b) Type of dam, length and height above mean bed of the river.
 - (c) Cross-section of the river at the site and mean bed level.
 - (d) Type of spillway, length and crest level; size, number and top level of spillway gates.
 - (e) Type of diversion works, maximum designated capacity, number and size, sill levels.
 - (f) Outlet works: function, type, size, number, maximum designed capacity and sill levels.
 - (g) If a power plant is incorporated in a Storage Work,
 - (i) Dimensioned plan showing head-race and forebay, powerhouse, tail-race and Regulating Basin.
 - (ii) Type of intake, maximum designed capacity, size and sill level.
 - (iii) Head-race and tail-race, length, size and maximum designed capacity.
 - (iv) Discharge proposed to be passed through the plant, initially and ultimately, and expected variations in the discharge on account of the daily and the weekly load fluctuations.
 - (v) Maximum aggregate capacity of power units (exclusive of standby units).
 - (vi) Regulating Basin and its outlet works: type, number, size, sill levels and designed maximum discharge capacity.
5. General
- (a) Probably date of completion of river works and probably dates on which various stages of the work would come into operation.
 - (b) Estimated effect of proposed Storage Work on the flow pattern of river supplies below the Storage Work or, if India has any other Storage Work or Run-of-River Plant (as defined in Annexure D) below the proposed Storage Work, then on the flow pattern below the last Storage Work or Plant.

ANNEXURE F

NEUTRAL EXPERT

(ARTICLE IX (2))

Part I—Questions to be referred to a Neutral Expert

1. Subject to the provisions of Paragraph 2, either Commissioner may, under the provisions of Article IX (2) (a), refer to a Neutral Expert any of the following questions:

(1) Determination of the component of water available for the use of Pakistan

- (a) In the Ravi Main, on account of the deliveries by Pakistan under the provisions of Article II (4), and
- (b) At various points on The Ravi or The Sutlej, on account of the deliveries by Pakistan under the provisions of Article III (3).

(2) Determination of the boundary of the drainage basin of The Indus or The Jhelum or The Chenab for the purposes of Article III (2).

(3) Whether or not any use of water or storage in addition to that provided under Article III is involved in any of the schemes referred to in Article IV (2) or in Article IV (3) (b) and carried out by India on the Western Rivers.

(4) Questions relating to

- (a) Obligations with respect to construction or remodelling of, or pouring of waters into, any drainage or drain as provided in Article IV (3) (c) and Article IV (3) (d); and
- (b) Maintenance of drainages specified in Article IV (4).

(5) Questions arising under Article IV (7) as to whether any action taken by either Party is likely to have the effect of diverting the Ravi Main between Madhopur and Lahore, or the Sutlej Main between Harike and Suleimanke, from its natural channel between high banks.

(6) Determination of facts relating to questions arising under Article IV (11) or Article IV (12).

(7) Whether any of the data requested by either Party falls outside the scope of Article VI (2).

(8) Determination of withdrawals to be made by India under proviso (iii) to Paragraph 3 of Annexure C.

(9) Determination of schedule of releases from Conservation Storage under the provisions of Paragraph 8 of Annexure C.

(10) Whether or not any new Agricultural Use by India, on those Tributaries of The Jhelum on which there is any Agricultural Use or hydro-electric use by Pakistan, conforms to the provisions of Paragraph 9 of Annexure C.

(11) Questions arising under the provisions of Paragraph 7, Paragraph 11 or Paragraph 21 of Annexure D.

(12) Whether or not the operation by India of any plant constructed in accordance with the provisions of Part 3 of Annexure D conforms to the criteria set out in Paragraphs 15, 16 and 17 of that Annexure.

(13) Whether or not any new hydro-electric plant on an irrigation channel taking off the Western Rivers conforms to the provisos to Paragraph 24 of Annexure D.

(14) Whether or not the operation of a Storage Work which was in operation as on the Effective Date substantially conforms to the provisions of Paragraph 3 of Annexure E.

(15) Whether or not any part of the storage in a Connecting Lake is the result of man-made works constructed after the Effective Date (Paragraph 8 (b) of Annexure E).

(16) Whether or not any flood control work constructed on the Jhelum Main conforms to the provisions of Paragraph 9 of Annexure E.

(17) Whether or not any Storage Work to be constructed on a Tributary of The Jhelum on which Pakistan has any Agricultural Use or hydro-electric use conforms to the provisions of Paragraph 10 of Annexure E.

(18) Questions arising under the provisions of Paragraph 6 or 14 of Annexure E.

(19) Whether or not the operation of any Storage Work constructed by India, after the Effective Date, conforms to the provisions of Paragraphs 17, 18, 19, 21, and 22 of Annexure E and, to the extent necessary, to the provisions of Paragraph 8 of Annexure C.

(20) Whether or not the storage capacity proposed to be made up by India under Paragraph 23 of Annexure E exceeds the storage capacity lost by sedimentation.

(21) Determination of modifications to be made in the provisions of Parts 2, 4 or 5 of Annexure H in accordance with Paragraph 11, 31 or 38 thereof when the additional supplies referred to in Paragraph 66 of that Annexure become available.

(22) Modification of Forms under the provisions of Paragraph 41 of Annexure H.

(23) Revision of the figure for the conveyance loss from the head of the Madhopur Beas Link to the junction of the Chakki Torrent with the Beas Main under the provisions of Paragraph 45 (c) (ii) of Annexure H.

2. If a claim for financial compensation has been raised with respect to any question specified in Paragraph 1, that question shall not be referred to a Neutral Expert unless the two Commissioners are agreed that it should be so referred.

3. Either Commissioner may refer to a Neutral Expert under the provisions of Article IX (2) (a) any question arising with regard to the determination of costs under Article IV (5), Article IV (11), Article VII (1) (a) or Article VII (1) (b).

PART 2—*Appointment and Procedure*

4. A Neutral Expert shall be a highly qualified engineer, and, on the receipt of a request made in accordance with Paragraph 5, he shall be appointed, and the terms of his retainer shall be fixed, as follows:—

(a) During the Transition Period, by the Bank.

(b) After the expiration of the Transition Period,

- (i) Jointly by the Government of India and the Government of Pakistan, or
- (ii) If no appointment is made in accordance with (i) above within one month after the date of the request, then by such person or body as may have been agreed upon between the two Governments in advance, on an annual basis, or, in the absence of such agreement, by the Bank.

Provided that every appointment made in accordance with (a) or (b) (ii) above shall be made after consultation with each of the Parties.

The Bank shall be notified of every appointment, except when the Bank is itself the appointing authority.

5. If a difference arises and has to be dealt with in accordance with the provisions of Article IX (2) (a), the following procedure will be followed:

- (a) The commissioner who is of the opinion that the difference falls within the provisions of Part I of this Annexure (hereinafter in this paragraph referred to as "the first Commissioner") shall notify the other Commissioner of his intention to ask for the appointment of a Neutral Expert. Such notification shall clearly state the paragraph or paragraphs of Part I of this Annexure under which the difference falls and shall also contain a statement of the point or points of difference.
- (b) Within two weeks of the receipt by the other Commissioner of the notification specified in (a) above, the two Commissioners will endeavour to prepare a joint statement of the point or points of difference.
- (c) After expiry of the period of two weeks specified in (b) above, the first Commissioner may request the appropriate authority specified in Paragraph 4 to appoint a Neutral Expert; a copy of the request shall be sent at the same time to the other Commissioner.
- (d) The request under (c) above shall be accompanied by the joint statement specified in (b) above; failing this, either Commissioner may send a separate statement to the appointing authority and, if he does so, he shall at the same time send a copy of the separate statement to the other Commissioner.

6. The procedure with respect to each reference to a Neutral Expert shall be determined by him, provided that:

- (a) He shall afford to each Party an adequate hearing;
- (b) In making his decision, he shall be governed by the provisions of this Treaty and by the compromise, if any, presented to him by the Commission; and
- (c) Without prejudice to the provisions of Paragraph 3, unless both Parties so request, he shall not deal with any issue of financial compensation.

7. Should the Commission be unable to agree that any particular difference falls within Part I of this Annexure, the Neutral Expert shall, after hearing both Parties, decide whether or not it so falls. Should he decide that the difference so falls, he shall proceed to render a decision on the merits; should he decide otherwise, he shall inform the Commission that, in his opinion, the difference should be treated as a dispute. Should the

Neutral Expert decide that only a part of the difference so falls, he shall, at his discretion, either:

- (a) Proceed to render a decision on the part which so falls, and inform the Commission that, in his opinion, the part which does not so fall should be treated as a dispute, or
- (b) Inform the Commission that, in his opinion, the entire difference should be treated as a dispute.

8. Each Government agrees to extend to the Neutral Expert such facilities as he may require for the discharge of his functions.

9. The Neutral Expert shall, as soon as possible, render a decision on the question or questions referred to him, giving his reasons. A copy of such decision, duly signed by the Neutral Expert, shall be forwarded by him to each of the Commissioners and to the Bank.

10. Each Party shall bear its own costs. The remuneration and the expenses of the Neutral Expert and of any assistance that he may need shall be borne initially as provided in Part 3 of this Annexure and eventually by the Party against which his decision is rendered, except as, in special circumstances, and for reasons to be stated by him, he may otherwise direct. He shall include in his decision a direction concerning the extent to which the costs of such remuneration and expenses are to be borne by either Party.

11. The decision of the Neutral Expert on all matters within his competence shall be final and binding, in respect of the particular matter on which the decision is made, upon the Parties and upon any Court of Arbitration established under the provisions of Article IX (5).

12. The Neutral Expert may, at the request of the Commission, suggest for the consideration of the Parties such measures as are, in his opinion, appropriate to compose a difference or to implement his decision.

13. Without prejudice to the finality of the Neutral Expert's decision, if any question (including a claim to financial compensation) which is not within the competence of a Neutral Expert should arise out of his decision, that question shall, if it cannot be resolved by agreement, be settled in accordance with the provisions of Article IX (3), (4) and (5).

PART 3—*Expenses*

14. India and Pakistan shall, within 30 days after the Treaty enters into force, each pay to the Bank the sum of U.S. \$5,000 to be held in trust by the Bank, together with any income therefrom and any other amounts payable to the Bank hereunder, on the terms and conditions hereinafter set forth in this Annexure.

15. The remuneration and expenses of the Neutral Expert, and of any assistance that he may need, shall be paid or reimbursed by the Bank from the amounts held by it hereunder. The Bank shall be entitled to rely upon the statement of the Neutral Expert as to the amount of the remuneration and expenses of himself (determined in accordance with the terms of his retainer) and of any such assistance utilized by him.

16. Within 30 days of the rendering of a decision by the Neutral Expert, the Party or Parties concerned shall, in accordance with that decision, refund to the Bank the amounts paid by the Bank pursuant to Paragraph 15.

17. The Bank will keep amounts held by it hereunder separate from its other assets, in such form, in such banks or other depositories and in such accounts as it shall determine. The Bank may, but it shall not be required to, invest these amounts. The Bank will not be liable to the Parties for failure of any depository or other person to perform its obligations. The Bank shall be under no obligation to make payments hereunder of amounts in excess of those held by it hereunder.

18. If at any time or times the amounts held by the Bank hereunder shall in its judgment be insufficient to meet the payments provided for in Paragraph 15, it will so notify the Parties, which shall, within 30 days thereafter, pay to the Bank, in equal shares, the amount specified in such notice as being the amount required to cover the deficiency. Any amounts so paid to the Bank may, by agreement between the Bank and the Parties, be refunded to the Parties.

ANNEXURE G

COURT OF ARBITRATION

(ARTICLE IX (5))

1. If the necessity arises to establish a Court of Arbitration under the provisions of Article IX, the provisions of this Annexure shall apply.

2. The arbitration proceeding may be instituted.

(a) By the two Parties entering into a special agreement (compromis) specifying the issues in dispute, the composition of the Court and instructions to the Court concerning its procedures and any other matters agreed upon between the Parties; or

(b) At the request of either Party to the other in accordance with the provisions of Article IX(5) (b) or (c). Such request shall contain a statement setting forth the nature of the dispute or claim to be submitted to arbitration, the nature of the relief sought and the names of the arbitrators appointed under Paragraph 6 by the Party instituting the proceeding.

3. The date of the special agreement referred to in Paragraph 2(a), or the date on which the request referred to in Paragraph 2(b) is received by the other Party, shall be deemed to be the date on which the proceeding is instituted.

4. Unless otherwise agreed between the Parties, a Court of Arbitration shall consist of seven arbitrators appointed as follows:—

(a) Two arbitrators to be appointed by each Party in accordance with Paragraph 6; and

(b) Three arbitrators (hereinafter sometimes called the umpires) to be appointed in accordance with Paragraph 7, one from each of the following categories:

(i) Persons qualified by status and reputation to be Chairman of the Court of Arbitration who may, but need not, be engineers or lawyers.

(ii) Highly qualified engineers.

(iii) Persons well versed in international law.

The Chairman of the Court shall be a person from category (b)(i) above.

5. The Parties shall endeavour to nominate and maintain a Standing Panel of umpires (hereinafter called the Panel) in the following manner:

- (a) The Panel shall consist of four persons in each of the three categories specified in Paragraph 4(b).
- (b) The Panel will be selected, as soon as possible after the Effective Date, by agreement between the Parties and with the consent of the persons whose names are included in the Panel.
- (c) A person may at any time be retired from the Panel at the request of either Party: Provided however that he may not be so retired
 - (i) During the period after arbitration proceedings have been instituted under Paragraph 2(b) and before the process described in Paragraph 7(a) has been completed; or
 - (ii) During the period after he has been appointed to a Court and before the proceedings are completed.
- (d) If a member of the Panel should die, resign or be retired, his successor shall be selected by agreement between the Parties.

6. The arbitrators referred to in Paragraph 4(a) shall be appointed as follows:

The Party instituting the proceeding shall appoint two arbitrators at the time it makes a request to the other Party under Paragraph 2(b). Within 30 days of the receipt of this request, the other Party shall notify the names of the arbitrators appointed by it.

7. The umpires shall be appointed as follows:

- (a) If a Panel has been nominated in accordance with the provisions of Paragraph 5, each umpire shall be selected as follows from the Panel, from his appropriate category, provided that the category has, at that time, at least three names on the Panel.

The Parties shall endeavour to agree to place the names of the persons in each category in the order in which they shall be invited to serve on the Court. If such agreement cannot be reached within 30 days of the date on which the proceeding is instituted, the Parties shall promptly establish such an order by drawing lots. If, in any category, the person whose name is placed first in the order so established, on receipt of an invitation to serve on the Court, declines to do so, the person whose name is next on the list shall be invited. The process shall be repeated until the invitation is accepted or all names in the category are exhausted.

- (b) If a Panel has not been nominated in accordance with Paragraph 5, or if there should be less than three names on the Panel in any category or if no person in a category accepts the invitation referred to in Paragraph 7(a), the umpires, or the remaining umpires or umpire, as the case may be, shall be appointed as follows:
 - (i) By agreement between the Parties.
 - (ii) Should the Parties be unable to agree on the selection of any or all of the three umpires, they shall agree on one or more persons to help them in making the necessary selection by agreement; but if one or more umpires remain to be appointed 60 days after the date on which the proceeding is instituted, or 30 days after the completion of the process described in sub-paragraph (a) above, as the case may be,

then the Parties shall determine by lot for each umpire remaining to be appointed, a person from the appropriate list set out in the Appendix to this Annexure, who shall then be requested to make the necessary selection.

- (iii) A national of India or Pakistan, or a person who is, or has been, employed or retained by either of the Parties shall be disqualified from selection under sub-paragraph (ii) above: Provided that
 - (1) The person making the selection shall be entitled to rely on a declaration from the appointee, before his selection, that he is not disqualified on any of the above grounds; and
 - (2) The Parties may by agreement waive any or all of the above disqualifications in the case of any individual appointee.
- (iv) The lists in the Appendix to this Annexure may, from time to time, be modified or enlarged by agreement between the Parties.

8. In selecting umpires pursuant to Paragraph 7, the Chairman shall be selected first, unless the Parties otherwise agree.

9. Should either Party fail to participate in the drawing of lots as provided in Paragraphs 7 and 10, the other Party may request the President of the Bank to nominate a person to draw the lots, and the person so nominated shall do so after giving due notice to the Parties and inviting them to be represented at the drawing of the lots.

10. In the case of death, retirement or disability from any cause of one of the arbitrators or umpires his place shall be filled as follows:—

- (a) In the case of one of the arbitrators appointed under Paragraph 6, his place shall be filled by the Party which appointed him. The Court shall, on request, suspend the proceedings but for not longer than 15 days pending such replacement.
- (b) In the case of an umpire, a new appointment shall be made by agreement between the Parties or, failing such agreement, by a person determined by lot from the appropriate list set out in the Appendix to this Annexure, who shall then be requested to make the necessary selection subject to the provisions of Paragraph 7(b) (iii). Unless the Parties otherwise agree, the Court shall suspend the proceedings pending such replacement.

11. As soon as the three umpires have accepted appointment, they together with such arbitrators as have been appointed by the two Parties under Paragraph 6 shall form the Court of Arbitration. Unless the Parties otherwise agree, the Court shall be competent to transact business only when all the three umpires and at least two arbitrators are present.

12. Each Party shall be represented before the Court by an Agent and may have the assistance of Counsel.

13. Within 15 days of the date of institution of a proceeding, each Party shall place sufficient funds at the disposal of its Commissioner to meet in equal shares the initial expenses of the umpires to enable them to attend the first meeting of the Court. If either Party should fail to do so, the other Party may initially meet the whole of such expenses.

14. The Court of Arbitration shall convene, for its first meeting, on such date and at such place as shall be fixed by the Chairman.

15. At its first meeting the Court shall

- (a) Establish its secretariat and appoint a Treasurer;
- (b) Make an estimate of the likely expenses of the Court and call upon each Party to pay to the Treasurer half of the expenses so estimated: Provided that, if either Party should fail to make such payment, the other Party may initially pay the whole of the estimated expenses;
- (c) Specify the issues in dispute;
- (d) Lay down a programme for submission by each side of legal pleadings and rejoinders; and
- (e) Determine the time and place of reconvening the Court.

Unless special circumstances arise, the Court shall not reconvene until the pleadings and rejoinders have been closed. During the intervening period, at the request of either Party, the Chairman of the Court may, for sufficient reason, make changes in the arrangements made under (d) and (e) above.

16. Subject to the provisions of this Treaty and except as the Parties may otherwise agree, the Court shall decide all questions relating to its competence and shall determine its procedure, including the time within which each Party must present and conclude its arguments. All such decisions of the Court shall be by a majority of those present and voting. Each arbitrator, including the Chairman, shall have one vote. In the event of an equality of votes, the Chairman shall have a casting vote.

17. The proceedings of the Court shall be in English.

18. Two or more certified copies of every document produced before the Court by one Party shall be communicated by the Court to the other Party; the Court shall not take cognizance of any document or paper or fact presented by a Party unless so communicated.

19. The Chairman of the Court shall control the discussions. The discussions shall not be open to the public unless it is so decided by the Court with the consent of the Parties. The discussions shall be recorded in minutes drawn up by the Secretaries appointed by the Chairman. These minutes shall be signed by the Chairman and shall alone have an authentic character.

20. The Court shall have the right to require from the Agents of the Parties the production of all papers and other evidence it considers necessary and to demand all necessary explanations. In case of refusal, the Court shall take formal note of it.

21. The members of the Court shall be entitled to put questions to the Agents and Counsel of the Parties and to demand explanations from them on doubtful points. Neither the questions put nor the remarks made by the members of the Court during the discussions shall be regarded as an expression of an opinion of the Court or any of its members.

22. When the Agents and Counsel of the Parties have, within the time allotted by the Court, submitted all explanations and evidence in support of their case, the Court shall pronounce the discussions closed. The Court may, however, at its discretion re-open the discussions at any time before making its Award. The deliberations of the Court shall be in private and shall remain secret.

23. The Court shall render its Award, in writing, on the issues in dispute and on such relief, including financial compensation, as may have

been claimed. The Award shall be accompanied by a statement of reasons. An Award signed by four or more members of the Court shall constitute the Award of the Court. A signed counterpart of the Award shall be delivered by the Court to each Party. Any such Award rendered in accordance with the provisions of this Annexure in regard to a particular dispute shall be final and binding upon the Parties with respect to that dispute.

24. The salaries and allowances of the arbitrators appointed pursuant to Paragraph 6 shall be determined and, in the first instance, borne by their Governments; those of the umpires shall be agreed upon with them by the Parties or by the persons appointing them, and (subject to Paragraph 13) shall be paid, in the first instance, by the Treasurer. The salaries and allowances of the secretariat of the Court shall be determined by the Court and paid, in the first instance, by the Treasurer.

25. Each Government agrees to accord to the members and officials of the Court of Arbitration and to the Agents and Counsel appearing before the Court the same privileges and immunities as are accorded to representatives of member states to the principal and subsidiary organs of the United Nations under Sections 11, 12 and 13 of Article IV of the Convention on the Privileges and Immunities of the United Nations (dated 13th February 1946) during the period specified in these Sections. The Chairman of the Court, with the approval of the Court, has the right and the duty to waive the immunity of any official of the Court in any case where the immunity would impede the course of justice and can be waived without prejudice to the interests of the Court. The Government appointing any of the aforementioned Agents and Counsel has the right and the duty to waive the immunity of any of its said appointees in any case where in its opinion the immunity would impede the course of justice and can be waived without prejudice to the effective performance of the functions of the said appointees. The immunities and privileges provided for in this paragraph shall not be applicable as between an Agent or Counsel appearing before the Court and the Government which has appointed him.

26. In its Award, the Court shall also award the costs of the proceedings, including those initially borne by the Parties and those paid by the Treasurer.

27. At the request of either Party, made within three months of the date of the Award, the Court shall re-assemble to clarify or interpret its Award. Pending such clarification or interpretation the Court may, at the request of either Party and if in the opinion of the Court circumstances so require, grant a stay of execution of its Award. After furnishing this clarification or interpretation, or if no request for such clarification or interpretation is made within three months of the date of the Award, the Court shall be deemed to have been dissolved.

28. Either Party may request the Court at its first meeting to lay down, pending its Award, such interim measures as, in the opinion of that Party, are necessary to safeguard its interests under the Treaty with respect to the matter in dispute, or to avoid prejudice to the final solution or aggravation or extension of the dispute. The Court shall, thereupon, after having afforded an adequate hearing to each Party, decide, by a majority consisting of at least four members of the Court, whether any interim measures are necessary for the reasons hereinbefore stated and, if so, shall specify such measures: Provided that

(a) The Court shall lay down such interim measures only for such

specified period as, in its opinion, will be necessary to render the Award: this period may, if necessary, be extended unless the delay in rendering the Award is due to any delay on the part of the Party which requested the interim measures in supplying such information as may be required by the other Party or by the Court in connection with the dispute; and

(b) The specification of such interim measures shall not be construed as an indication of any view of the Court on the merits of the dispute.

29. Except as the Parties may otherwise agree, the law to be applied by the Court shall be this Treaty and, whenever necessary for its interpretation or application, but only to the extent necessary for that purpose, the following in the order in which they are listed:

(a) International conventions establishing rules which are expressly recognised by the Parties.

(b) Customary international law.

APPENDIX TO ANNEXURE G

(Paragraph 7 (b))

<i>List I</i> for selection of Chairman	<i>List II</i> for selection of Engineer Member	<i>List III</i> for selection of Legal Member
(i) The Secretary-General of the United Nations.	(i) The President of Massachusetts Institute of Technology, Cambridge, Mass., U.S.A.	(i) The Chief Justice of the United States.
(ii) The President of the International Bank for Reconstruction and Development.	(ii) The Rector of the Imperial College of Science and Technology, London, England.	(ii) The Lord Chief Justice of England.

ANNEXURE H

TRANSITIONAL ARRANGEMENTS

(ARTICLE II (5))

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PART I—*Preliminary*

1. The provisions of Article II (5) with respect to the distribution of the waters of the Eastern Rivers during the Transition Period shall be governed by the provisions of this Annexure. With the exception of the provisions of Paragraph 50, all the provisions of this Annexure shall lapse on the date on which the Transition Period ends. The provisions of Paragraphs 50 and 51 shall lapse as soon as the final refund or the additional payment referred to therein has been made for the last year of the Transition Period.

2. For the purposes of this Annexure, the Transition Period shall be divided into two parts: Phase I and Phase II.

3. Phase I shall begin on 1st April 1960 and it shall end on 31st March 1965, or if the proposed Trimmu-Islam Link is not ready to operate by 31st March 1965 but it is ready to operate prior to 31st March 1966 then, on the date on which the link is ready to operate. In any event, whether or not the Trimmu-Islam Link is ready to operate, Phase I shall end not later than 31st March 1966.

4. Phase II shall begin on 1st April 1965, or, if Phase I has been extended under the provisions of Paragraph 3, then on the day following the end of Phase I but in any case not later than 1st April 1966. Phase II shall end on the same date as the Transition Period.

5. As used in this Annexure:

- (a) The term ' Central Bari Doab Channels ' or ' C.B.D.C. ' means the system of irrigation channels located in Pakistan which, prior to 15th August 1947, formed a part of the Upper Bari Doab Canal System.
- (b) The terms ' Kharif ' and ' rabi ' respectively mean the crop seasons extending from 1st April to 30th September (both days inclusive) and 1st October to 31st March (both days inclusive).
- (c) The term ' Water-accounting Period ' means the period which is treated as a unit for the purpose of preparing an account of the distribution of waters between India and Pakistan.
- (d) The term ' Beas Component at Ferozepore ' means the amount of flow water derived from The Beas which would have reached Ferozepore if there had been
 - (i) No transfers from The Ravi or contribution from the Sutlej,
 - (ii) No withdrawals by the canals at Harike,
 - (iii) No abstraction of flow waters by, or release of stored waters from, any storage reservoir on The Beas or the pond at Harike,

- (iv) No withdrawals by the Shahnehr Canal in excess of those specified in Paragraph 55, and
 - (v) No withdrawal by any new canal from The Beas or from the Sutlej Main between Harike Below and Ferozepore constructed after the Effective Date with a capacity of more than 10 cusecs.
- (e) The term 'Sutlej Component at Ferozepore' means the amount of flow water derived from The Sutlej which would have reached Ferozepore if there had been
- (i) No transfers from The Ravi or contribution from The Beas,
 - (ii) No withdrawals, as at Rupar, in excess of those specified in Paragraph 21 (a), and
 - (iii) No abstraction of flow waters by, or release of stored waters from any storage reservoir on the Sutlej or the Ponds at Nangal or Harike.

PART 2—*Distribution of the Waters of the Ravi*

6. Subject to the provisions of Paragraph 20 and to the payment by Pakistan, by due date, of the amounts to be specified under the provisions of Paragraph 48, India agrees to continue the supply of water to the C.B.D.C., during the Transition Period, in accordance with the provisions of Paragraphs 7 to 19. The balance of the waters of the Ravi, after India has made the deliveries specified in these Paragraphs or the releases specified in Paragraph 20, shall be available for unrestricted use by India.

7. India will deliver supplies to the C.B.D.C. throughout rabi and during April 1-10 and September 21-30 in kharif (dates as at the points of delivery, no time-lag being allowed from Madhopur to these points), at the points noted in Column (3) of Table A below, according to indents to be placed by Pakistan, up to the maximum quantity noted against each point in Column (4) of Table A:

TABLE A

Item	Name of Channel	Point of Delivery (Approximate)	Maximum Quantity (cusecs)
Col. (1)	Col. (2)	Col. (3)	Col. (4)
1.	Lahore Branch	R.D. 196,455	615
2.	Main Branch Lower	R.D. 250,620	1,382
3.	Pull Distributary	R.D. 74,595	10
4.	Kohali Distributary	R.D. 67,245	26
5.	Khalra Distributary	R.D. 26,900	11
6.	Bhuchar Kahna Distributary	R.D. 15,705	317
Total:			2,361

8. (a) The supply available in the Ravi Main, at Madhopur above, after deducting the actual withdrawal (the deduction being limited to a maximum of 120 cusecs during April 1-10 and September 21-30 and to nil cusecs during rabi) for the Kashmir (Basantpur) Canal, will be taken as the 'gross supply available': Provided that any withdrawal from the Ravi upstream of Madhopur by a new canal constructed after the Effective Date with a capacity of more than 10 cusecs will be accounted for in working out the supply available in the Ravi Main at Madhopur Above.

(b) From the 'gross supply available' as determined in (a) above, the escapages, if any, from the Upper Bari Doab Canal into The Ravi will be deducted to get the 'net supply available'. India will use its best endeavour to limit these escapages to the minimum necessary for operational requirements.

(c) The 'net supply available' as determined in (b) above, limited to a daily ceiling of 6,800 cusecs during April 1-10 and 21st September to 15th October and of 5,770 cusecs during 16th October to 31st March, will be taken as the 'distributable supply'.

9. If the 'distributable supply' falls below 6,800 cusecs during April 1-10 or 21st September to 15th October, the aggregate deliveries to the C.B.D.C. may be reduced to 34.7 per cent of the 'distributable supply'. If the 'distributable supply' falls below 5,770 cusecs during 16th October to 31st March, the aggregate deliveries to the C.B.D.C. may be reduced to 41 per cent of the 'distributable supply'.

10. If in any year after the Rasul-Qadirabad and the Qadirabad-Balloki Links are ready to operate, the average discharge for a period of five consecutive days during 21st February to 6th April in the Jhelum Main at Rasul Above (including the supply in the tail-race of the Rasul Hydro-electric plant) exceeds 20,000 cusecs and the discharge is not less than 17,000 cusecs on any of these five days, India may, from a date four days after the expiry of the said period of five days, discontinue deliveries to the C.B.D.C. from that date until 10th April in that year: Provided that, if India should decide to exercise this option, India shall notify Pakistan telegraphically three days in advance of the date proposed for the discontinuance of deliveries.

11. As soon as the supplies specified in Paragraph 66 are available for reduction of deliveries by India during September 21-30 and rabi, the Commissioners will meet and agree upon suitable modifications in the provisions of this Part of this Annexure. In case the Commissioners are unable to agree, the difference shall be dealt with by a Neutral Expert in accordance with the provisions of Annexure F.

12. A rotational programme will be followed for the distribution of supplies during 16th October to 31st March; it will be extended, if necessary, for the distribution of supplies during 21st September to 15th October and April 1-10. This programme will be framed and, if necessary, modified by the Chief Engineer, Punjab, India, in such manner as will enable the C.B.D.C. to get the due percentage of the 'distributable supply' during each of the following Water-accounting Periods:—

- (i) 21st September to 15th October.
- (ii) 16th October to 2nd December (rabi sowing period).
- (iii) 3rd December to 12th February (rabi growing period).
- (iv) 13th February to 31st March (rabi maturing period).
- (v) April 1-10.

In framing, operating and, if necessary, modifying the rotational programme, the Chief Engineer, Punjab, will make every effort to see that, within each of the Water-accounting Periods specified above, the supplies delivered to the C.B.D.C. are spread out over the period as fairly as the prevailing circumstances permit.

13. The Chief Engineer, West Pakistan, will communicate to the Chief Engineer, Punjab (India) by 31st August each year, his suggestions,

if any, for framing the next rotational programme and the Chief Engineer, Punjab, in framing that programme, will give due consideration to these suggestions. Copies of the programme shall be supplied by the Chief Engineer, Punjab, to the Chief Engineer, West Pakistan, and to the Commissioners, as early as possible but not later than 30th September each year. Copies of the modified programme shall similarly be supplied as soon as possible after the modifications have been made and the Chief Engineer, West Pakistan, and the Commissioners will be kept informed of the circumstances under which the modifications are made.

14. Neither Party shall have any claim for restitution of water not used by it when available to it.

15. India will give Pakistan adequate prior notice of any closures at the head of the Upper Bari Doab Canal during the period 21st September to 10th April. If, however, on account of any operational emergency, India finds it necessary to suddenly close the Upper Bari Doab Canal at head, or any channel specified in Table A, India will notify Pakistan telegraphically.

16. No claim whatsoever shall lie against India for any interruption of supply to the C.B.D.C. due to a closure of the Upper Bari Doab Canal at head, or of any channel specified in Table A, if such closure is considered necessary by India in the interest of the safety or the maintenance of the Upper Bari Doab Canal system.

17. India will use its best endeavours not to pass into any of the channels listed as items 1, 2 and 6 of Table A, any supplies in excess of 110 per cent of the corresponding figure given in Column (4) of that Table. Any supplies passed into any of the aforesaid channels in excess of 105 per cent of the corresponding figure given in Column (4) of Table A will not be taken into account in drawing up the water-account. If however the indent of any channel is less than the corresponding figure given in Column (4) of Table A, the supplies passed into that channel up to 110 per cent of the indent will be taken into account in drawing up the water-account.

18. If, because of unavoidable circumstances arising out of the inherent difficulties in the operation of the Upper Bari Doab Canal (U.B.D.C.) system, deliveries to C.B.D.C. are temporarily reduced below the amounts indented or due (whichever amounts are less), no claim for financial compensation shall lie against India on this account. India will make every effort to bring about at the earliest possible opportunity a resumption of deliveries to C.B.D.C. up to the amounts indented or due (whichever amounts are less).

19. The delivery into each of the channels specified in Table A will be regulated by India in accordance with this discharge table current for that channel on the Effective Date until that table is revised, if necessary, on the basis of

- (i) Any discharge observation made by India whenever it may consider necessary to do so, but not more often than once in two months; or
- (ii) Any joint discharge observation by India and Pakistan which may be undertaken at the request of either Commissioner, but not more often than once in three months; the observation shall be made within a fortnight of the receipt of the request.

India will supply to Pakistan, for each channel specified in Table A, a copy of the discharge table current on the Effective Date and of any revised discharge table prepared thereafter in accordance with (i) or (ii) above.

20. Pakistan shall have the option to request India to discontinue the deliveries to C.B.D.C. at the points specified in Table A and to release instead equal supplies (that is, those due under the provisions of Paragraphs 7 to 11) into the Ravi Main below Madhopur. This option may be exercised, effective 1st April in any year, by written notification delivered to India before 30th September preceding. On receipt of such notification, India shall comply with Pakistan's request and thereupon India shall have no obligation to make deliveries to C.B.D.C. at the points specified in Table A during the remaining part of the Transition Period, but will use its best endeavours to ensure that no abstraction is made by India below Madhopur from the supplies so released.

PART 3—*Distribution of the Water of the Sutlej and the Beas
in Kharif During Phase I*

21. Except as provided in Paragraphs 22, 23, 24 and 27, India agrees to limit its withdrawals during Phase I at Bhakra, Nangal, Rupar, Harike and Ferozepore (including abstractions for storage by Bhakra Dam and for the ponds at Nangal and Harike) and by the Bachherewah Grey Canal from the flow waters (as distinct from stored waters) present in the Sutlej Main and from the 'Beas Component at Ferozepore', in each Water-accounting Period, to the equivalent of the following:

- (a) 10,250 cusecs from April 1-10 to July 1-10; 12,000 cusecs from July 11-20 to August 21-31 and 10,500 cusecs during September 1-10 to 21-30 from the Sutlej Main, as at Rupar; plus
- (b) 3,500 cusecs during April 1-10 to 21-30; 4,500 cusecs during May 1-10 to 21-31 and 5,500 cusecs from June 1-10 to September 21-30, as at Ferozepore, from the 'Sutlej Component at Ferozepore' and the 'Beas Component at Ferozepore' taken together; Provided that this withdrawal shall not exceed the sum of the 'Sutlej Component at Ferozepore' and 16 per cent of the 'Beas Component at Ferozepore'.

22. In addition to the withdrawals under Paragraph 21, India may make further withdrawals, in each Water-accounting Period, equivalent to the amount related to Pakistan's ability to replace. This amount shall be determined as follows:—

- (a) For each Water-accounting Period, the 'average discharge at Merala Above' shall first be worked out as follows:
 - (i) The daily figures for the discharges at Merala Above shall be limited to a minimum equal to the figure for the appropriate Floor Discharge at Merala Above, as given in Column (2) of Table B below, and to a maximum of M cusecs where M has the following values:

<i>Period</i>	<i>Values of M (cusecs)</i>
April 1-10	28,000
11-20	33,000
21-30	35,000
May 1-10	41,000
11-20	43,000
May 21-31 to Sept. 21-30	45,000

- (ii) The average of the daily figures limited in accordance with (i) above will be taken as the 'average discharge at Merala Above, for the Water-accounting Period.
- (b) For each Water-accounting Period, the 'gross amount' as at Ferozepore, corresponding to the 'average discharge at Merala Above', as determined in (a) above, shall next be worked out from Table B, in the following manner:

When the 'average discharge at Merala Above' is equal to the Floor Discharge shown in Column (2) of Table B the 'gross amount', as at Ferozepore, shall be zero. When the 'average discharge at Merala Above' equals or exceeds the Ceiling Discharge shown in Column (3) of Table B, the 'gross amount', as at Ferozepore, shall be the amount shown in Column (4) of Table B. For an 'average discharge at Merala Above' between those shown in Columns (2) and (3) of Table B, the 'gross amount', as at Ferozepore, shall be the proportional intermediate amount: Provided that

- (i) If during April 1-10 in any year, the 'average discharge at Merala Above' is equal to 11,100 cusecs and the 'gross amount' for the whole of the preceding March, under the provisions of Paragraph 35, has been equal to zero, then for the succeeding April 11-20 the figures for Columns (2), (3) and (4) of Table B will be taken as 12,000, 23,400 and 8,600 respectively; no change will be made for calculating the 'gross amount' in any subsequent Water-accounting Period in that year, but if in addition to the conditions already stated for April 1-10 the 'average discharge at Merala Above' during April 11-20 equal 12,000 cusecs, then for the succeeding April 21-30 the figures for Columns (2), (3) and (4) of Table B will be taken as 12,100, 23,500 and 8,600 respectively; no change will be made for calculating the 'gross amount' in any subsequent Water-accounting Period in that year;
- (ii) If during March 21-31 in any year, the average discharge at Merala Above (obtained by limiting the daily values to a maximum of 27,000 cusecs) exceeds 22,000 cusecs, then for the succeeding April 1-10 the figures for Columns (2), (3) and (4) of Table B will be taken as 11,100, 26,700 and 12,900 respectively; no change will be made for any subsequent Water-accounting Period in that year; and
- (iii) If, during any Water-accounting period from April 1-10 to September 21-30, the Upper Chenab Canal (U.C.C.) and M. R. Link are both closed at head (any day, on which some supplies are passed into U.C.C. in order that the head across the U.C.C. Head Regulator should not exceed 17 feet, being treated as a day of closure), on account of the discharge on any day in the Jammu Tawi having exceeded 30,000 cusecs, or on account of the discharge at Merala Above on any day having exceeded 200,000 cusecs, the 'gross amount', as at Ferozepore, will be worked out as follows:

For each of the day for which both U.C.C. and M. R. Link remain closed at head, the 'gross amount' as at Ferozepore,

shall be taken as 108 per cent of Q during April 1-10 to August 21-31 and 100 per cent of Q during September 1-10 to 21-30, where Q equal 67 per cent of the corresponding actual river supply at Balloki Above (allowing three days' time-lag from Merala to Balloki) minus 300 cusecs; Q being limited to 8,000 cusecs.

During April 1-10, to 11,000 cusecs during April 11-20, to 13,000 cusecs during April 21-30, and to 15,000 cusecs from May 1-10 to September 21-30. For the remaining days in the Water-accounting Period, the 'gross amount' shall be worked out on the basis of the average of the daily discharges at Merala Above for those days, the daily discharges being limited, where necessary, in accordance with (a) (i) above. The 'gross amount', for the Water-accounting Period taken as a whole, will be taken as equal to the sum of the 'gross amount' for each of the days of closure plus the 'gross amount' for the remaining days of the Water-accounting Period multiplied by the corresponding number of days, the aggregate being divided by the total number of days in the Water-accounting Period.

Pakistan will notify India about any such closure by telegram stating therein the discharge of Jammu Tawi, the discharge at Merala Above and the discharge of U.C.C. at head, and will continue to supply similar information daily by telegram till the U.C.C. and M. R. Link are reopened.

TABLE B

<i>Period</i>	<i>Floor Discharge at Merala Above</i>	<i>Ceiling Discharge at Merala Above</i>	<i>'Gross amount' as at Ferozepore, corresponding to the Ceiling Discharge</i>	<i>Factor to be applied to the 'gross amount' as determined under Paragraph 22 (b)</i>
Col. (1)	Col. (2)	Col. (3)	Col. (4)	Col. (5)
April 1-10	11,100	22,500	8,600	0.60
11-20	12,000	27,600	12,900	0.60
21-30	12,100	30,000	16,000	0.60
May 1-10	18,000	37,100	17,300	0.60
11-20	19,900	39,000	17,300	0.65
21-31	21,600	40,900	17,300	0.70
June 1-10	19,100	38,100	17,300	0.70
11-20	22,900	41,900	17,300	0.70
21-30	22,700	41,500	17,300	0.70
July 1-10	20,200	38,900	17,300	0.70
11-20	22,000	41,200	17,300	0.70
21-31	20,000	39,900	18,400	0.70
Aug. 1-10	14,100	33,700	18,400	0.70
11-20	15,000	34,500	18,400	0.70
21-31	18,300	37,300	18,400	0.70
Sept. 1-10	20,400	39,700	17,200	0.70
11-20	22,200	40,400	17,200	0.70
21-30	21,100	39,300	17,200	0.70

- (c) The 'gross amount', as at Ferozepore, as determined under (b) above, will then be multiplied by the corresponding factor in Column (5) of Table B to obtain the amount of further withdrawals by India as at Ferozepore.

23. During September 11-20 and September 21-30, an adjustment shall be made in the withdrawals which India may make under the provisions of Paragraphs 21 and 22 by adding the actual gains in the Sutlej Main from Ferozepore to Islam to the value determined under the provisions of Paragraphs 21 and 22 and deducting from the resulting total 3,400 cusecs during September 11-20 and 2,900 cusecs during September 21-30.

24. If, in any Water-accounting Period, the sum of (i) and (ii) below exceeds 55,000 cusecs during April 1-10 to August 21-31, or 30,000 cusecs during September, then India may make further withdrawals, as at Ferozepore, from the flow waters of The Sutlej and The Beas to the extent of the excess over 35,000 cusecs or 30,000 cusecs, as the case may be.

- (i) The supply available from the 'Sutlej Component at Ferozepore' and from the 'Beas Component at Ferozepore' less the withdrawals due to be made by India under the provisions of Paragraphs 21 (b), 22 and 23.
- (ii) The appropriate 'gross amount', as at Ferozepore, determined in accordance with Paragraph 22(b).

25. After allowing for the withdrawals by India under the provisions of Paragraphs 21(b), 22, 23 and 24, the balance of the 'Sutlej Component at Ferozepore' and of the 'Beas Component at Ferozepore' shall be delivered at Ferozepore for use by the Pakistan Sutlej Valley Canals.

26. Pakistan undertakes that, between 1st April and 30th June, and between 11th and 30th September, when the flow at Merala Above on any day is less than the appropriate Ceiling Discharge shown in Column (3) of Table B, it will not allow surplus water to escape below Khanki or below Balloki (except in circumstances arising out of an operational emergency or out of inherent difficulties in the operation of the system of works) and will cause such surplus waters to be transferred to Suleimanke. If, however, there should be spill at Khanki or at Balloki because of the aforesaid circumstances, Pakistan will immediately inform India of the reasons for such spill and take steps to discontinue the spill as soon as possible.

27. If the aggregate of (i) and (ii) below does not exceed 35,000 cusecs during any Water-accounting Period from April 1-10 to June 21-30, or 30,000 cusecs during September 11-20 or 21-30, and if Pakistan expects at any time during any of these Water-accounting Periods, that on one or more days it would be unable to use in its Sutlej Valley Canals the supplies likely to be available to it under the provisions of Paragraph 25 and the probable transfers under Paragraph 26, and that there is, therefore, a likelihood of escapage below Islam, Pakistan agrees that it will give such timely information to India as will enable India to make such additional withdrawals at or above Ferozepore on the day or days to be specified as will reduce the escapage below Islam to a minimum.

- (i) The likely delivery to Pakistan at Ferozepore under the provisions of Paragraph 25.
- (ii) The probable appropriate 'gross amount', as at Ferozepore, determined in accordance with Paragraph 22 (b).

Provided that the above provisions shall not apply during any Water-accounting Period in which (i) above is zero.

28. Subject to the provisions of Paragraph 64 and to the payment by Pakistan, by due date, of the amounts to be specified under the provisions of Paragraph 49, India agrees to deliver into the Dipalpur Canal at Ferozepore, during each Water-accounting Period, such part of the supplies due to be released by India under the provisions of Paragraph 25, as Pakistan may request, limited to a maximum of 6,950 cusecs: Provided that no claim shall lie against India if, because of circumstances arising out of the inherent difficulties in feeding the Dipalpur Canal, the supply delivered into the Dipalpur Canal should at any time fall below the supply requested by Pakistan to be fed into this Canal out of the total supplies due to be released by India at Ferozepore.

PART 4—Distribution of the Waters of The Sutlej and The Beas in Kharif

During Phase II

29. Subject to the provisions of Paragraphs 30 and 31 below, India agrees to deliver at Ferozepore for use by the Pakistan Sutlej Valley Canals the following minimum supplies during Phase II:

- (a) In each Water-accounting Period during April 1-30: 74 per cent of the amount calculated for delivery at Ferozepore under the provisions of Paragraph 25 *minus* 21 per cent of the 'gross amount' determined in accordance with Paragraph 22 (b): Provided that, during April 1-10 in any year, if the discharge at Trimmu Above is less than 8,500 cusecs, the delivery during April 1-10 in that year shall be the same as under the provisions of Paragraph 25.
- (b) In each Water-accounting Period during May 1-31: 71 per cent of the amount calculated for delivery at Ferozepore under the provisions of Paragraph 25 *minus* 24 per cent of the 'gross amount' determined in accordance with Paragraph 22 (b).
- (c) In each Water-accounting Period during June 1-30: 58 per cent of the amount calculated for delivery at Ferozepore under the provisions of Paragraph 25 *minus* 36 per cent of the 'gross amount' determined in accordance with Paragraph 22 (b).
- (d) July 1-10: 3,000 cusecs
- (e) July 11-20 to
August 21-31: 4,000 cusecs
- (f) September 1-10: 3,000 cusecs
- (g) September 11-20 and 21-30:

As under the provisions of Part 3 of this Annexure reduced by the following:

66 per cent of the amount by which the discharge at Trimmu Above (corrected for actual gains and losses between Trimmu and Panjnad, allowing a time-lag of three days from Trimmu to Panjnad) exceeds the smaller of the following two quantities:

- (i) The sum of the actual withdrawals by the Panjnad and Haveli canals; and
- (ii) 19,600 cusecs:

Provided that the gains from Trimmu to Panjnad shall be deemed to be limited to the actual withdrawals at Panjnad and provided further that the reduction, as thus calculated, shall be limited to a daily maximum of 7,000 cusecs and shall not exceed one-third of the sum of the supply which would have been delivered at Ferozepore under the provisions of Paragraph 25 and the 'gross amount' determined in accordance with Paragraph 22 (b).

30. As soon as the Rasul-Qadirabad and the Qadirabad-Balloki Links are ready to operate, the deliveries at Ferozepore for use by the Pakistan Sutlej Valley Canals, as specified in Paragraph 29, may be reduced

- (a) In each Water-accounting Period during April 1-10 to June 21-30, by (AX-AB) cusecs limited to (AY) cusecs where

X= the actual discharge at Rasul Above (including the supply in the tail-race of the Rasul hydro-electric plant),

Y= difference between 18,400 cusecs (limited during April 1-10 to 21-30 to the 'gross amount' as at Ferozepore corresponding to the Ceiling Discharge in Table B, read with provisos (i) and (ii) of Paragraph 22 (b) and the actual 'gross amount' worked out under Paragraph 22 (b),

A= a factor equal to 0.60 from April 1-10 to May 1-10, 0.65 for May 11-20, and 0.70 from May 21-31 to June 21-30, and

B= 24,000 cusecs from April 1-10 to 21-30, 32,000 cusecs from May 1-10 to 21-31 and 40,500 cusecs from June 1-10 to 21-30; and

- (b) During July 1-10 and 11-20, by 1,000 cusecs.

31. As soon as the supplies specified in Paragraph 66 are available for reduction of deliveries by India during September, the Commissioners will meet and agree upon modifications in the provisions relating to the deliveries at Ferozepore during September 11-20 and 21-30. In case the Commissioners are unable to agree, the difference shall be dealt with by a Neutral Expert in accordance with the provisions of Annexure F.

32. Subject to the provisions of Paragraph 64 and to the payment by Pakistan, by due date, of the amounts to be specified under the provisions of Paragraph 49, India will arrange to deliver into the Dipalpur Canal at Ferozepore, during each Water-accounting Period, such part of the supplies due to be released for Pakistan under the provisions of Paragraphs 29, 30, and 31 as Pakistan may request, limited to a maximum of 6,950 cusecs: Provided that no claim shall lie against India if, because of circumstances arising out of the inherent difficulties in feeding the Dipalpur Canal, the supply delivered into the Dipalpur Canal should at any time fall below the supply requested by Pakistan to be fed into this canal out of the total supplies due to be released by India at Ferozepore.

33. Subject to the provisions of Paragraphs 29 to 32 and Paragraph 57, there shall be no restriction on the use by India of the waters of The Sutlej and The Beas in *kharif* during Phase II.

PART 5—*Distribution of the Waters of The Sutlej and The Beas in Rabi*

34. Subject to the provisions of Paragraphs 35 to 38, during the Transition Period India agrees to deliver at Ferozepore for use by the Pakistan Sutlej Valley Canals, the following minimum supplies during rabi:—

- (a) October 1-10
and October 11-15: (i) 84 per cent of the 'Beas Component at Ferozepore' *plus*
(ii) 1,670 cusecs *minus*
(iii) The actual gains from Ferozepore to Islam
- (b) October 16-20: (i) 79 per cent of the 'Beas Component at Ferozepore' *plus*
(ii) 960 cusecs *minus*
(iii) The actual gains from Ferozepore to Islam
- (c) October 21-31: (i) 79 per cent of the 'Beas Component at Ferozepore' *plus*
(ii) 640 cusecs *minus*
(iii) The actual gains from Ferozepore to Islam
- (d) November 1-10: (i) 79 per cent of the 'Beas Component at Ferozepore' *plus*
(ii) 570 cusecs *minus*
(iii) The actual gains from Ferozepore to Islam
- (e) In each Water-accounting Period from November 11-20 to March 21-31: 79 per cent of the 'Beas Component at Ferozepore'.

35. When the flow at Trimmu Above, during March 1-10, 11-20 and 21-31 in any year, exceeds the smaller of the following two quantities:

- (i) The supplies required at Trimmu Above to meet the withdrawals of the Haveli and Panjnad Canals (after allowing a time-lag of five days from Trimmu to Panjnad), and
- (ii) 7,500 cusecs during Phase I or 10,000 cusecs during Phase II, the deliveries specified in Paragraph 34 (e) may be reduced, during March 1-10, 11-20 and 21-31 in that year, by amounts related to Pakistan's ability to replace. For March 1-10, 11-20 and 21-31, these amounts shall be taken as equal to 60 per cent of the 'gross amount' determined as follows:

When the sum of (a) the average discharge at Merala Above (obtained by limiting the daily values to a maximum of 25,000 cusecs during March 1-10, a maximum of 26,000 cusecs during March 11-20 and a maximum of 27,000 cusecs during March 21-31) and (b) the Ravi Component at Balloki Above (total supply at Balloki Above minus the delivery at U.C.C. tail minus the delivery at M. R. Link outfall minus the delivery into the Ravi Main through B.R.B.D. escapes, the result being limited to a minimum of zero is less than or equal to the Floor Discharge shown in Column (2) of Table C below, the 'gross amount', as at Ferozepore, shall be zero. When this sum equals or exceeds the Ceiling Discharge shown in Column (3) of Table C, the 'gross amount', as at Ferozepore, shall be the amount shown in Column (4) of Table C. When the sum is between the values shown in the said Columns (2) and (3), the 'gross amount', as at Ferozepore, shall be the proportional intermediate amount.

TABLE C

<i>Period</i>	<i>Floor Discharge</i>	<i>Ceiling Discharge</i>	<i>'Gross amount', as at Ferozepore corresponding to the Ceiling Discharge</i>
Col. (1)	Col. (2)	Col. (3)	Col. (4)
March 1-10	14,500	21,200	5,000
11-20	14,500	22,000	6,000
21-31	14,500	24,000	8,000

36. If, during any Water-accounting Period, the aggregate of (i), (ii) and (iii) below exceeds 25,000 cusecs during October 1-10 and 11-15 or 10,000 cusecs from October 16-20 to March 21-31, the deliveries due to be made under the provisions of Paragraphs 34 and 35 may be reduced by the amount of such excess over 25,000 cusecs or 10,000 cusecs, as the case may be.

- (i) Deliveries due to Pakistan at Ferozepore under the provisions of Paragraphs 34 and 35.
- (ii) During March only, 60 per cent of the appropriate 'gross amount', as worked out under Paragraph 35.
- (iii) During October 1-10 to November 1-10 only, the actual gains from Ferozepore to Islam, or, under the circumstances specified in Paragraph 62, the estimated gains agreed upon between the Commissioners.

37. In Phase II, during March, the deliveries to Pakistan, under the provisions of Paragraphs 34 to 36, may on any day be reduced by 60 per cent of the amount by which the discharge at Trimmu Above two days earlier exceeds 10,000 cusecs, but the reduction on this account shall not exceed 12 per cent of the 'Beas Component at Ferozepore'.

38. As soon as the supplies specified in Paragraph 66 are available for reduction of deliveries by India during rabi, the Commissioners will meet and agree upon modifications in the deliveries to be made by India at Ferozepore during rabi. In case the Commissioners are unable to agree, the difference shall be dealt with by a Neutral Expert in accordance with the provisions of Annexure F.

39. Subject to the provision of Paragraph 64 and to the payment by Pakistan, by due date, of the amounts to be specified under the provisions of Paragraph 49, India agrees to deliver into the Dipalpur Canal at Ferozepore, during October 1-10 and 11-15 in each year, such part of the supplies due to be released for Pakistan under the provisions of Paragraph 34 to 38 as Pakistan may request, limited to a maximum of 6,950 cusecs: Provided that no claim shall lie against India, if, because of circumstances arising out of the inherent difficulties in feeding the Dipalpur Canal, the supply delivered into the Dipalpur Canal should at any time fall below the supply requested by Pakistan to be fed into this canal out of the total supplies due to be released by India at Ferozepore.

40. Subject to the provisions of Paragraphs 34 to 38 and Paragraph 57, there shall be no restriction on the use by India of the waters of The Sutlej and The Beas during rabi.

PART 6—*Water-accounts at Ferozepore*

41. An account of the distribution of waters, as at Ferozepore, under the provisions of Parts 3, 4, and 5 of this Annexure will be maintained by each Commissioner in accordance with the provisions of Paragraphs 42 to 46, and appropriate Forms will be used, both for Phase I and Phase II, in order to facilitate, and to provide a record of, the distribution of waters in accordance with the provisions of this Annexure. Such forms for Phase I are set out in Appendix II to this Annexure. Appropriate Forms for Phase II will be prepared by the Commission. The Forms (both for Phase I and Phase II) may, from time to time, be modified or added to by the Commission, but only to the extent that the Commission finds it necessary to do so in order to further facilitate, and to maintain an appropriate record of, the distribution of waters in accordance with the provisions of the Annexure. In the absence of agreement in the Commission, the question shall be referred to a Neutral Expert for decision in accordance with the provisions of Annexure F.

42. Each calendar month will be divided into three Water-accounting Periods, viz., 1st to 10th, 11th to 20th and 21st to the last day of the month, except the month of October which will be divided into four Water-accounting Periods, viz., 1st to 10th, 11th to 15th, 16th to 20th and 21st to 31st.

43. For each Water-accounting Period, the river supplies or withdrawals or deliveries at any point will, unless otherwise specified in this Annexure, be taken as the average values of the daily figures for the days included in or corresponding to that Water-accounting Period.

44. The water-accounts for the period April 1-10 to July 1-10 (Ferozepore dates) will be prepared with due allowance for time-lag as set out in Appendix I to this Annexure.

45. (a) The 'Sutlej Component at Ferozepore' during each Water-accounting period from April 1-10 to September 21-30 and the 'Beas Component At Ferozepore' during each Water-accounting Period from April 1-10 to March 21-31 shall be worked out in accordance with Appendix I to this Annexure.

(b) During the Water-accounting Periods from September 11-20 to November 1-10, the gains and losses in the reach from Ferozepore to Islam shall be taken as the actual gains or losses calculated without allowance for time-lag.

(c) A conveyance loss of 6 per cent from the head of the Madhopur Beas Link to the junction of the Chakki Torrent with the Beas Main shall be adopted until revised, at the request of either Commissioner, as follows:

- (i) The figure may be revised by agreement between the Commissioners, either after a study of available data and general consideration or after an analysis of discharge observations to be carried out jointly by the Commissioners, at the request of either Commissioner, or
- (ii) If the Commissioners are unable to agree on a suitable figure (or figures) for the conveyance losses, the matter may be referred to a Neutral Expert for decision in accordance with the provisions of Annexure F.

(d) The procedure for working out the equivalents at Mandi Plain of any withdrawals from the Beas Main by any new canal constructed after

the Effective Date, with a capacity of more than 10 cusecs, or of any abstractions from the flow waters by, or releases of stored waters from any reservoir on The Beas will be determined by the Commission at the appropriate time.

(e) An allowance for run-out (Nikal) shall be made in the water-account in respect of the waters passed into the Beas by the M. B. Link (including escapages from the U.B.D.C.) into The Beas. This allowance shall equal the volume of waters passed by the link (including escapages from U.B.D.C.) into the Beas on the last two days of the operation of the Link during the period from 1st September to 15th October and it shall be accounted for at Mandi Plain during the ten days following the closure of the link:

Provided that this allowance shall be made only once and if the Link is re-opened thereafter, no further allowance on that account shall be made.

46. Every effort will be made by India to balance the water-account at Ferozepore for each of the Water-accounting Periods, but any excess or deficit in deliveries, due to Pakistan, in any Water-accounting Period, under the provisions of this Annexure, that may arise out of the inherent difficulties in determining these deliveries shall be carried over to the next Water-accounting Period for adjustment: Provided that:

- (a) If, in any Water-accounting Period during Phase I, the sum of (i), (ii) and (iii) below exceeds 35,000 cusecs during April 1-10 to August 21-31, 30,000 cusecs during September 1-10 to 21-30, 25,000 cusecs during October 1-10 or 11-15, or 10,000 cusecs during October 16-20 to March 21-31, then there will be no carry-over from any such period to the next period.
 - (i) The supply at Ferozepore Below (including withdrawals by the Dipalpur Canal, if any).
 - (ii) During March 1-10 to September 21-30, the appropriate 'gross amount', as at Ferozepore, determined in accordance with Paragraph 22(b) or Paragraph 35.
 - (iii) During September 11-20 to November 1-10, the actual gains and losses from Ferozepore to Islam, losses being treated as negative gains; or, under the circumstances specified in Paragraph 62, the estimated gains agreed upon between the Commissioners.
- (b) If, in any Water-accounting Period, the indents of the Indian Canals at Ferozepore and Harike have been fully met and there is an excess delivery to Pakistan at Ferozepore, than such excess shall not be carried forward to the next period.
- (c) In each year, the water-account shall be finally closed at the end of the Water-accounting Period March 21-31 and any excess or deficit in the water-account, at the end of that Period, shall not be carried over to the succeeding Water-accounting Period, viz., April 1-10.
- (d) If, during Phase I, in any Water-accounting Period from April 1-10 to June 21-30, the withdrawals computed as due to India under the Provisions of Paragraphs 21 (b), 22, 23 and 24 exceed the supply available to India from the 'Sutlej Component at Ferozepore' and from the 'Beas Component at Ferozepore' taken together, then, in the water-account only 50 per cent of such excess shall be carried over for use by India.

- (e) If, during Phase II, in any Water-accounting Period from April 1-10 to June 21-30, the withdrawals computed as due to India from the 'Sutlej Component at Ferozepore' and from the 'Beas Component at Ferozepore' after allowing for the deliveries due to Pakistan at Ferozepore under the provisions of Paragraphs 29 and 30 exceed the supply available to India from the 'Sutlej Component at Ferozepore' and from the 'Beas Component at Ferozepore', then such excess shall be treated separately and accounted for as below:
- (i) The excess may be carried over for adjustment to the succeeding Water-accounting Period and, where necessary, to the next succeeding Water-accounting Period, but shall be deemed to have lapsed if not adjusted by them.
 - (ii) The cumulative excess carried over shall not exceed 2,000 cusecs from April 1-10 to May 21-31 and 3,000 cusecs during June 1-10 to 21-30.
 - (iii) In no case shall the excess be carried over beyond June 21-30.

47. As soon as possible after the end of each Water-accounting Period, each Commissioner will intimate to the other, by telegram, the excess or deficit carried over to the next Water-accounting Period. On receipt of this information, either Commissioner may, if he considers it necessary, ask for an exchange of the relevant water-accounts.

PART 7—*Financial Provisions*

48. For each year for which Pakistan has not exercised the option under the provisions of Paragraph 20:

- (a) India will, by 1st February preceding, communicate to Pakistan, in writing, the estimated proportionate working expenses payable by Pakistan for the Madhopur Headworks and the carrier channels calculated in accordance with Appendix III to this Annexure; and
- (b) Pakistan will pay to the Reserve Bank of India, New Delhi, for the credit of the Government of India, before 1st April of that year, the amount intimated by India.

49. For each year for which Pakistan has not exercised the option under the provisions of Paragraph 64:

- (a) India, will, by 1st February preceding, communicate to Pakistan, in writing, the estimated proportionate working expenses payable by Pakistan for the Ferozepore Headworks (including the part of the Dipalpur Canal in India) calculated in accordance with Appendix IV to this Annexure; and
- (b) Pakistan will pay to the Reserve Bank of India, New Delhi, for the credit of the Government of India, before 1st April of that year, the amount intimated by India.

50. As soon as the figures of actual audited expenditures on the Madhopur Headworks and the carrier channels and on the Ferozepore Headworks for each year are supplied by the Accountant General, Punjab (India), but not later than one year after the end of the year to which the expenditure relates, India will communicate to Pakistan, in writing, the actual expenditure corresponding to the estimated proportionate working expenses paid

by Pakistan under the provisions of Paragraphs 48(b) and 49(b). If the actual proportionate expenditure is less than the amount paid by Pakistan under the provisions of Paragraphs 48(b) and 49(b), India shall, within one month, refund the difference to Pakistan and if the actual proportionate expenditure is more than the amount paid, Pakistan shall, within one month, make an additional payment to India to cover the difference.

51. The payments by Pakistan to India under the provisions of Paragraphs 48, 49 and 50 and the refund by India under the provisions of Paragraph 50 shall be made without any set off against any other financial transaction between the Parties.

PART 8—*Extension of Transition Period*

52. In the event that Pakistan is of the opinion that the replacement referred to in Article IV (1) cannot be effected unless the Transition Period is extended beyond 31st March 1970, this period may be extended at the request of Pakistan

- (a) By one, two or three years beyond 31st March 1970; or
- (b) Having been extended initially by one year beyond 31st March 1970, then by one or two years beyond 31st March 1971; or
- (c) Having been extended initially by two years beyond 31st March 1970, or having been extended by one year beyond 31st March 1971 under (b) above, then by one more year beyond 31st March 1972.

53. A request by Pakistan for any extension under the provisions of Paragraph 52 shall be made to India by formal notice in writing, and any such notice shall specify the date up to which Pakistan requests an extension under the aforesaid provisions. On the receipt of such notice by India within the time-limit specified in Paragraph 54, the Transition Period shall be extended up to the date requested by Pakistan.

54. A formal notice under Paragraph 53 shall be given as early as possible and, in any event, in such manner as to reach India at least twelve months before the due date for the expiration of the Transition Period. Unless such notice is received by India within this time-limit, the Transition Period shall expire on the due date without any right of extension or further extension: Provided however that the Transition Period shall be extended, within the provisions of Paragraph 52, by an exceptional notice of request for an extension received by India not later than five months before the due date for expiration of the Transition Period, if, within the twelve months prior to such due date, heavy flood damage should have occurred which, in the opinion of Pakistan, cannot be repaired in time to operate the system of works as planned.

PART 9—*General*

55. India may continue to irrigate from the Eastern Rivers those areas which were so irrigated, as on the Effective Date, from The Sutlej, The Beas or The Ravi by means other than the canals taking off at Madhopur, Nangal, Rupar, Harike and Ferozepore: Provided that

- (i) Any withdrawals by the Shahnahr Canal in excess of 940 cusecs during any Water-accounting Period shall be accounted for in the estimation of the "Beas Component at Ferozepore", and

- (ii) The capacity of the Shahnehr Canal shall not be increased beyond its actual capacity as on the Effective Date (about 1,000 cusecs).

If India should construct a barrage across the Beas Main below the head of the Shahnehr Canal or undertake such other works as would enable the Canal to increase its withdrawals by more than 50 cusecs over and above those attained as on the Effective Date, the withdrawals during each Water-accounting Period in excess of the average withdrawals for each such period during the five years preceding the completion of the barrage or of such other works shall be accounted for in the estimation of the "Beas Component at Ferozepore".

56. India agrees that, from 21st September to 31st March, it will not make any withdrawals for Agricultural Use by Government canals or by power pumps from the Ravi Main below Madhopur, in excess of the withdrawals as on the Effective Date.

57. Subject to the provisions of Paragraph 55, India agrees that it will not make any withdrawals for Agricultural Use from the Sutlej Main below Ferozepore from the supplies delivered at Ferozepore for use by the Pakistan Sutlej Valley Canals.

58. India shall be entitled to utilise without restriction the waters stored by it (in accordance with the provisions of this Annexure) in any reservoir on the Eastern Rivers or in the ponds at Nangal or Harike.

59. Pakistan agrees that

- (i) It will have filled the ponds at Suleimanke and Islam by 10th September in each year to the maximum extent possible without causing the maximum working head across the weirs and the maximum pond levels to exceed the values given in Table D below:

TABLE D

<i>Weir</i>	<i>Maximum working head in feet</i>	<i>Maximum pond level (R. L.)</i>
Suleimanke	18.5	569.0
Islam	18.0	452.0

- (ii) After the river has fallen to a stage at which the releases from the ponds will not result in a spill below Islam, it will lower the pond levels gradually to R.L.565.5 at Suleimanke and R.L.449.0, or lower if possible, at Islam, and complete the lowering, as far as possible, by 31st October, without spilling below Islam; and
- (iii) It will use its best endeavours to fill the pond at Islam to R.L.455.0, provided that this does not endanger the safety of the weir:

Provided that the above provisions in so far as they relate to the Islam Weir shall lapse on the date Pakistan discontinues the use of this weir. Instead, the pond at the new weir below Islam shall be filled by 10th September each year and lowered by 31st October in accordance with the above provisions, but the maximum working head in feet, the maximum pond level and the level to which the pond is to be lowered by 31st October shall be determined in accordance with the design of the new weir.

60. Pakistan agrees that it will not release any water below the barrage at Suleimanke between 13th October and 10th November, except when the supply reaching Suleimanke on any day (including the delivery, if any,

from B. S. Link tail) is in excess of 6,000 cusecs, when the excess on that day over 4,000 cusecs may be released. If the supply reaching Islam falls below 350 cusecs, Pakistan may release supplies below Suleimanke provided that such releases shall be so regulated that the supply reaching Islam does not appreciably exceed 20 per cent of the sum of the withdrawals, at head, of the perennial Pakistan Sutlej Valley Canals.

61. Pakistan agrees that from 21st August to 15th September it will, except under unavoidable circumstances, run the B.S. Link with a discharge not less than 13,000 cusecs, at head.

62. If, for any reason, Pakistan is unable to adhere to the programme for filling and emptying the ponds at Suleimanke and Islam, as set out in Paragraph 59, the Commissioners will agree on an estimate of the gains which would have accrued in the reach from Ferozepore to Islam but for Pakistan's inability to adhere to the aforesaid programme and these estimated gains will be used in the water-account instead of the actual gains or losses.

63. In the event of an emergency, leading to circumstances under which Pakistan is unable to fulfil the provisions of Paragraph 61, the actual gains or losses will be used in the water-account, and the Pakistan Commissioner will immediately inform the Indian Commissioner of the emergency and take steps to restore normal conditions as soon as possible.

64. Pakistan shall have the option to request India to discontinue the deliveries into the Dipalpur Canal. This option may be exercised effective 1st April in any year by written notification delivered to India before 30th September preceding. On receipt of such notification, India will cease to have any obligation to make deliveries into the Dipalpur Canal during the remaining part of the Transition Period.

65. If, owing to heavy floods,

- (i) Damage should occur to any of the Link Canals (including Head-works) specified in Column (1) below during the period specified for that particular Link Canal in Column (2) below, and,
- (ii) As a result of such damage, the ability of that Link Canal to transfer supplies should have been diminished to an extent causing serious interruption of supplies in irrigation canals dependent on that Link Canal,

then the two Commissioners will promptly enter into consultations, with the good offices of the Bank, to work out the steps to be taken to restore the situation to normal and to work out such temporary modifications of the relevant provisions of this Annexure as may be agreed upon as appropriate and desirable, taking equitably into consideration the consequences of such modifications on the cultivators concerned both in India and in Pakistan. Any modifications agreed upon shall lapse on the terminal date specified in Column (2) below.

<i>Column (1)</i>	<i>Column (2)</i>
(a) M. R. Link	Up to 31st March 1962
(b) B. S. Link	” ” ” ”
(c) B. R. B. D. Link	” ” ” ”
(d) Trimmu — Islam Link (including the Head-works for	Two years beginning from the date on which the Link is ready to

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>this Link on the Ravi Main and the Sutlej Main).</p> <p>(e) Rasul-Qadirabad and Qadirabad — Balloki Links (including the Head-works for these Links).</p> | <p>operate, but not to extend beyond 31st March 1968.</p> <p>Three years beginning from the date on which the Links are ready to operate, but not to extend beyond the end of the Transition Period.</p> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

66. If, at any time before the end of the Transition Period, the Bank is of the opinion that the part of the system of works referred to in Article IV(1) is ready to provide additional supplies during September 11-30 and rabi, over and above the replacements in these periods specifically provided for in Parts 2 to 5 of this Annexure, it shall so notify the Parties. On receipt of such notification, Pakistan shall provide, towards a reduction of the deliveries by India during September 11-30 and rabi to the C.B.D.C. and at Ferozepore under the provisions of Parts 2 to 5 of this Annexure, the equivalent (at points of delivery) of 60 per cent of the total supplies made available by the whole of the above-mentioned system of works; Provided that, in computing the aforesaid total supplies, any contribution from the Indus and any supplies developed by tube-wells shall be excluded.

67. The provisions of this Annexure may be amended by agreement between the Commissioners. Any such amendment shall become effective when agreement thereto has been signified in an exchange of letters between the two Governments.

PART 10—*Special Provisions for 1960 and 1961*

68. The actual withdrawals made by India and the actual deliveries made by India into the C.B.D.C., into the Dipalpur Canal and into the Sutlej Main at Ferozepore, during the period between the Effective Date and the date on which this Treaty enters into force, shall be deemed to be withdrawals and deliveries made in accordance with the provisions of this Annexure.

69. For the year commencing on 1st April, 1960, (a) the communication by India of the amount of the estimated proportionate working expenses specified in Paragraphs 48(a) and 49(a) shall be made within one month of the date on which this Treaty enters into force and (b) the payment by Pakistan to India specified in Paragraphs 48(b) and 49(b) with respect to that year shall be made by Pakistan within three months of the date on which this Treaty enters into force and the provisions of Paragraph 50 shall then apply.

70. Subject to the provisions of Paragraph 28 and if the supplies due to be released for Pakistan at Ferozepore, during 1961 from April 1-10 to June 21-30, are less than the amounts set out in Column (2) below and Pakistan is unable to deliver into the Dipalpur Canal from the B.R.B.D. Link during April, May or June amounts equal to the aggregate amounts specified for that month in Column (2) below, India will make additional deliveries into the Dipalpur canal at Ferozepore to make up these aggregate amounts in such manner as to ensure that the canal is not closed for more than 10 days either in May or in June, 1961.

<i>Column (1)</i>		<i>Column (2)</i>
April	1-10	Nil cusecs
	11-15	Nil cusecs
	16-20	1,000 cusecs
	21-30	800 cusecs
Aggregate for April		<u>13,000 cusec-days</u>
May	1-10	Nil cusecs
	11-20	1,000 cusecs
	21-31	800 cusecs
Aggregate for May		<u>18,800 cusec-days</u>
June	1-10	1,000 cusecs
	11-20	1,000 cusecs
	21-30	1,200 cusecs
Aggregate for June		<u>32,000 cusec-days</u>

APPENDIX I TO ANNEXURE H

Provisions for Time-Lag and for Determination of the "Sutlej Component at Ferozepore" and the "Beas Component at Ferozepore"

A. *Time-Lag*

	<i>Time-lag in days</i>	
	<i>April</i>	<i>May 1 to July 10</i>
	<i>(Ferozepore Dates)</i>	
Bhakra/Nangal to Rupar	1	1
Rupar to Ferozepore	4	3
Ferozepore to Suleimanke	3	2
Shahnehr Canal head to Mandi Plain	3	2
Mandi Plain to Ferozepore	1	1
Western Bein to Ferozepore	1	1
Madhopur to Mandi Plain via Beas	3	2
Mirthal to Mandi Plain	3	2

For other periods and reaches, unless otherwise specified in this Annexure, the date will be taken to be the same as the dates at Ferozepore, with no allowance for time-lag.

B. "*Sutlej Component at Ferozepore*" corresponding to assumed releases of flow waters below Rupar

(i) The assumed releases of flow waters below Rupar shall be taken as equal to the Sutlej flow waters, as distinct from stored waters, which would have been released below Rupar if the aggregate of the net Indian withdrawals from these flow waters had been limited to the values specified in Paragraph 21 (a) of this Annexure.

(ii) For each of the Water-accounting Periods from April 1-10 to August 21-31 (Ferozepore dates) the values of the "Sutlej Component at

Ferozepore ” corresponding to the assumed releases below Rupar shall be worked out from the following table:

<i>Assumed releases below Rupar (Cusecs)</i>	<i>“Sutlej Component at Ferozepore” (Cusecs)</i>
below 500	Actual at Ferozepore
500	320
1,000	640
1,500	960
2,000	1,280
3,000	1,920
5,000	3,200
7,500	5,400
10,000	7,600
15,000	12,000
20,000	16,400
30,000	25,200
40,000	34,000
50,000	42,800
100,000	86,800
200,000	174,800

For intermediate values of the assumed releases below Rupar, in excess of 500 cusecs, the “Sutlej Component at Ferozepore will be worked out proportionately.

(iii) During September 1-10 to 21-30, the “Sutlej Component at Ferozepore ” shall be taken as equal to 0.90 S *plus* 400 cusecs, where S equals the assumed releases of flow water below Rupar (allowing three days time-lag between Ferozepore and Rupar).

C. “*Beas Component at Ferozepore*”(X) *corresponding to the sum (Y) of the Beas Component at Mandi Plain and the discharge of the Western Bein*

For each Water-accounting Period, the “Beas Component at Ferozepore ” (X) shall be worked out by multiplying the sum (Y) of the Beas Component at Mandi Plain and the discharge of the Western Bein by the appropriate factor given in the following table:

<i>Water-accounting Periods (Ferozepore Dates)</i>	<i>Factor for converting Y to X</i>
April 1-10 and 11-20	0.95
April 21-30 and May 1-10	0.89
May 11-20 to July 1-10	0.87
July 11-20 to August 11-20	0.89
August 21-31 and September 1-10	0.92
September 11-20 to October 21-31	0.98
November 1-10 to 21-30	0.95
December 1-10 to 21-31	0.97
January 1-10 to February 21-28/29	0.92
March 1-10 to 21-31	0.94

APPENDIX II TO ANNEXURE H

Forms of Water-account
(not printed)

APPENDIX III TO ANNEXURE H

Calculations for determining proportionate working expenses to be paid by Pakistan under the provisions of Paragraphs 48 and 50 of this Annexure

1. Until Pakistan exercises the option under the provisions of Paragraph 20 of this Annexure, the proportionate working expenses payable by it under the provisions of Paragraphs 48 and 50 of this Annexure shall be (X per cent of A) plus B, where

(a) For the year commencing on 1st April 1960, X equals 100; and from the year commencing 1st April 1961,

$$X = \frac{202}{365} \times 100;$$

(b) A is the aggregate sum of the following:

- (i) 45 per cent of the "working expenses" during the year on Madhopur Head-works;
- (ii) 65.5 per cent of the "working expenses" during the year on "II Main Canals and Branches" (carrier channels only); and
- (iii) 66.8 per cent of the "working expenses" during the year on "III Distributaries" (carrier channels only); and

(c) B is fixed over-head charge equal to Pounds Sterling 60,000 per year.

2. The "working expenses" for the purpose of paragraph 1 above shall consist of:

- (i) Expenditure under account heads Maintenance and Repairs, Extensions and Improvements, and Tools and Plant, and
- (ii) Pro-rata establishment charges on account of Divisional and Circle Offices and Chief Engineers' Direction Charges.

3. The proportionate working expenses payable by Pakistan shall be modified, in accordance with paragraph 4 below, if

- (a) India should bring into operation any new channel to irrigate any parts of the area which were irrigated, before the Effective Date, from the Lahore Branch and the Main Branch Lower; or
- (b) Pakistan should desire to reduce
 - (i) The period specified in Paragraph 7 of this Annexure; or
 - (ii) The maximum quantities (in cusecs) specified in Paragraph 7 of this Annexure; or
- (c) Any change is made in the period or quantity of deliveries to the C.B.D.C. in accordance with the provisions of Paragraphs 10 and 11 of this Annexure. In case of (b) above, Pakistan shall give India due notice of its intentions, such notice to reach India at least six months before the date from which the change is sought.

4. (a) Under the conditions envisaged in paragraph 3 (a) above,

Pakistan shall pay 100 per cent of the "working expenses" on such Branches or Distributaries as carry supplies for Pakistan only and for the remaining carrier channels the percentages given in paragraph 1 (b) (ii) or 1 (b) (iii) above shall be re-calculated on the basis of ratio of cusec-miles to be delivered by the remaining channels to Pakistan (with pro-rata additions on account of absorption losses) to the aggregate of cusec-miles of the remaining channels (on the basis of 1948 capacities), the cusec-miles for each such channel being worked out separately.

(b) If there is a reduction in the period specified in Paragraph 7 of this Annexure, as envisaged under paragraph 3 (b) (i) and 3 (c) above, the factor X in paragraph 1 (a) above will be taken as equal to number of days during which C.B.D.C. is due to receive supplies from U.B.D.C.

number of days in the year

(c) In the event that there is a reduction in the maximum quantities specified in Paragraph 7 of this Annexure as mentioned in paragraphs 3 (b) (ii) and (c) above, the percentages in paragraph 1 (b) (i), (b) (ii) and (b) (iii) above will be reduced pro-rata.

APPENDIX IV TO ANNEXURE H

Calculations for determining proportionate working expenses to be paid by Pakistan under the provisions of Paragraphs 49 and 50 of this Annexure

1. Until Pakistan exercises the option under the provisions of Paragraph 64 of this Annexure, the proportionate working expenses payable by it under the provisions of Paragraphs 49 and 50 of this Annexure shall be X per cent of (A plus B) where:

(a) For each of the three years commencing on 1st April 1960, 1st April 1961 and 1st April 1962, X equals 51; and from the year commencing 1st April 1963, X equals 80;

(b) A is the aggregate sum of the "working expenses" during the year; and

(c) B is a fixed overhead charge equal to Pounds Sterling 110,000.

2. The "working expenses" for the purpose of paragraph 1 above shall consist of:

- (i) Expenditure on the Ferozepore Headworks (including the part of the Dipalpur Canal in India) under account heads Maintenance and Repairs, Extensions and Improvements, and Tools and Plant;
- (ii) Pro-rata establishment charges on account of the Divisional and Circle Offices and Chief Engineers' Direction Charges; and
- (iii) Expenditure on 'Minor Works 18A (2) Miscellaneous (discharge observations at Ferozepore).

Iran-Iraq

99. PROCEEDINGS¹ OF THE TURCO-PERSIAN BOUNDARY DELIMITATION COMMISSION, 1914²

. . .

D. THE GUNJAN CHAM RIVER

This river rises in the Persian province of Pusht-i-Kuh and flows south-westwards. The median line forms the boundary for about 12 miles from pillar 32 to pillar 31, where it becomes an entirely Iraqi stream and flows on to Badra. The Iraqi township of Zurbatiya and the surrounding arable lands receive their water by canals taking off from the right bank of the Gunjan Cham in this sector between pillars 32 and 31; arable lands on the Persian side are similarly irrigated by canals taking off from the left bank.

There appears to have been no serious dispute regarding the division of the water up to 1930; in that year a difference between Iraqi and Persian tribesmen attracted attention and was settled without difficulty by minor officials on the spot. But, in the spring of 1931, the newly installed Persian Military Governor of Mansurabad, desiring to establish hitherto nomadic tribesmen on the land and to increase cultivation on the Persian side, dug a new canal. As the summer advanced and the water fell, he built a dam right across the river-bed, the *medium filum aquæ* of which, as mentioned above, here forms the boundary, and diverted all the water into Persia.

On March 17th, July 26th, August 30th and September 9th, 1931, the Iraqi Ministry for Foreign Affairs addressed complaints to the Persian Legation and pressed for the appointment of a mixed commission to make enquiries on the spot and elaborate an agreement, based on previous custom, regarding the proportions in which the waters of the Gunjan Cham were to be enjoyed by the inhabitants of the two banks. The Persian Legation replied as follows:

“ *Persian Legation to Iraqi Ministry for Foreign Affairs, No. 2573, of September 20th, 1931.*
[*Translation.*]

“ The Imperial Persian Legation in Baghdad has the honour to refer to the Ministry’s note No. 4169, of August 29th/30th, 1931, and to inform them that the Imperial Persian Government does not consent to the setting up of the commission, referred to in the last paragraph of the note reference, for the settlement of the question of the Zurbatiya water.

¹ The Proceedings of the 1914 Delimitation Commission have been deemed valid and binding by the article 1 of the Boundary Treaty between the Kingdom of the Irak and the Empire of Iran, signed at Teheran, 4 July 1937 (League of Nations, *Treaty Series*, vol. 190, p. 242).

² The text of the Commission’s Proceedings has not been published, although it was deposited in the Archives of the League of Nations Secretariat at the disposal of the Members of the League. The information given here is based on Appendix III (D) to the “ Request by the Iraqi Government under article 11, paragraph 2 of the Covenant of the League of Nations ” [*League of Nations Office Journal*, 1935 (2), p. 213 (Doc. No. C. 531 (1). M. 242 (1). 1934. VII)].

Although the part of the Boundary Delimitation Agreement of 1914 which relates to the delimitation of the boundary with Iraq has not been recognised as official, nevertheless, even if action were to be based upon it, it is clearly stated, in the paragraph concerning the utilisation by the inhabitants of Zurbatiya of the Gunjan Cham water, that, after the people inhabiting the bank of the said stream have used the water, the surplus will then be directed towards Zurbatiya, as has been the practice up to the present time. The question of the water of this stream does not resemble that of the Gangir stream; it is impossible to fix the amount of the surplus of the water that a commission should be set up for the purpose of its distribution. The Iraqi Ministry for Foreign Affairs will doubtless admit that, in view of the above-mentioned circumstances and the fact that the surplus water is flowing to Zurbatiya as before, there is no need to form a commission for this purpose. The Imperial Persian Legation avails, etc.”

The Persian Ministry for Foreign Affairs, in its No. 22988/101553 of September 30th, 1931, replied somewhat differently to the parallel representations made by the Iraqi Legation in Teheran.

[*Translation.*]

“ In answer to the note of the Royal Iraqi Legation, No. 751, regarding the complaint of the people of Zurbatiya against the cutting off of the surplus waters of the river Gunjan Cham from Zurbatiya, the Ministry for Foreign Affairs has the honour to inform the Legation that the reports received from the authorities concerned all indicate that the surplus waters of the said river were and are still flowing to Zurbatiya. This Ministry has also issued strict instructions to the local officials in Mansurabad to supervise the flow of the surplus of the said waters to Iraqi territory as usual. Furthermore, this Ministry has communicated to the authorities concerned the contents of the Legation’s note under reply, and has asked by telegraph for an enquiry into the matter and the issue of necessary instructions for urgent steps to be taken for the return of the waters to Zurbatiya if they have in fact been cut off. This Ministry is now occupied in studying the proposal of the Iraqi Government regarding the meeting of a joint commission to investigate the claims of the people of Zurbatiya regarding the cutting off of the surplus water of the Gunjan Cham from Iraqi territory, and the aggressions committed against them in this connection. The Legation will be informed of the result as soon as possible.”

The following notes were then exchanged:

“ *Iraqi Ministry for Foreign Affairs to Persian Legation, No. 4790, of October 5th, 1931.*

[*Translation.*]

“ The Ministry for Foreign Affairs present their compliments to the Imperial Persian Legation and have the honour to refer to its note No. 2573 of September 20th, 1931, and to express their regret at the statement contained in the Legation’s note to the effect that ‘ the part of the Boundary Delimitation Agreement of 1914, which relates to the delimitation of the boundary with Iraq, has not been recognised as official ’. Since the above-mentioned Agreement, including the provisions relating to the delimitation of the Iraqi-Persian boundary, is valid, and since the delimitation of the Iraqi-Persian boundary was completed seventeen

years ago, the Ministry believe that the Legation did not mean by its note under reference anything to prejudice the present situation which the Iraqi Government consider as official and final. The Ministry avail, etc.”

“*Iraqi Ministry for Foreign Affairs to Persian Legation, No. 5434, of November 2nd, 1931.*

[*Translation.*]

“The Ministry for Foreign Affairs present their compliments to the Imperial Persian Legation in Baghdad and have the honour to refer to its note No. 2573 of September 20th, 1931, and to inform it that the Iraqi Government have found nothing in the decisions of the Boundary Delimitation Commission of 1914, defining any régime for the Zurbatiya water. The Ministry therefore request the Legation to inform them of the name of the document which defines the régime of distribution of the waters of the Gunjan Cham and, if possible, to provide them with a copy. In the opinion of the Iraqi Government, the inhabitants of both banks must naturally have the right of utilising the water of the Gunjan Cham; they think suitable that the commission already formed for the settlement of the Mandali water question should be entrusted with the task of investigating the Zurbatiya question also, with a view to distributing the water justly between the two sides. The Ministry avail, etc.”

“*Persian Legation to Iraqi Ministry for Foreign Affairs, No. 3878, of November 24th, 1931.*

[*Translation.*]

“The Imperial Persian Legation has the honour to refer to the Ministry’s note No. 5434, of November 2nd, 1931, relating to the water that flows to Zurbatiya. Although the surplus waters of the Gunjan Cham are, as the Legation has previously informed the Ministry, flowing to Zurbatiya according to ancient custom, and the inhabitants of Pusht-i-kuh have not cut off the water at all up to the present time, and although the complaints of the inhabitants of Zurbatiya are baseless, the Imperial Government have nevertheless issued the necessary instructions to the Government of Pusht-i-kuh to give all possible assistance in this regard in order to improve the condition of the inhabitants and to silence their complaints. The Legation has to add that the Imperial Government of Persia, since they do not recognise the Delimitation Agreement, do not desire at present to enter into any correspondence regarding it, pending the settlement of the basic question between the two Governments in the future. The Imperial Legation avails, etc.”

“*Persian Legation to Iraqi Ministry for Foreign Affairs, No. 3276, of December 2nd, 1931.*

“The Imperial Legation in Baghdad has the honour to refer to the note of the Iraqi Ministry for Foreign Affairs No. 4790, dated October 5th, 1931, and to state that, as it has reminded the authorities of the Iraqi Government on numerous occasions, the Boundary Delimitation Agreement of 1914, concluded between the Imperial Persian Government and the former Ottoman Government, was from the first objected to by the Imperial Government, as it did not solve the differences connected with the boundary existing between Persia and Iraq in accordance with the interests of Persia. The Imperial Government cannot tolerate the

damage which it sustained on account of the said Agreement. Therefore, the Imperial Persian Government does not consider at any time the said Agreement as official, and maintains its former objections until such time as this matter is discussed between the two Governments and the said differences are removed. The Legation avails, etc.”

“ *Iraqi Ministry for Foreign Affairs, No. 6346, of December 16th, 1931, to Persian Legation.*”

“ The Ministry for Foreign Affairs present their compliments to the Imperial Persian Legation in Baghdad and have the honour to refer to its letter No. 3276, dated December 2nd, 1931, and to inform it that the Iraqi Government cannot admit the objection of the Minister of the Imperial Persian Government and that they have issued orders to their Minister in Teheran to ask for detailed explanations from the Central Persian Government.”

The trouble over the waters of the Gunjan Cham was repeated in 1932, 1933, 1934. The Iraqi Government continued to complain of the diversion of the water, involving even a shortage of drinking-water at Zurbatiya, and to press for the formation of a committee to decide the manner of division. The Persian Government replied to all complaints with the statement that Zurbatiya was receiving all the water to which it was entitled — namely, the surplus after the Persian cultivators had drawn off their requirements — and put forward counter-complaints to the effect that the people of Zurbatiya were interfering with Persian canals. Feeling in this sector was further exacerbated by the establishment of the Persian post at Kani Sukht referred to above.

100. TRAITÉ¹ DE FRONTIÈRE ENTRE LE ROYAUME DE L'IRAK
ET L'EMPIRE DE L'IRAN ET PROTOCOLE, SIGNÉS
À TÉHÉRAN, LE 4 JUILLET 1937²

. . .

ARTICLE PREMIER. Les Hautes Parties contractantes conviennent que les documents suivants à l'exception de la modification prévue à l'article 2 du présent traité sont considérés valables et qu'elles sont tenues de les observer:

- a) Le Protocole relatif à la délimitation turco-persane signé à Constantinople le 4 novembre 1913.
- b) Les procès-verbaux des séances de la Commission de délimitation de la frontière de 1914.

Vu les dispositions du présent article et sauf ce qui est prévu à l'article qui suit la ligne frontière entre les deux Etats est telle qu'elle est définie et tracée par la susdite commission.

. . .

ARTICLE 4. Les dispositions qui suivent seront applicables au Chatt-el-Arab à partir du point où la ligne frontière terrestre des deux Etats descend dans ledit fleuve jusqu'à la haute mer.

¹ Entré en vigueur le 20 juin 1938 par l'échange des instruments de ratification.

² Société des Nations, *Recueil des Traités*, vol. 190, p. 242.

. . .

c) Le fait que dans le Chatt-el-Arab la ligne frontière suit tantôt la limite des eaux basses et tantôt le *thalweg* ou le *medium filum aquae*, ne préjudicie en rien au droit d'usage des deux Hautes Parties contractantes dans tout le cours du fleuve.

. . .

Iran-Turkey

101. ACCORD¹ ENTRE LA PERSE ET LA TURQUIE CONCERNANT LA FIXATION DE LA LIGNE FRONTIÈRE, AVEC ÉCHANGE DE NOTES, SIGNÉ À TÉHÉRAN, LE 23 JANVIER 1932²

. . .

ECHANGE DE NOTES

No 1

Le Ministre turc des Affaires étrangères au Ministre Persan des Affaires étrangères

Téhéran, le 23 janvier 1932

Monsieur le Ministre,

En me référant à l'article 1 de l'accord relatif à la fixation de la ligne frontière entre la Turquie et la Perse, que nous avons signé aujourd'hui, j'ai l'honneur de déclarer que les postes des gardes frontières, des deux parties contractantes auront le droit de jouir également des eaux des sources du lac Borolan ainsi que des prairies situées au sud et à l'ouest de la ligne frontière dans le rayon dudit lac, et des eaux des sources de Salep, de Kozlu et de Yukari Yarim Kaya.

Il est entendu que le présent échange de notes constitue partie intégrante de l'accord signé en date de ce jour. . . .

No 2

Le Ministre Persan des Affaires étrangères au Ministre turc des Affaires étrangères

Téhéran, le 23 janvier 1932

Monsieur le Ministre,

J'ai l'honneur d'accuser réception de votre note en date d'aujourd'hui dont je prends acte, et par laquelle votre Excellence, en se référant à l'article 1 de l'accord signé entre nous aujourd'hui, a bien voulu déclarer que :

« Les postes des gardes frontières des deux parties contractantes auront le droit de jouir également des eaux des sources du lac Borolan ainsi que

¹ Les instruments de ratification ont été échangés à Angora, le 5 novembre 1932.

² *British and Foreign State Papers*, vol. 135, p. 671.

des prairies situées au sud et à l'ouest de la ligne frontière dans le rayon dudit lac, et des eaux des sources de Salep, de Kozlu et de Yukari Yarim Kaya.

« Il est entendu que le présent échange de notes constitue partie intégrante de l'accord signé en date de ce jour. » . . .

Iran-Union of Soviet Socialist Republics

102. TREATY¹ OF FRIENDSHIP BETWEEN PERSIA AND THE RUSSIAN SOCIALIST FEDERAL REPUBLIC, SIGNED AT MOSCOW, FEBRUARY 26, 1921²

. . .

Article 3

. . .

The two High Contracting Parties shall have equal rights of usage over the Atrak River and the other frontier rivers and waterways. In order finally to solve the question of the waterways and all disputes concerning frontiers or territories, a Commission, composed of Russian and Persian representatives, shall be appointed.

. . .

103. CONVENTION³ BETWEEN THE GOVERNMENTS OF U.S.S.R. AND PERSIA REGARDING THE MUTUAL USE OF FRONTIER RIVERS AND WATERS, SIGNED AT ASHKHABAD, FEBRUARY 20, 1926⁴

The Governments of U.S.S.R. and Persia, having realized the necessity for establishing definite quotas and a procedure for the mutual use of frontier rivers and waters extending from the Geri-Roud River to the Caspian Sea, in accordance with Article III of the Peace Treaty between R.S.F.S.R. and Persia signed on February 26, 1921, have decided to conclude a Convention regarding this question.

. . .

I. All the waters of the Geri-Roud (Tedjen) River, down stream from the Pul-i-khatun Bridge and coextensive with the frontier between the Contracting Parties, shall be divided into ten equal parts; three parts shall be utilized by Persia and seven parts by U.S.S.R.

¹ Came into force immediately upon signature, in accordance with article 26. The exchange of ratification took place at Teheran on February 26, 1922.

² League of Nations, *Treaty Series*, vol. 9, p. 401.

³ Came into force immediately after its signature, in accordance with article 23. The exchange of ratification took place in Teheran on 24 September 1926.

⁴ L. Shapiro, *Soviet Treaty Series*, vol. I, p. 314.

The measurement of the water of the Geri-Roud (Tedjen) River shall be conducted by technicians of the Contracting Parties at the village of Doulet-Abada and on all the canals diverging from the Geri-Roud River into the territory of Persia, as well as conducted on the territory of U.S.S.R. along the entire distance of the Geri-Roud River from the village of Doulet-Abada up to the Pul-i-khatun Bridge. All the water obtained as a result of said measurements shall be subject to division into ten equal parts.

For the purpose of accurately dividing the water of the Geri-Roud River at Doulet-Abada, technicians of the Contracting Parties will erect a permanent water gauge. The expenses for the erection of this gauge will be borne by the Contracting Parties, in accordance with a mutual agreement concerning this project and proportionately to the quotas received by them at that point.

II. Prior to the construction of a reservoir (in accordance with Article III of the present Convention) the settlement of Garmah on the territory of Persia (15 versts above Pul-i-khatun) and the Pul-i-khatun post on the territory of U.S.S.R. shall each have the right to draw 50 secondoliters of water from the Geri-Roud River. If one of the Contracting Parties uses more than 50 liters of water for its settlement, the surplus will be charged against that Party below the Pul-i-khatun Bridge.

III. In view of the fact that the division of water from the Geri-Roud (Tedjen) River, as determined by the present Convention, may not satisfy the needs of either Contracting Party due to considerable losses of water from the Geri-Roud (Tedjen) River during the spring floods, both Parties recognize the expediency of installing a reservoir on the Geri-Roud River, above Pul-i-khatun, which would be capable of damming surplus waters for the use of the Contracting Parties.

The Contracting Parties express their agreement to the installation of such a reservoir, to an appropriate technical examination of the region, and to the conclusion of a special agreement concerning the construction and exploitation of a reservoir, and the principles concerning the division of the water therefrom.

IV. All the water of the Chaachaa River, with all its tributaries, shall be divided into two equal parts; one for the benefit of Persia, and the other shall be let into the territory of U.S.S.R.

The measurement of the water of the Chaachaa River will be conducted by technicians of the Contracting Parties on the frontier and on all the canals diverging from the Chaachaa River on the territory of Persia, from the frontier up to the junction point of the Abegarm and Hour Rivers (at the village of Amir-Abad). All the water obtained as a result of said measurements is subject to division into two equal parts.

V. All the water of the river Meana (Kara-Rikan), with all its tributaries, shall be divided into two equal parts, of which one shall pass into Persia's use and the other shall be led into USSR territory.

The volume of the water of the river Meana (Kara-Tikan) shall be measured by technicians of the Contracting Parties on the frontier line and on all channels leading out of the river Meana (Kara-Tikan) in the territory of Persia up to a distance of ten versts from the frontier line. The entire quantity of water ascertained by this measurement shall also be subject to division into two equal parts.

VI. All the water of the Kelat Chai (Nafte) River with all its tributaries shall be divided into two equal parts; one part for the benefit of Persia and the other shall be let into the territory of U.S.S.R.

The measurement of the water of the Kelat Chai (Nafte) River shall be conducted by technicians of the Contracting Parties on the frontier, and on all the canals diverging from the Kelat-Chai river on the territory of Persia, from the frontier up to the village of Derbende-Nafte. All the water obtained as a result of said measurements is subject to division into two equal parts.

VII. All the waters of the Archinian (Archangan) River with all its tributaries shall be divided into two equal parts; one for the benefit of Persia, and the other shall be let into the territory of U.S.S.R.

The measurement of the water of the Archinian (Archangan) River shall be conducted by technicians of the Contracting Parties on the frontier and on all the canals diverging from the Archinian (Archangan) River on the territory of Persia for a distance of 5 versts from the frontier along both tributaries of the Archinian (Archangan) River. All the water obtained as a result of said measurements is subject to division into two equal parts.

VIII. All the water of the Lain-Sou-River with all its tributaries shall be divided into two equal parts; one for the benefit of Persia and the other shall be let into the territory of U.S.S.R.

The measurement of the water of the Lain-Sou-River shall be conducted by technicians of the Contracting Parties on the frontier and on all the canals diverging from the Lain-Sou-River on the territory of Persia, from the frontier to the point where the Hakestar stream flows into the Lain-Sou-River. All of the water obtained as a result of said measurements is subject to division into two equal parts.

IX. All the waters of the Kazgan Chai (Zenginanlou) River shall be divided into five equal parts; two for the benefit of Persia and the other three parts for U.S.S.R.

The measurement of the water of the Kazgan Chai (Zenginanlou) River shall be conducted by technicians of the Contracting Parties on the frontier and on all the canals diverging from the Kazgan Chai (Zenginanlou) River on the territory of Persia, from the frontier to the place above the village of Zenginanlou where the latter receives its water. All the water obtained as a result of said measurements is subject to division into five equal parts; Persia's quota (2.5) shall also include that amount of water which passes through the territory of U.S.S.R. from the Kazgan Chai River for the purpose of supplying the region of Lutfabad.

The Government of U.S.S.R. shall undertake to let pass, without hindrance, along the canal passing through its territory that quantity of water which Persia allocates out of its quota for the use of the Lutfabad region.

For the purpose of supplying water to the Lutfabad region, the Persian Government is extended the right to permit water to flow through the Babadjik canal, instead of through the existing canal, or else to erect a new canal on the territory of U.S.S.R. This right is extended by U.S.S.R. to Persia gratis. The site of the new canal will be determined on agreement with the Government of U.S.S.R. All expenses in connection with the re-establishment of the Babadjik canal, or the erection of a new canal, shall be the responsibility of the Persian Government.

The Government of U.S.S.R. agrees to let through its territory, without

hindrance, Persian citizens who are supplied with appropriate identification cards and are assigned to clearing and repairing the canal which services the region of Lutfabad.

X. The Persian Government shall undertake to allot to U.S.S.R. 10 liters of water per second (one-half senga) for the use of the Artik station, from the Gulriz canal which is on the territory of U.S.S.R.

For the purpose of measuring these waters, U.S.S.R. shall erect on the frontier of its own territory, at its own expense and in the presence of Persian technicians, a new water gauge.

XI. All the water from the Durungar River and the salted springs at the river bed of the Durungar river shall pass to the full use of Persia.

XII. All the water of the Kelta-Chinar River shall pass to the use of Persia. The Persian Government shall undertake not to hinder the citizens of U.S.S.R. who are presently using the waters of the springs found on the territory of Persia in the valley of the Kelta-Chinar River (below the Persian settlement of Keltai-Chinar), as well as to let through, without hindrance, the citizens of U.S.S.R. who are provided with the proper identification cards for the purpose of cleaning and maintaining the spring, river beds and channels leading from them.

XIII. All the water of the Firuzinka (Firuza) River after satisfying the needs of the inhabitants of Firuza will pass to the use of the lower village of U.S.S.R.

XIV. All the water of the Chandir (Chandor) River, which is found on the territory of Persia, will be divided into two equal parts; one for the benefit of Persia and the other will be let into the territory of U.S.S.R.

The measurement of the waters of the Chandir (Chandor) River shall be conducted by technicians of the Contracting Parties on the frontier and on all the canals diverging from the Chandir River on the territory of Persia, at a distance of 7 versts from the frontier. All the water obtained as a result of said measurements is subject to division into two equal parts.

XV. All the water of the Soumbar River which is coextensive with the frontier between Persia and U.S.S.R., including the water of the tributaries of the Kouloun-Kalasi-Sou and Daine-Sou Rivers shall be divided into two equal parts; one for the benefit of Persia and the other for U.S.S.R.

The measurement of the water will be conducted by technicians of the Contracting Parties at the point of junction of Kouloun-Kalasi-Sou and Daine-Sou Rivers and on all the canals diverging from Kouloun-Kalasi-Sou on the territory of Persia, for a distance of 7 versts up stream from the frontier, as well as conducted on all the canals diverging on either side of Daine-Sou River along its entire length. All the water obtained as a result of said measurements is subject to division into two equal parts.

In case U.S.S.R., after signing the present Convention, should construct along the Soumbar River on its territory hydrotechnical installations for the purpose of damming the water, the Government of U.S.S.R. shall undertake to let the same amount of water, during the period of irrigation, into the Atreck River as would pass on the basis of meteorological conditions and in the absence of such installations. U.S.S.R. shall forewarn the Persian Government of its decision to establish these installations.

XVI. All the water of the Atreck River which is coextensive with the frontier between the Contracting Parties shall be divided into two equal parts; one part for Persia and the other for U.S.S.R.

The measurement of the water of the Atreck River shall be conducted by technicians of the Contracting Parties for a distance of 14 versts from the frontier up stream on the territory of Persia. All of the water obtained as a result of said measurements is subject to division into two equal parts.

In case Persia should decide, after the signing of the present Convention, to erect hydrotechnical installations along the Atreck River, on its territory, for the purpose of damming the water, the Government of Persia shall undertake to let pass, during the irrigation period, to the frontier between Persia and U.S.S.R., where the division of the water of the Atreck River begins, the same quantity of water that would have been available in accordance with meteorological conditions and in the absence of such installations. Persia shall forewarn U.S.S.R. of its decision to establish such installations.

XVII. The measurement of water mentioned in the present Convention shall be made on request of Persia or U.S.S.R. jointly by technicians and mirabs of the Contracting Parties; simultaneously on each separate river and on the canals diverging therefrom.

Persia and U.S.S.R. shall undertake to let without hindrance, on their territories, the technicians and mirabs who are assigned to conduct the mission indicated in the present Convention, along separate rivers, and who are supplied with adequate credentials which include an indication of the points of the frontier to be crossed.

XVIII. The measurement of the water on the frontier shall be made at the places most adapted for it; within 200 meters from the frontier on the territory of Persia or U.S.S.R. These places shall be established on agreement of the technicians of the Contracting Parties. At the sites of these measurements, the technicians of U.S.S.R., at the expense of U.S.S.R., and in the presence of a technician from Persia, shall establish on each river a hydrometrical post, consisting of three levelling-laths (water), one marker and one service bridge; the bed of the river, in case of necessity, shall be put in a proper state of repair.

The technicians and mirabs of both U.S.S.R. and Persia shall have equal rights in the use of hydrometrical posts.

XIX. In case of disagreement between the mirabs of the Contracting Parties concerning any question of water utilization along the Geri-Roud (Tedjen) River, such disagreements shall be brought to the mutual decision of the following representatives of Persia and U.S.S.R. (with the right to be represented by their deputies):

On the Geri-Roud (Tedjen) River, the Governor of Serakhs, on the part of Persia, and the Serakhs Regional Hydrotechnician, on the part of U.S.S.R.; on the Chaachaa, Meana (Kara-Tikan) and Kelat Chai (Nafte) Rivers, the Governor of Kelat, on the part of Persia, and the Dushak Regional Hydrotechnician, on the part of U.S.S.R.; on the Archinian (Archangan) and Lian-Sou rivers, the Governor of Kelat, on the part of Persia, and the regional hydrotechnician at Ginsburg (Krakhka), on the part of U.S.S.R.; on the Kazgan Chai and Gulriz Rivers, the Governor of Mahmed-Abad, on the part of Persia, and the regional hydrotechnician at Ginsburg (Krakhka), on the part of U.S.S.R.; on the Kelte-Chinar River, the Governor of

Mahmed-Abad, on the part of Persia, and the Poltoratsk Regional Hydro-technician, on the part of U.S.S.R.; on the Firuza River, the Governor of Kucha, on the part of Persia, and the Poltoratsk Regional Hydrotechnician, on the part of U.S.S.R.; on the Chindar (Chandor) and Soumbar-Rivers, the Governor of Bujnor, on the part of Persia, and the Kara-Kalin Regional Hydrotechnician, on the part of U.S.S.R.; on the Atreck River, the Governor of Astrabad, on the part of Persia and the Bayan-Haja Regional Hydro-technician on the part of U.S.S.R.

In case no agreement is reached regarding these disagreements by the regional hydrotechnicians and governors (or their deputies), these questions shall be transferred for a final decision of the chief Karguzar and the consul general of U.S.S.R. at Meshed.

XX. In cases of violation by the citizens of the Contracting Parties of the quotas or procedure for the mutual use of frontier rivers and waters, as established by the present Convention, the above-indicated representatives shall adopt the necessary measures for settling the violations which have arisen and conduct the investigation for bringing those guilty of such infringements before the law.

XXI. Quotas and procedure for the utilization of frontier waters established by the present Convention shall be communicated by the Contracting Parties, on their territories, to the local frontier authorities and population of the regions adjacent to the rivers, within a month's time from the date of signature of this Convention.

. . .

Iraq-Turkey

104. PROTOCOLE¹ RELATIF À LA RÉGULARISATION DES EAUX DU TIGRE ET DE L'EUPHRATE ET DE LEURS AFFLUENTS ANNEXÉ AU TRAITÉ D'AMITIÉ ET DE BON VOISINAGE ENTRE L'IRAK ET LA TURQUIE, SIGNÉ À ANKARA, LE 29 MARS 1946²

L'Irak et la Turquie,

reconnaissant l'importance que présente pour l'Irak la construction d'ouvrages de conservation sur le Tigre et l'Euphrate et leurs affluents, afin d'assurer le maintien d'un approvisionnement régulier en eau et la régularisation du débit des deux fleuves, pour éviter le danger d'inondation pendant les périodes annuelles de crue,

estimant qu'il est probable que, après investigation, les emplacements les plus convenables pour la construction de barrages et autres ouvrages similaires, dont la totalité des frais sera à la charge de l'Irak, soient situés en territoire turc,

d'accord, également, sur la nécessité d'installer des stations permanentes d'observation, en territoire turc, en vue d'enregistrer le débit des fleuves

¹ Entré en vigueur le 10 mai 1948, par l'échange des instruments de ratification à Bagdad, conformément aux dispositions de l'article 7.

² Nations Unies, *Recueil des Traités*, vol. 37, p. 286.

susmentionnés et de communiquer régulièrement à l'Irak le résultat de ces observations,

acceptant le principe de conformer, autant que possible, et dans l'intérêt des deux Pays, la construction des ouvrages de conservation sur ces eaux aux fins d'irrigation et de production de force hydro-électrique, sont convenus de ce qui suit :

Article premier

L'Irak pourra, aussitôt que possible, envoyer en Turquie des groupes de techniciens à son service, afin de procéder à des investigations et arpentages, recueillir les renseignements hydrauliques, géologiques et autres qui leur permettront de choisir les emplacements pour la construction des barrages, stations d'observation et autres ouvrages à construire sur le Tigre, l'Euphrate et leurs affluents et pour préparer les plans nécessaires à cet effet.

Les cartes à établir d'après les résultats des arpentages effectués seront préparées par les services compétents turcs.

Tous les frais nécessités par les travaux mentionnés au présent article seront assumés par l'Irak.

Article 2

Les techniciens susmentionnés collaboreront, dans leurs travaux, avec les techniciens turcs et la Turquie les autorisera à se rendre aux endroits à visiter et leur fournira les informations, l'assistance et les facilités nécessaires pour l'accomplissement de leur tâche.

Article 3

La Turquie procédera à l'installation des stations permanentes d'observation et en assurera le fonctionnement et l'entretien. Les frais de fonctionnement de ces stations seront assumés, à parts égales, par l'Irak et la Turquie, à partir de l'entrée en vigueur du présent Protocole.

Les stations permanentes d'observation seront inspectées, à intervalles déterminés, par des techniciens irakiens et turcs.

Pendant les périodes de crue, les niveaux d'eau observés tous les jours à 8 heures du matin par les stations où la communication télégraphique est possible, comme, sur le Tigre, Diyarbakir, Cizre, etc., et Keban, etc., sur l'Euphrate, seront communiqués par télégramme aux autorités compétentes que l'Irak désignera à cet effet.

Les niveaux d'eau observés en dehors des périodes de crue, seront communiqués par bulletins bimensuels aux mêmes autorités.

Les frais des communications susmentionnées seront payés par l'Irak.

Article 4

Le Gouvernement turc accepte, en principe, la construction, conformément à l'accord mentionné dans le paragraphe suivant, des ouvrages qui se révéleront nécessaires à la suite des études prévues à l'article 1er.

Chaque ouvrage, hormis les stations permanentes d'observation, fera l'objet d'un accord séparé, en ce qui concerne son emplacement, son coût, son fonctionnement et son entretien, ainsi que son utilisation par la Turquie, pour les fins d'irrigation et de production d'énergie.

Article 5

La Turquie tiendra l'Irak au courant de ses projets de construction d'ouvrages de conservation, sur l'un des deux fleuves ou leurs affluents, afin que ces ouvrages puissent être adaptés d'un commun accord, dans la mesure du possible, aux intérêts de l'Irak, aussi bien qu'aux intérêts de la Turquie.

Article 6

Chacune des Hautes Parties Contractantes désignera, aussitôt que possible, après la signature du présent Protocole, un représentant.

Les deux représentants se consulteront sur toutes les questions relatives à la mise en exécution du présent Protocole et serviront d'intermédiaires entre les deux Parties dans leurs communications y relatives.

Jordan-Syria

105. AGREEMENT¹ BETWEEN THE REPUBLIC OF SYRIA AND THE HASHEMITE KINGDOM OF JORDAN CONCERNING THE UTILIZATION OF THE YARMUK WATERS, SIGNED AT DAMASCUS, ON 4 JUNE 1953²

The Government of the Republic of Syria and the Hashemite Kingdom of Jordan,

Desiring to strengthen the bonds of Arab kinship and the friendly relations existing between the two countries and to promote sincere co-operation between them; taking into account the results of the negotiations between their representatives in Damascus on 4 June 1952 and in Amman on 10 November 1952 concerning the utilization of the waters of the Yarmuk Basin, and considering the advantages which the two countries would derive from the efficient collection and use of the waters of the Yarmuk Basin for the irrigation of arable lands and the generation of electric power,

Have resolved to conclude an agreement. . .

Article 1

For the purpose of this Agreement it shall be understood that:

- (a) "Syria" means the Government of the Republic of Syria;
- (b) "Jordan" means the Government of the Hashemite Kingdom of Jordan;
- (c) "The State" means Syria or Jordan as the context requires;
- (d) "The Jordan Valley" means the valley of the river Jordan;
- (e) "Joint dam and reservoir" means the dam on the river Yarmuk for the collection of the water and the reservoir for its storage to be constructed in the territories of Syria and Jordan;

¹ Came into force on 8 July 1953, the exchange of the instruments of ratification having taken place at Damascus in accordance with article 14.

² United Nations, *Treaty Series*, vol. 184, p. 25.

(f) "The joint generating station" means the station for the generation of electricity located on the south bank of the Yarmuk below the joint dam;

(g) "The Yarmuk scheme" means and includes the joint dam and reservoir, the joint generating station, the Adasiya generating station, the canal between the joint generating station and the Adasiya generating station, the irrigation canal and additional dams for the collection and diversion of water to be constructed in the future on the river Yarmuk below the joint dam and the other constructions and installations required in connexion with this scheme, as described in Article 2 of this Agreement;

(h) "The Maqarin installations" means the joint dam and reservoir, the joint electric power generating station and the buildings and installations required in connexion therewith, and the diversion of the Hejaz Railway line;

(i) "The Joint Commission" means the Syro-Jordanian Commission referred to in Article 10 of this Agreement.

Article 2

The two Governments, recognizing that, for physical and technical reasons, the execution of the Yarmuk scheme is an economical and effective means of providing the additional water needed by Jordan and the electric power needed by both States, have accordingly agreed to construct the following installations:

(a) The joint dam and reservoir, namely the dam for the collection of the river flow and the reservoir situated on the river Yarmuk in the territories of Syria and Jordan near the Maqarin generating station in Syria for the purpose of ensuring a constant flow averaging not less than 10 cubic metres a second, such water being utilized for the generation of electric power, for the irrigation of lands in Jordan and for other Jordanian schemes, in addition to the waters collected from the river Jordan and from other sources;

(b) The joint station for the generation of electric power to be constructed below the joint dam in order to generate the maximum electric power;

(c) The Adasiya generating station to be constructed near the village of Adasiya in Jordan in order to generate the maximum electric power;

(d) The electricity canal between the joint station at Maqarin and the Adasiya generating station conveying the water to be utilized for the generation of electricity at Adasiya;

(e) The principal canal and other installations extending from the Adasiya generating station for the purpose of supplying the irrigation network and other schemes in Jordanian territory;

(f) Such further dams for the conservation and diversion of water located on the Yarmuk River or its tributaries above the joint dam as may be recommended by the Joint Commission, subject to the approval of both Governments;

(g) The diversion of the Hejaz Railway Line in the Yarmuk Valley as required by the scheme, and the construction of the other works and installations necessary to the scheme.

Article 3

Subject to the provisions of articles 9 and 10 of this Agreement, Jordan shall in principle assume responsibility for the cost of investigations and

studies, the preparation of maps and of any other measures required by the Yarmuk Scheme and shall have the right to engage and employ such technicians, experts, workers and other persons and agencies as may be necessary to ensure the thorough and speedy execution of the work and economy in expenditure.

Syria shall undertake to furnish the necessary assistance and facilities to enable personnel employed on the scheme to enter Syrian territory and to carry out duties connected with the scheme within the framework of its regulations at all stages of the work until its completion.

The two States shall agree, each in its own territory, to provide the necessary communications for the purpose of ensuring the speedy and co-ordinated completion of the scheme and its subsequent operation.

Article 4

Each State shall undertake to acquire by purchase, expropriation or other means in accordance with its own laws, any properties within its territory that may be necessary for the Maqarin installations and any rights connected therewith to pay compensation in respect of any properties that may be affected by the diversion of the water or the removal of building materials in the course of construction or operation expenditure arising out of such measures, with the exception of expenditure connected with the expropriation of water rights being charged to the cost of construction or the cost of operation and maintenance as appropriate.

Each State shall also be responsible independently of the other State for the settlement of all claims arising within its territory with respect to the aforesaid properties and the rights connected therewith and for expenditure arising out of the settlement of claims relating to water rights.

Article 5

Syrian and Jordanian workmen shall be employed, as needed, in the construction of the Maqarin installations; in the proportion of 20 to 80 per cent respectively. If this proportion cannot be maintained owing to the inability of one State to provide sufficient workmen, the other State shall provide additional workmen as long as the difficulty persists. Syrian and Jordanian supervisors and technicians shall be employed during the period of study and construction in order to train personnel with the qualifications and experience needed to operate and maintain the installations after their completion.

Article 6

Employees and representatives of the two States, members of the Joint Commission and officials of the technical bodies working on the scheme, who have been duly authorized by the Joint Commission and are in possession of special identity papers, shall have the right to travel in the areas in which the Maqarin installations are situated and in neighbouring areas, access to which the Joint Commission deems essential to the work, in order to carry out studies and investigations and to undertake construction, operation and maintenance work and shall not be subject to any restrictions resulting from the application of the passport and similar laws and regulations in force in either State, save however, that the local laws of each State shall be fully observed in the area which is within its territory.

All materials, implements, equipment, tools, apparatus and accessories certified by the Joint Commission as necessary for the Maqarin installations and their operation and maintenance, shall be exempt from customs duties and taxes in the two States.

Article 7

The storage capacity of the Maqarin reservoir in normal years shall be provisionally estimated at 300 million cubic metres until such time as this estimate is revised by the Joint Commission on the basis of measurements to be taken along the course of the river and its tributaries over a period of not less than three years; and the two States agree to exchange information which either may have collected for this purpose both before the entry into force of this Agreement and during the period of its validity.

Article 8

(a) Syria shall retain the right to the use of the waters of all springs welling up within its territory in the basin of the Yarmuk and its tributaries, with the exception of the waters welling up above the dam below the 250-metre level and shall retain the right to use water from the river and its tributaries below the dam for the irrigation of Syrian land in the lower Yarmuk basin and eastward of Lake Tiberias or for other Syrian schemes.

(b) Jordan shall have the right to use the overflow from the reservoir and joint generating station at Maqarin for the generation of electric power at the Adasiya station, the irrigation of the Jordanian lands and other Jordanian schemes; it shall similarly have the right to use water superfluous to Syrian needs for its own purposes within Jordanian frontiers.

(c) The electric power generated by the Maqarin station shall be divided between Syria and Jordan in the proportion of 75 per cent to Syria and 25 per cent to Jordan; Syria's share of this power shall, however, be not less than 3,000 kw during the period from mid-April to mid-October of each year. If the share obtained by Syria in virtue of this paragraph is less than 5,000 kw and if additional power is needed for its schemes, it shall have the right to draw additional power as needed, up to a maximum of 5,000 kw from the generating stations at Adasiya and Maqarin at cost price.

(d) Each State shall be entitled to sell to the other at prices to be fixed by the Joint Commission any part of its share of the electric power generated in virtue of this Agreement. Neither State may, however, sell any eventual surplus to a third State or to any individual, company, corporation or organization not subject to the jurisdiction of the States signatories of this Agreement without the consent of both States.

Article 9

(a) COST OF STUDIES

Jordan shall make whatever grants are necessary for the carrying out of preliminary and final investigations and studies relating to the Maqarin installations, such expenditure being deemed to be part of the cost of the final installations.

(b) COST OF CONSTRUCTION

The cost of the Maqarin installations shall be divided between Syria and Jordan, 95 per cent being borne by Jordan and 5 per cent by Syria.

(c) COST OF OPERATION AND MAINTENANCE

The cost of the operation and maintenance of the Maqarin installations shall be divided between Syria and Jordan in proportions to be determined by the Joint Commission having regard to their respective shares in the construction costs referred to in paragraph *(b)* above.

Article 10

A Joint Syro-Jordanian Commission composed of nationals of the two States shall be established for the application of the provisions of this Agreement, the regulation and exercise of the rights and obligations which the two Governments have assumed thereunder and supervision over the settlement of all questions to which its application may give rise.

The Joint Commission shall be deemed to be a body corporate (a body possessing legal personality) and its members shall enjoy the privileges and immunities appertaining to diplomatic officers in the State of which they are not the representatives.

The Joint Commission shall be composed of three members from each State, one of whom shall be a deputy minister, secretary-general or director, and another, an engineering expert. It may seek advice from experts and consultants and may employ such assistants, technicians and officials who may be nationals of Syria or of Jordan or of other States, as may be required for the execution of the scheme.

The Joint Commission shall draw up its own rules of procedure. — During the period of construction its costs shall be deemed to be a part of the construction costs of the scheme and, after completion of the construction, part of the cost of operation and maintenance.

The Commission shall have the following duties, the enumeration of which is not meant to be restrictive:

(a) To approve the programme of studies and investigations, preliminary and final, connected with the construction of the Maqarin installations and to adopt such studies upon their completion;

(b) To approve the plans for the Maqarin installations, the buildings to be erected, and any necessary alterations and to confirm that the installations have been constructed in accordance with specifications;

(c) To approve all expenditure connected with the Maqarin installations during the stages of investigation, construction and operation;

(d) To apportion between Syria and Jordan the cost of operating and maintaining these installations after their completion;

(e) To delimit the special zone for the Maqarin installations and to lay down regulations for its use for recreational purposes such as fishing and boating;

(f) To supervise the exploitation, operation and maintenance of the Maqarin installations after their completion, to apportion the electric power generated by the joint generating station and to fix the price of surplus power sold by one State to the other;

(g) To provide the necessary facilities for weather observation and water measurement in the Yarmuk basin and for the collection, classification and publication of information so obtained;

(h) To study methods of preventing silting in the reservoir and the contamination of its waters, as well as of combating malaria, and to make appropriate recommendations to the two Governments;

(i) To study methods of defraying the costs of construction and maintenance from revenue derived from the use of the water and the electric power and to make appropriate recommendations to the two Governments;

(j) To investigate the possibility of setting up subsidiary dams for storing and utilizing the water of the river Yarmuk and its tributaries and to make appropriate recommendations to the two Governments.

The Joint Commission shall supervise the scheme for the Maqarin installations in accordance with the terms of this Agreement and shall deal with all matters relating to the completion of this scheme and the utilization of its advantages. If the Commission is unable to reach agreement, its members shall report the matter forthwith to their Governments, which shall adjust the difference by immediate contact between themselves. In the event of their inability to do so, the difference shall be submitted to an arbitration committee consisting of two arbitrators, one of whom shall be appointed by each State, and an umpire to be appointed by agreement between the two States.

Article 11

The two States shall undertake, each within its own territory, to comply with recommendations of the Joint Commission regarding measures to prevent or reduce silting in the joint reservoir such as preventing the washing away and removal of the earth, preventing the growth of weeds and blocking cracks and other measures to facilitate the maximum use of the capacity of the reservoir. The cost of such measures will be added to the cost of construction or of maintenance and will be apportioned in accordance with article 9 of this Agreement.

Article 12

The rights of the two States to the use of the water of the Yarmuk basin shall take precedence over all private rights and each State shall be responsible in accordance with its own laws, and independently of the other State, for the settlement of all claims arising in this connexion within its territory in consequence of this Agreement.

Article 13

Both Governments recognize the importance of the Yarmuk scheme and the expediency of its joint use for the benefit of the two countries, and to that end agree to assign it a high priority among their projected schemes.

Turkey-Union of Soviet Socialist Republics

106. CONVENTION¹ ENTRE L'UNION DES RÉPUBLIQUES SOCIALISTES SOVIÉTIQUES ET LA TURQUIE POUR LA JOUISSANCE DES EAUX LIMITOPHES ET PROTOCOLE CONCERNANT LA RIVIÈRE ARAXE, SIGNÉS À KARS, LE 8 JANVIER 1927²

Le République turque d'une part, et le Comité central exécutif de l'Union des Républiques Socialistes, Soviétiques d'autre part;

Animés du désir de voir régner toujours entre eux les rapports cordiaux et les relations de sincère amitié, basés sur les intérêts réciproques;

Ont décidé de conclure, dans l'intérêt des deux parties, une convention pour la jouissance des eaux — des fleuves, des rivières et des ruisseaux — limitrophes, . . .

Article 1^{er}. Les deux parties contractantes jouissent de la moitié de la quantité des eaux des fleuves, des rivières et des ruisseaux, qui coïncident avec la ligne de la frontière entre la République turque et l'Union des Républiques Socialistes Soviétiques.

Article 2. Chaque partie contractante se réserve le droit de conserver toutes les constructions pour l'utilisation des eaux, qui existent au moment de la conclusion de la présente convention. Elles peuvent être réparées et rétablies dans leur construction et seront entretenues et réparées par les parties contractantes, suivant leur attribution, conformément aux exigences de l'usage technique des eaux.

Article 3. Pour le partage de l'eau et pour les études du régime des rivières, les deux parties contractantes établiront des lieux d'observation hydrométriques (les points pour déterminer les sections transversales, les horizons et les vitesses de l'eau).

Les deux parties ont le droit de déterminer les sections transversales du lit des rivières sur les sections des rivières, où doivent être exécutées des déterminations de la quantité d'eau.

Le choix de l'emplacement des lieux d'observation hydrométriques doit être fait par une commission mixte, formée des représentants des deux parties contractantes, en nombre égal.

Article 4. Pour la détermination du débit des eaux des rivières, les deux parties contractantes composent une commission mixte en nombre égal, laquelle, deux fois par an, du 15 juin au 1^{er} juillet et du 1^{er} septembre au 15 septembre, détermine sur les lieux d'observation hydrométriques les débits des eaux des rivières, prévues dans la présente convention, et y rédige collectivement des actes, relatifs à la quantité d'eau.

La commission mixte se compose de deux représentants de chacune des parties contractantes.

Au cas d'abaissement du niveau des rivières, si l'une des parties contractantes déclare la nécessité de déterminer le débit des eaux sur les lieux d'observation hydrométriques conformes, hors les délais susmentionnés, l'autre

¹ Entrée en vigueur le 26 juin 1928 par l'échange des instruments de ratification, conformément à l'article 12.

² *British and Foreign State Papers*, vol. 127, p. 926.

partie s'engage dans les 15 jours, du jour de la déclaration au Gouvernement conforme du désir d'exécuter des déterminations, à envoyer ses représentants. Si les représentants d'une des parties n'arrivent pas au délai fixé, alors l'autre partie a le droit de déterminer seule les débits des eaux des rivières, mais elle doit communiquer les résultats des déterminations des débits à l'autre partie.

Dans le cas où l'autre partie, en déterminant séparément les mêmes débits, aura d'autres résultats, elle aura le droit d'exiger de nouvelles déterminations.

Les deux parties contractantes participeront en parties égales aux dépenses d'un caractère commun pour la détermination des débits des eaux des rivières, effectuées par la commission mixte.

Article 5. En cas de nécessité d'élever le niveau de l'eau dans les rivières et de faire des réservoirs artificiels, pour la construction des canaux irrigatoires, chaque partie contractante a le droit de construire des barrages.

(a) Dans la construction d'un barrage par l'une des parties, la quantité d'eau, due à l'autre partie, doit librement passer par le barrage ou par le réservoir d'eau et le passage libre du poisson doit également être garanti.

(b) Pendant la construction des barrages, les deux parties contractantes jouissent du droit d'user des deux rives de la rivière pour les travaux préparatoires et pour l'écoulement provisoire de l'eau, durant l'exécution des travaux, ainsi que d'exécuter toutes espèces de constructions hydrotechniques, des tunnels provisoires, des constructions défensives, etc. En ce cas, ces constructions ne doivent pas détourner l'eau sur plus de 250 mètres de l'endroit de la construction.

(c) La partie qui construit le barrage doit prendre toutes les mesures pour protéger les intérêts de l'autre partie contractante des dommages pouvant résulter de sa construction et, à l'achèvement du travail, doit compenser le dommage matériel de l'autre partie contractante, si pareil dommage, malgré les précautions prises, a été occasionné.

Les barrages, dont on peut se servir comme de ponts, seront établis chaque fois d'après un accord spécial entre les deux Gouvernements.

Article 6. Pour protéger les rives des rivières, qui constituent la frontière, d'être minées par l'eau, le droit est réservé à chaque partie de construire des éperons, à condition de préserver obligatoirement l'autre partie des suites nuisibles de ces constructions.

Article 7. Aucune des parties contractantes ne peut changer artificiellement la direction du thalweg du fleuve. En cas où les rivières limitrophes s'écarteraient de leur lit, les deux parties jouissent du droit d'exécuter des travaux de régulation et de réparation sur les deux rives des fleuves susmentionnés, en avertissant en son temps l'autre partie contractante.

Article 8. Le droit est réservé aux deux parties de construire des stations hydro-électriques et des moulins, seulement les emplacements du détournement et de l'écoulement de l'eau pour les stations et les établissements mentionnés doivent être rapprochés les uns des autres et placés de telle manière qu'ils ne causent point des dommages à l'autre partie et pour que la partie de la rivière (la partie libre), employée par la station hydro-électrique ou par l'établissement de moulin, n'atteigne pas les constructions initiales existantes ou supposées pour la construction des canaux d'irrigation et

autres constructions diverses des parties contractantes, prévues par la présente convention.

Article 9. Chaque partie a le droit de faire des constructions de pompe, à condition de profiter seulement de la portion d'eau due à la partie intéressée.

Article 10. Le choix définitif de la situation et du type des constructions mentionnées aux articles 3, 5, 6, 7, 8 et 9 de la présente convention sera déterminé et fixé par la commission mixte, mentionnée dans les articles précédents.

Le terme de la convocation de la commission mixte sera fixé pas plus tard que dans 3 mois du moment de l'assignation de l'une des parties.

La partie, qui prendra sur elle l'initiative de convoquer la commission mixte, enverra au Gouvernement de l'autre partie, en même temps que la proposition de convocation, un croquis schématique de la construction projetée.

En cas d'avis différents dans la commission mixte, toutes les questions en litige sont remises à la décision définitive des Gouvernements des deux parties.

Article 11. Les ressortissants des deux parties contractantes ont le droit de jouir également des eaux formant la frontière de la République turque et de l'Union de Républiques Socialistes Soviétiques, aux conditions suivantes:

(1) Les ressortissants des deux parties contractantes jouissent pendant les heures de la journée, sans autorisation spéciale, des rivières et des ruisseaux coïncidant avec la ligne de la frontière et servant à l'établissement de moulins, à l'irrigation, d'abreuvoirs et pour la pêche.

On est autorisé à s'approcher du bord de la rivière nuitamment, si cela se trouve être une nécessité utilitaire, seulement aux points déterminés par un accord mutuel par les autorités de frontière des deux États.

(2) Le bétail chassé à l'abreuvoir ne doit pas passer sur le territoire de l'autre partie.

Si, accidentellement, le bétail passe de l'autre côté de la frontière, le berger est autorisé de franchir la frontière pas plus qu'à 50 mètres, pour ramener le bétail dans le plus court délai de temps.

Les points d'abreuvoirs seront fixés et concordés par les autorités de frontière des deux parties.

(3) Chaque partie jouit du droit de la pêche sur sa rive. La pêche est interdite pendant la nuit.

(4) Cet article ne se rapporte pas aux fleuves et rivières Araxe, Arpa-Tchaï, Poskhov-Tchaï, Koura et Tchörökh.

PROTOCOLE

Article 1^{er}. Conformément à l'article 5 de la convention, conclue à Kars le 8 janvier 1927, pour la jouissance des eaux des fleuves, des rivières et des ruisseaux limitrophes de la République turque et de l'Union des Républiques Socialistes Soviétiques, le Gouvernement de la République turque accorde le droit au Gouvernement de l'Union des Républiques Socialistes

Soviétiques à élever sur la rivière Araxe, à une distance approximative jusqu'à 750 mètres en amont du pont de Karakalé, un barrage pour le canal de Sardarabad, qui est en construction par le Gouvernement de l'Union des Républiques Socialistes Soviétiques; dans ce but le Gouvernement de l'Union des Républiques Socialistes Soviétiques est autorisé à faire les travaux de recherche indispensables sur la rive, appartenant à la République turque, de la rivière Araxe, ainsi que les travaux pour la construction du barrage.

Le type du barrage s'établit selon le plan d'esquisse, annexé au présent protocole.

Article 2. Le rayon où doivent être accomplis travaux de recherche, ainsi que la surface nécessaire pour l'établissement de ce barrage sur la rive de l'Araxe, appartenant à la République turque, sont déterminés par l'aire suivante:

(1) La longueur du rayon des travaux de recherche égale à 1,400 mètres, en amont du pont de Karakalé, et la largeur égale à 80 mètres;

(2) La longueur de l'aire pour l'exécution des travaux de construction du barrage égale à 800 mètres, à partir du même point, et la largeur à 150 mètres.

Article 3. Le Gouvernement de l'Union des Républiques Socialistes Soviétiques accorde le droit au Gouvernement de la République turque de prendre les eaux du réservoir susmentionné à l'aide d'un canal, qui sera construit ultérieurement par la République turque pour l'irrigation des champs de la vallée d'Ighdir, jusqu'à concurrence de 50 pour cent de l'eau y contenue et aux conditions suivantes:

(a) La République turque s'engage à participer aux frais de construction du barrage de Sardarabad, proportionnellement à la quantité de l'eau utilisée et à l'intérêt économique que ce barrage accorde aux deux parties;

(b) La République turque se réserve le droit de profiter, quand elle le voudra, de ce barrage, à condition de verser les frais, prévus dans le paragraphe (a) du présent article. Le terme du versement des frais en question sera fixé entre les Gouvernements des deux parties contractantes.

Article 4. Pour empêcher les canaux de la vallée d'Ighdir de se dessécher, le Gouvernement de l'Union des Républiques Socialistes Soviétiques, qui construit le barrage de Sardarabad, s'engage à assurer jusqu'au moment où la République turque jouira du réservoir de Sardarabad, en y prenant de l'eau à l'aide d'un canal, que lesdits canaux prennent la même quantité d'eau qu'ils prenaient avant la construction du barrage susmentionné.

Surtout, afin que la moitié de l'eau du fleuve puisse être conduite vers et auprès de la rive turque, durant la saison sèche, elle s'engage aussi à construire auprès de la rive turque une écluse comme celle qui doit être construite auprès de la rive de l'Union des Républiques Socialistes Soviétiques et à régulariser le lit du fleuve, à partir de l'écluse jusqu'au commencement des canaux de la vallée d'Ighdir de façon à ce que l'eau ne puisse s'étendre sur tout le lit.

L'Union des Républiques Socialistes Soviétiques, qui construit le barrage, se chargera des frais qui seront occasionnés par les travaux susmentionnés.

Article 5. Le Gouvernement de l'Union des Républiques Socialistes Soviétiques, qui construit le barrage, doit prendre toutes les mesures pour protéger les intérêts du Gouvernement de la République turque des dommages pouvant résulter de sa construction et, à l'achèvement du travail, doit compenser le dommage matériel de la République turque, si pareil dommage, malgré les précautions prises, a été occasionné.

Article 6. La République turque se réserve le droit de surveiller la construction du barrage, dans le type, dont le plan d'esquisse est annexé au présent protocole. . .

107. CONVENTION¹ BETWEEN THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE TURKISH REPUBLIC CONCERNING THE PROCEDURE FOR THE INVESTIGATION AND SETTLEMENT OF FRONTIER INCIDENTS AND DISPUTES, AND PROTOCOL, SIGNED AT MOSCOW, ON 15 JULY 1937²

. . .

Article 2

The "frontier incidents and disputes" dealt with in this Convention shall be understood by the High Contracting Parties to include all incidents or disputes arising on the frontier between them and in particular:

. . .

(n) Any incidents and disputes arising between the two Parties in connexion with the application of the Convention concerning the frontier régime.

. . .

PROTOCOL NO. 2

Note from the Ambassador of the Turkish Republic to the Union of Soviet Socialist Republics addressed to the Deputy Minister of Foreign Affairs of the Union of Soviet Socialist Republics

15 July 1937

Sir,

In view of the fact that, under article 2 (n) of the Convention concerning the procedure for the investigation and settlement of frontier incidents and disputes signed this day between the Turkish Republic and the Union of Soviet Socialist Republics, the frontier commissioners are required to

¹ The exchange of the instruments of ratification took place at Ankara on 5 April 1939.

² *Treaties, Agreements and Conventions in force, concluded by the USSR with foreign countries* (published by the Ministry for Foreign Affairs of the USSR), Vol. X, p. 32. (Translated from Russian by the Secretariat of the United Nations.)

investigate and settle any incidents and disputes which may arise in connexion with the application of the Convention in force concerning the frontier régime, I wish to point out that my Government regards this provision as applying also to the Convention at present in force concerning the use of the waters of frontier rivers and streams, concluded between our two countries on 8 January 1927, and in particular to article 7 thereof, which prohibits the artificial changing of the direction of the Thalweg.

I have the honour to be, etc.

(Signature)

Note from the Deputy Minister of Foreign Affairs of the Union of Soviet Socialist Republics addressed to the Ambassador of the Turkish Republic to the USSR

15 July 1937

Sir,

I have the honour to acknowledge receipt of your Note of today's date, as follows:

[See Note above]

I have the honour to inform you that the Government of the Union of Soviet Socialist Republics shares the view of the Turkish Government as set forth above.

I have the honour to be, etc.

(Signature)

TREATIES RELATING TO EUROPEAN RIVERS TRAITÉS SE RAPPORTANT AUX FLEUVES EUROPÉENS

(i) MULTIPARTITE TREATIES (i) TRAITÉS MULTILATÉRAUX

108. TRAITÉ¹ ENTRE LA BELGIQUE, LES PAYS-BAS ET LE GRAND-DUCHÉ DE LUXEMBOURG, COMPLÉTANT LE TRAITÉ DU 19 AVRIL 1839, CONCLU À LA HAYE LE 5 NOVEMBRE 1842²

Section II. — Canal de Terneuzen

ARTICLE 20. L'écoulement des eaux belges par le canal de Terneuzen aura lieu conformément aux dispositions à arrêter entre les commissaires nommés de part et d'autre pour régler l'écoulement des eaux des Flandres, sans que, de ce chef, la Belgique paie aucune redevance aux Pays-Bas.

Ce règlement sera établi sur les bases suivantes, savoir:

¹ L'échange des instruments de ratification a eu lieu à La Haye le 11 février 1843.

² A. de Busschere, *Code de Traités et Arrangements internationaux intéressant la Belgique*, tome 1er, 1896, page 50.

a) A l'expiration des deux années qui suivront la signature du présent traité, la partie du canal de Gand à Terneuzen comprise entre le Sas-de-Gand et l'Escaut occidental ne recevra plus d'autres eaux que celles amenées par la partie supérieure dudit canal et par le canal de la Langeleede;

Il est toutefois stipulé que l'écoulement, par ce dernier canal, sera réglé de telle manière que les eaux ne s'élèvent pas à plus d'un mètre 50 centimètres au-dessus du radier de l'écluse du Vieux Bourg, du côté du polder Canisvliet;

b) Le Gouvernement des Pays-Bas fera exécuter, par ses soins et à ses frais, les travaux nécessaires pour obtenir le résultat ci-dessus, et créer de nouveaux écoulements à toutes les eaux qui se jettent actuellement dans la partie inférieure du canal de Gand à Terneuzen et venant, soit de la Belgique, soit des Pays-Bas, à l'exception de celles dont il a été parlé au para. a ci-dessus;

c) Pendant les deux années qu'exigera l'exécution des susdits travaux, les ouvrages d'art, établis sur le canal de Gand à Terneuzen, seront manoeuvrés dans l'intérêt des deux pays, et de la même manière que la chose avait lieu avant 1830.

Après l'achèvement des travaux, ces manoeuvres, tant pour l'écoulement des eaux que pour la navigation, seront réglées d'après les indications des agents à ce préposés par le gouvernement belge.

ARTICLE 21. Le Gouvernement belge pourra faire endiguer, à ses frais, la plage de Sluiskille, conformément au projet à approuver, de commun accord, par les deux gouvernements.

ARTICLE 22. Le gouvernement néerlandais s'oblige à entretenir en bon état le canal et ses dépendances, l'avant-port de Terneuzen, l'endiguement de la plage de Sluiskille et les ouvrages exécutés en vertu du para. b de l'article 20. Il s'engage également à faire effectuer les manoeuvres nécessaires pour la décharge des eaux et pour la navigation.

ARTICLE 23. En considération des dépenses que les Pays-Bas supporteront de ce chef et du chef des travaux désignés par le para. b de l'article 20, la Belgique s'oblige à payer aux Pays-Bas une somme annuelle fixée à 25.000 florins pendant le temps qui s'écoulera entre la date du présent traité et le moment où tous les ouvrages mentionnés dans le para. b de l'article 20 seront complètement en état de satisfaire à leur destination, et à 50.000 florins à partir de cette époque.

ARTICLE 24. La somme ci-dessus mentionnée sera versée par le gouvernement belge, à l'expiration de chaque année, entre les mains de l'agent néerlandais à Anvers, chargé de la recette du droit sur la navigation de l'Escaut.

ARTICLE 25. Dans le cas où la Belgique déclarerait renoncer à l'usage dudit canal, tant comme moyen d'évacuation des eaux que comme voie de navigation, le paiement de l'indemnité mentionnée dans l'article 23 cesserait de plein droit, comme le gouvernement des Pays-Bas serait alors déchargé des obligations contractées à l'article 22 ci-dessus.

. . .

109. CONVENTION¹ ENTRE LES DÉLÉGUÉS DES ÉTATS RIVERAINS DU LAC DE CONSTANCE, LE BADE, LA BAVIÈRE, L'AUTRICHE, LA SUISSE ET LE WURTEMBERG, TOUCHANT LA RÉGULARISATION DE L'ÉCOULEMENT DES EAUX DU LAC DE CONSTANCE PRÈS CONSTANCE, CONCLUE LE 31 AOÛT 1857²

ARTICLE 1. Dans le but de prévenir par l'abaissement futur du niveau du lac de Constance les effets préjudiciables des hautes eaux, le moulin sur le Rhin, incendié, avec ses dépendances près Constance, ne sera pas reconstruit; ce qui reste des constructions du moulin et les barrages qui en font partie seront enlevés, tout comme en général des constructions hydrauliques de ce genre ne seront plus permises à l'avenir.

Des dispositions ultérieures en vue de diminuer les crues du lac de Constance ne sont pas nécessaires pour le moment.

ARTICLE 2. Le gouvernement du Grand-Duché de Bade se charge de faire enlever dans le plus bref délai possible les restes du moulin sur le Rhin avec dépendances, ainsi que de faire ôter complètement les deux barrages à gauche et à droite en amont du pont sur le Rhin près Constance.

Pour les frais occasionnés par cette opération, il sera bonifié au gouvernement du Grand-Duché de Bade une somme de fl. 1.000, dis *mille florins* (au taux de fl. 24 1/2) (art. 6).

ARTICLE 3. La commune de Constance touchera à titre d'indemnité pour sa renonciation à tous ses droits actuels de moulin et d'eau, de quelque nature qu'ils soient, la somme de florins 24.000, dis *vingt-quatre mille florins*: faculté lui étant réservée de faire valoir en outre ses prétentions près la caisse générale badoise des assurances contre l'incendie.

ARTICLE 4. L'ouverture du pont actuel ne pourra pas être diminuée.

Pour le cas de constructions de nouveaux ponts ou de travaux de défense des rives dans la proximité du pont actuel de Constance, le profil normal calculé à 400 pieds d'ouverture moyenne fera règle en amont de ce point et à sa place actuelle, tandis qu'en aval on se conformera au profil rétréci vers la tour aux poudres.

ARTICLE 5. Si dans la suite le profil des basses eaux s'élargissait à la sortie du lac supérieur, vers le phare de Constance, à tel point que l'on eût à craindre que le niveau du lac ne descendît au-dessous du niveau le plus bas connu jusqu'à présent, soit 13'3" au-dessous de zéro de l'échelle hydrométrique de Constance, il devra être paré à cet abaissement, à l'aide de barrages propres à maintenir le profil ci-dessus dans son état actuel.

Les frais de premier établissement de ces barrages seront, jusqu'à concurrence du maximum de fl. 5.000, dis *cinq mille florins*, supportés par tous les Etats riverains.

ARTICLE 6. La dépense de fl. 1.000 pour l'enlèvement des obstacles existant encore (art. 2) et l'in-

¹ Ratifications échangées entre tous les Etats contractants en 1858.

² Confédération suisse, Chancellerie fédérale, *Recueil systématique des lois et ordonnances 1848-1947*, 12ème volume, p. 526.

demnité à fournir à la ville de Constance (art. 3) de	„ 24.000
faisant ensemble.	fl. 25.000

seront couvertes par les Etats riverains intéressés, de la manière suivante:

Bade, Grand-Duché	fl. 7.000
Bavière, Royaume.	„ 1.500
Autriche, Empire	„ 7.200
Suisse, Confédération	„ 7.800
Wurtemberg, Royaume	„ 1.500
	fl. 25.000

La même proportion servira de base pour la fixation des contributions que pourrait nécessiter à l'avenir la construction de travaux de barrage (art. 5).

ARTICLE 7. La ratification de la convention ci-dessus est expressément réservée aux hauts gouvernements intéressés.

110. CONVENTION¹ ENTRE LA SUISSE, L'AUTRICHE, LA BAVIÈRE, LE WURTEMBERG ET LE GRAND-DUCHÉ DE BADE, INSTITUANT UN REGLEMENT INTERNATIONAL POUR LA NAVIGATION ET LE SERVICE DES PORTS SUR LE LAC DE CONSTANCE, CONCLUE À BREGENZ LE 22 SEPTEMBRE 1867²

. . . .

Suppression des obstacles à la navigation

ARTICLE 3. Les Etats riverains du lac de Constance, chacun le long de son territoire et sur son domaine lacustre, pourvoient aussi à ce qu'aucune entrave ne soit mise à la navigation sur le lac par des échafaudages, par l'exercice de certaines professions ou par toute autre entreprise.

. . . .

111. CONVENTION³ REVISÉE POUR LA NAVIGATION DU RHIN ENTRE LE BADE, LA BAVIÈRE, LA FRANCE, LE HESSE, LES PAYS-BAS ET LA PRUSSE, SIGNÉE À MANNHEIM, LE 17 OCTOBRE 1868⁴

. . . .

¹ Entrée en vigueur le 1er mars 1868.

² Confédération suisse, Chancellerie fédérale, *Recueil systématique des lois et ordonnances 1848-1947*, 13ème volume, p. 380.

³ Entrée en vigueur le 1er juillet 1869. La Convention est destinée à remplacer la Convention relative à la Navigation du Rhin du 31 mars 1831, les articles supplémentaires et additionnels à cet acte, ainsi que toutes les autres résolutions concernant des matières sur lesquelles il est statué dans cette Convention (article 48).

⁴ *Annuaire Européen*, 1956, vol. II, p. 258.

ARTICLE 29¹. Les Gouvernements des Etats riverains limitrophes, ou de ceux qui sont situés vis-à-vis l'un de l'autre, se communiqueront réciproquement les projets hydrotechniques dont l'exécution pourrait avoir une influence directe sur la partie du fleuve, ou de ses rives, qui leur appartient, afin de les exécuter de la manière la plus convenable pour tous deux. Ils s'entendront sur les questions qui pourraient s'élever à l'occasion de l'exécution desdits travaux.

ARTICLE 30. Les Gouvernements riverains veilleront à ce que la navigation sur le Rhin ne soit entravée ni par des moulins ou autres usines établies sur le fleuve, ni par des ponts ou autres ouvrages d'art. Ils auront soin, surtout, que le passage des ponts puisse s'effectuer sans occasionner de retards. Il est interdit d'exiger aucune rétribution pour l'ouverture ou la fermeture des ponts.

Aucune concession ne pourra être accordée, à l'avenir, pour l'établissement de nouveaux moulins flottants.

ARTICLE 31. De temps à autre, des ingénieurs hydrotechniques délégués par les Gouvernements de tous les Etats riverains feront un voyage d'exploration pour examiner l'état du fleuve, apprécier les résultats des mesures prises pour son amélioration et constater les nouveaux obstacles qui entraveraient la navigation.

La Commission centrale (article 43) désignera l'époque et les parties du fleuve où ces explorations devront avoir lieu. Les ingénieurs lui rendront compte des résultats.

. . .

112. CONVENTION² ENTRE LA SUISSE, L'ALLEMAGNE ET LES PAYS-BAS POUR RÉGULARISER LA PÊCHE DU SAUMON DANS LE BASSIN DU RHIN, AVEC PROTOCOLE, SIGNÉE À BERLIN LE 30 JUIN 1885³

LE CONSEIL FÉDÉRAL DE LA CONFÉDÉRATION SUISSE ET SA MAJESTÉ L'EMPEREUR D'ALLEMAGNE, ROI DE PRUSSE, ET SA MAJESTÉ LE ROI DES PAYS-BAS,

animés du désir de régler par des dispositions uniformes la pêche du saumon dans le Rhin, afin de multiplier ce poisson, ont nommé pour leurs plénipotentiaires à l'effet de conclure une convention sur la matière, savoir:

lesquels, après avoir vérifié et trouvé en due forme leurs pleins pouvoirs, sont convenus des points suivants:

¹ Modifié par l'article 358 du Traité de Versailles, qui réserve à la France sous certaines conditions, le droit à l'énergie produite par l'aménagement du fleuve sur la section-frontière entre la France et l'Allemagne, et l'article 359 dudit Traité, qui prévoit l'approbation par la Commission Centrale de tous les travaux exécutés sur le même secteur [voir texte de ces articles, *infra*, traité No. 115].

² Entrée en vigueur le 6 juin 1886.

³ Confédération suisse, Chancellerie fédérale, *Recueil systématique des lois et ordonnances 1848-1947*, 14ème volume, p. 256.

Article premier

Dans le cours du Rhin, depuis la chute près de Schaffhouse jusqu'en aval, ainsi que dans tous ses affluents par lesquels l'eau peut s'écouler dans la mer depuis le Rhin avant sa bifurcation près de Lobith, il est interdit de se servir, pour la pêche, d'appareils permanents (écrielles, gords), ainsi que d'appareils de pêche fixés sur la rive ou dans le lit du fleuve ou ancrés (filets de barrage, nasses), qui empêcheraient la circulation des poissons sur plus de la moitié de la largeur du fleuve, mesurée à eau basse ordinaire et dans la ligne droite la plus courte d'une rive à l'autre.

Cette interdiction s'applique aussi aux affluents du Rhin; toutefois, sur les parties des affluents qui forment la frontière avec un Etat ne faisant pas partie de la convention, elle ne sera appliquée que pour autant que cet Etat observera un mode de procéder semblable.

Les appareils de pêche permanents qui existent dans les affluents du Rhin ne sont pas soumis à cette prescription lorsqu'ils sont liés à un droit de pêche accordé en vue de ce moyen particulier de pêcher.

Article II

Dans les parties du cours du Rhin désignées à l'article I (al. 1) et dans les affluents du Rhin qui y sont désignés (al. 2), pour autant qu'ils servent à la circulation des saumons et des aloses jusqu'aux endroits où ces poissons fraient, les filets flottants ne peuvent être employés pour la pêche que s'ils n'ont pas une largeur de plus de 2,5 mètres entre la ralingue supérieure et la ralingue inférieure. Les filets simples qui ne sont destinés et appropriés qu'à la pêche de l'esturgeon ne sont pas soumis à ces restrictions.

On ne peut se servir de plusieurs filets flottants que s'ils sont placés à une distance égale au moins au double de la longueur du plus grand filet.

Article III

Dans le cours du Rhin, depuis la chute près de Schaffhouse jusqu'en aval, dans tous ses affluents par lesquels l'eau peut s'écouler dans la mer depuis le Rhin avant sa bifurcation près de Lobith, et dans tous ses affluents, toute pêche au saumon avec des « Zegens » doit être interdite chaque année pendant la durée de deux mois.

Cette interdiction comprend:

- 1° Sur le territoire du Royaume des Pays-Bas, la période du 16 août au 15 octobre inclusivement;
- 2° Sur le cours depuis la frontière hollandaise-prussienne jusqu'en amont, la période du 27 août au 26 octobre inclusivement.

Les gouvernements des Etats riverains intéressés fixeront, chacun pour son territoire, le genre de pêche qui doit être soumis à cette prescription; ils pourvoiront, à cet effet, à ce qu'on ne pratique pas en réalité la pêche du saumon sous le prétexte de pêcher d'autres espèces de poisson.

Les gouvernements se feront réciproquement communication des mesures prises.

Article IV

Depuis Bâle en aval, la pêche des saumons et des aloses, avec des engins quelconques, est interdite, pendant 24 heures chaque semaine, soit du samedi à 6 heures du soir jusqu'au dimanche à 6 heures du soir, dans le Rhin et dans les parties de ses affluents qui servent à la circulation de ces

poissons jusqu'aux endroits où ils fraient, ainsi que dans les affluents désignés à l'article I.

Il est réservé au gouvernement néerlandais de fixer pour la pêche du saumon avec des nasses, dans la partie soumise à l'influence de la marée, le commencement de ce temps prohibé au moment des plus basses eaux après le samedi à 6 heures du soir et d'étendre l'interdiction à deux marées.

Article V

Dans les parties du cours des affluents du Rhin où se trouvent des endroits favorables pour le frai du saumon, ainsi que dans le cours supérieur du Rhin lui-même depuis Mannheim-Ludwigshafen en remontant jusqu'à la chute de Schaffhouse, la pêche du saumon ne peut se pratiquer, pendant la durée d'au moins six semaines dans la période du 15 octobre au 31 décembre, qu'avec la permission expresse de l'autorité supérieure. Cette permission ne sera accordée que si l'emploi des éléments de reproduction (œufs et laitance) des poissons pris au moment du frai ou à une époque rapprochée de ce moment est assuré dans le but de la pisciculture. A cette condition, l'autorité peut permettre la pêche du saumon, même pendant la durée du temps prohibé chaque semaine (art. IV).

Article VI

Les prescriptions des articles I à V de la présente convention ne sont pas applicables à la Moselle depuis sa sortie de l'Alsace-Lorraine jusqu'à Trèves, non plus qu'à tous les affluents de la Moselle sur la rive gauche qui touchent dans leur cours le territoire prussien et luxembourgeois.

Il reste réservé au gouvernement prussien de régler les conditions de la pêche dans ces cours d'eau, dans le sens de la présente convention, au moyen d'une entente avec le gouvernement du Grand-Duché de Luxembourg¹.

Article VII

Pour favoriser la multiplication du saumon dans le bassin du Rhin, on pourvoira :

- 1° A ce que les places naturelles de frai dans les affluents soient de nouveau ouvertes et rendues accessibles aux saumons à l'époque de la remonte;
- 2° A ce que les éléments de reproduction (œufs et laitance) des saumons pêchés soient employés autant que possible dans le but de la pisciculture.

Article VIII

Les gouvernements des Etats riverains intéressés fixeront, chacun pour son territoire, une mesure minimum au-dessous de laquelle les saumons ne peuvent être ni pêchés, ni livrés au commerce.

Article IX

Les gouvernements des Etats riverains intéressés édicteront les règlements nécessaires pour l'exécution de la présente convention, ainsi que les dispositions pénales pour les contraventions; ils installeront aussi le

¹ Voir *infra*, traité n° 200. p. 716

personnel de surveillance nécessaire pour l'application de ces prescriptions.

La présente convention n'exclut pas la faculté des divers États d'adopter, pour leur territoire, des dispositions plus sévères à l'effet de protéger le poisson.

Article X

Chacun des gouvernements des États riverains intéressés nommera un représentant pour son territoire.

Ces représentants se communiqueront réciproquement les mesures prises par leurs gouvernements au sujet de la pêche dans le bassin du Rhin; ils se réuniront de temps en temps pour discuter sur les mesures à prendre dans l'intérêt de la pêche du saumon dans le bassin du Rhin.

Article XI

La présente convention entrera en vigueur immédiatement après sa ratification; elle demeurera en vigueur pendant dix ans à partir de ce jour et, si elle n'est pas dénoncée douze mois avant cette époque par un des gouvernements contractants, elle continuera à rester en vigueur, d'année en année, jusqu'à l'expiration d'une année à partir du jour où l'un ou l'autre des gouvernements contractants l'aura dénoncée.

Article XII

La présente convention sera ratifiée et les ratifications en seront échangées à Berlin le plus tôt que faire se pourra.

En foi de quoi, les plénipotentiaires ont signé la convention et y ont apposé leur cachet.

Ainsi fait à Berlin, le 30 juin 1885.

PROTOCOLE FINAL

A l'occasion de la signature, qui a eu lieu aujourd'hui, de la convention entre la Suisse, l'Empire allemand et le Royaume des Pays-Bas pour régulariser la pêche du saumon dans le bassin du Rhin, on a constaté l'entente des plénipotentiaires de tous les États riverains intéressés sur les points suivants.

I

Les dispositions de la convention ne sont pas applicables aux pêcheries de tout genre établies dans les bras abandonnés du Rhin, pour autant que ces bras latéraux ne sont pas, des deux côtés, en communication avec le cours principal de telle sorte que les poissons de passage puissent y circuler librement en tout temps.

II

Les prescriptions restrictives des articles II et III de la convention sont applicables aux pêcheries à traîneaux et à filets flottants qui sont spécialement organisées pour la pêche du saumon, en particulier :

a. Aux pêcheries exploitées, dans des endroits déterminés, au moyen de filets flottants (filets triples);

b. Aux grandes pêches dites « Zegenvisscherijen » exploitées dans les Pays-Bas, au moyen de traîneaux (filets simples), avec emploi de la vapeur ou des chevaux;

c. Aux pêcheries dites « Zegenvisscherijen » et « Handzegenfischerei » exploitées principalement dans les Pays-Bas et sur la partie prussienne du fleuve, au moyen de traîneaux (filets simples), sans emploi de la vapeur ou des chevaux.

III

A teneur de l'avant-dernier alinéa de l'article III de la convention, on devra spécialement veiller à ce que, pendant le temps prohibé d'automne, la pêche d'autres poissons de passage, notamment du lavaret (*Coregonus oxyrhynchus*, houting des Hollandais), ne serve pas de prétexte à la pêche du saumon.

IV

Dès que le Grand-Duché de Luxembourg aura adhéré à la présente convention, l'article VI de celle-ci cessera d'être en vigueur.

V

En exécution des dispositions des articles V et VII de la convention, les gouvernements des États riverains intéressés s'efforceront de maintenir et d'augmenter l'effectif des saumons dans le Rhin, en utilisant convenablement la pisciculture.

VI

Avant de signer la convention et le protocole final, les plénipotentiaires néerlandais ont expressément déclaré que la convention ne sera soumise à la ratification de Sa Majesté le Roi des Pays-Bas qu'après avoir été approuvée par les États généraux.

En foi de quoi, les plénipotentiaires soussignés ont adopté le présent protocole, qui sera considéré, sans ratification spéciale et par le seul fait de l'échange des ratifications de la convention à laquelle il se rapporte, comme approuvé et confirmé par les gouvernements respectifs, et ils l'ont muni de leur signature.

Ainsi fait à Berlin, le 30 juin 1885.

113. CONVENTION¹ ENTRE LA SUISSE, LE GRAND-DUCHÉ DE BADE ET L'ALSACE-LORRAINE² ARRÊTANT DES DISPOSITIONS UNIFORMES SUR LA PÊCHE DANS LE RHIN ET SES AFFLUENTS, Y COMPRIS LE LAC DE CONSTANCE, AVEC PROTOCOLE, CONCLUE À LUCERNE, LE 18 MAI 1887³

¹ Entrée en vigueur le 19 octobre 1887.

² Par note du 31 juillet 1920, la France s'est déclarée disposée à admettre que, jusqu'à la conclusion de nouveaux accords entre le France et la Suisse sur la pêche dans le Rhin, cette convention continue à être appliquée en fait (*Feuille fédérale de la Confédération Suisse*, 1920, vol. IV, p. 378).

³ Confédération suisse, Chancellerie fédérale, *Recueil systématique des lois et ordonnances 1848-1947*, 14^{ème} volume, p. 248.

Les faits ayant démontré que la convention conclue à Bâle, le 25 mars 1875/Mulhouse, le 14 juillet 1877, et la convention additionnelle conclue à Colmar le 21 septembre 1884, entre la Suisse, le Grand-Duché de Bade et l'Alsace-Lorraine, devaient être soumises à une révision, les gouvernements de ces Etats ont nommé à cet effet comme délégués :

Lesquels ont conclu, sous réserve de ratification, la convention suivante :

Article premier

Est interdit pour la pêche dans le Rhin et ses affluents, pour autant qu'il s'y trouve des poissons migrateurs (saumons et aloses), l'emploi de tout appareil de pêche permanent (écriilles, gords) et de tout appareil fixé à la rive ou ancré dans le lit de la rivière (nasses, filets de barrage), empêchant la circulation des poissons de passage sur plus de la moitié de la largeur du cours d'eau, largeur mesurée à eau basse ordinaire et dans la ligne droite la plus courte d'une rive à l'autre.

La distance entre les piquets formant les barrages à saumons (gords), ainsi que celle des traverses, devra être d'au moins dix centimètres.

La distance entre deux de ces appareils de pêche permanents fixés à la rive ou ancrés dans le lit de la rivière ou entre deux filets fixes, employés simultanément sur la même rive ou sur les deux rives opposées, ne pourra être inférieure au double de la longueur de l'appareil ou du filet respectif. Si ceux-ci sont de longueurs différentes, c'est la plus grande longueur qui fait règle pour la distance y relative.

Les dispositions précitées ne sont pas applicables aux « Altrheine » (Gies-sen, petits golfes formés par le fleuve). dans le cas où ceux-ci ne sont pas reliés des deux côtés avec le cours principal, de manière que les poissons migrateurs puissent en tout temps circuler librement.

Article 2

Aucun appareil de pêche, quelle que soit sa forme ou sa dénomination, ne pourra être employé si ses ouvertures ou mailles, à l'état humide, n'ont au minimum, tant en hauteur qu'en largeur, les dimensions suivantes :

a) Pour la pêche du saumon :

Les corbeilles (paniers, nasses), filets flottants : 6 centimètres ; l'intérieur des nasses (manchon ou entonnoir de la nasse) 4 centimètres ;

b) Pour la pêche d'autres grandes espèces : 3 centimètres ;

c) Pour la pêche de petites espèces : 2 centimètres.

Pour la pêche dans le Rhin entre Schaffhouse et Bâle, il ne pourra en général être fait usage d'aucun filet dont les mailles mesurées comme ci-dessus seraient inférieures à 3 centimètres.

Lors de la vérification des corbeilles et filets, une différence d'un dixième sera tolérée.

En vue de pêcher des poissons devant servir de nourriture pour des établissements de pisciculture, ainsi que des poissons devant servir d'amorce, l'autorité de surveillance peut permettre, sous réserve d'un contrôle suffisant, l'emploi de filets ayant des dimensions de mailles plus petites ; toutefois, ceci ne modifie en rien les dispositions relatives aux dimensions minima des poissons (article 5) et aux périodes d'interdiction de la pêche (article 6).

Article 3

Les filets flottants ne pourront être tendus ni fixés dans l'eau de manière à y demeurer immobiles ou accrochés.

Dans le cours du Rhin, à partir de la chute près de Schaffhouse en aval, et dans ses affluents, pour autant qu'ils servent à la circulation des saumons et des aloses jusqu'aux endroits où ces poissons fraient, les filets flottants ne peuvent être employés pour la pêche qu'autant qu'ils ont une largeur moindre de 2,5 mètres entre la ralingue supérieure et la ralingue inférieure.

On ne peut se servir de plusieurs filets flottants que s'ils sont placés à une distance au moins double de la longueur du plus grand filet.

Si la pêche au saumon qui est pratiquée dans le bas Rhin avec des "Zegens" venait à être introduite dans le territoire du haut Rhin, elle serait prohibée pendant la période du 27 août au 26 octobre inclusive ment.

Article 4

Sont interdits :

1° L'emploi de matières explosibles ou d'autres matières nuisibles (particulièrement la dynamite, les cartouches explosibles, les amorces empoisonnées et les matières destinées à étourdir les poissons);

2° L'emploi de pièges à ressort, de harpons, de tridents à poissons, d'armes à feu et d'autres engins de pêche de ce genre qui peuvent blesser les poissons; l'emploi des hameçons est permis;

3° L'établissement de nouvelles pêcheries fixes (trappes à poissons); les pêcheries existant déjà doivent être pourvues d'ouvertures de dimension correspondante à celle des mailles des filets (art. 2);

4° L'emploi de nasses pour la pêche du saumon pendant la période du 20 octobre au 24 décembre;

5° La mise à sec de cours d'eau en vue de la pêche;

6° La pêche nocturne pratiquée par l'intervention active de l'homme. Les autorités qui exercent la surveillance peuvent accorder des exceptions à cette interdiction, particulièrement en ce qui concerne la pêche des saumons et des aloses.

Article 5

Les poissons des espèces ci-après désignées ne peuvent être ni colportés, ni vendus, si, mesurés depuis la pointe de la tête jusqu'à l'extrémité de la queue, ils n'ont pas au moins les longueurs suivantes :

Saumon (<i>Trutta Salar</i> , L.)	50 cm
Anguille (<i>Anguilla fluviatilis</i> , Flem.)	} 35 »
Sandre (<i>Lucioperca Sandra</i> , L.)	} 30 »
Brochet (<i>Esox Lucius</i> , L.)	} 25 »
Truite des lacs (<i>Trutta lacustris</i> , L.)	} 25 »
Ombre de rivière (<i>Thymallus vulgaris</i> , Nils.)	} 25 »
Ombre-chevalier (<i>Rötheli</i> , <i>Salmo Salvelinus</i> , L.)	} 25 »
Barbeau (<i>Barbus fluviatilis</i> , Agass.)	} 25 »

Truite de rivière (<i>Trutta Fario</i> , L.)	} 20 »
Truite arc-en-ciel (<i>Salmo irideus</i> , Gibb.)	
Corégone féra (<i>Féra</i> , <i>Coregonus Fera</i> , Jur.)	
Palée, bondelle (<i>Coregonus Wartmanni</i> , Bloch)	
Gravanche (<i>Coregonus hiemalis</i> , Jur.)	
Marène (<i>Coregonus Maræna</i> , Bloch)	
Corégone blanc (<i>White-fish</i> , <i>Coregonus albus</i>)	
Tanche (<i>Tinca vulgaris</i> , Cuv.)	

Si des poissons n'ayant pas les longueurs ci-dessus spécifiées sont pris, ils doivent être immédiatement rejetés à l'eau.

Article 6

Pour les espèces de poissons ci-dessous indiquées, les époques pendant lesquelles la pêche est interdite sont fixées comme suit:

- 1° Du 1^{er} mars au 30 avril, pour l'ombre de rivière et la truite arc-en-ciel;
- 2° Du 1^{er} avril au 31 mai, pour la sandre;
- 3° Du 1^{er} octobre au 31 décembre, pour la truite des lacs;
- 4° Du 10 octobre au 10 janvier, pour la truite de rivière;
- 5° Du 1^{er} novembre au 31 décembre, pour l'omble-chevalier (Rötheli);
- 6° Du 11 novembre au 24 décembre, pour le saumon;
- 7° Du 15 novembre au 15 décembre, pour les corégones (féra, palée [bondelle], gravanche et marène).

La pêche des truites stériles, truites bleues ou argentées (dites Silber- ou Schwebforellen), dans le lac de Constance, est permise pendant les temps prohibés.

Si des poissons rentrant dans l'une des espèces soumises à une période d'interdiction de pêche sont pris pendant que la pêche est libre pour les autres espèces de poissons, ils doivent être immédiatement rejetés à l'eau.

La pêche au saumon, ainsi que celle aux corégones (féra, palée, gravanche et marène), peut aussi être exercée pendant la période d'interdiction (alinéa 1), toutefois seulement avec l'autorisation expresse de l'autorité compétente. Cette autorisation ne doit être donnée que si l'on est sûr que les éléments de reproduction (œufs et laitance) des poissons pris au moment du frai seront employés pour la pisciculture artificielle.

Si cette dernière garantie est acquise ou si les poissons doivent être employés pour des expériences scientifiques, l'autorisation de pêche peut aussi, dans certains cas, pour les autres espèces de poissons indiquées plus haut (alinéa 1), être accordée par l'autorité compétente pendant la période d'interdiction.

Article 7

En outre, dans la période du 15 avril à la fin de mai, la pêche au moyen de filets flottants peut être exercée dans les parties profondes du lac de Constance, en évitant soigneusement tout contact avec les berges (Halden), les « Reiser » et toute la flore aquatique (Kraebs).

Article 8

Depuis Bâle en aval, la pêche des saumons et des aloses, avec des engins quelconques, est interdite, pendant 24 heures chaque semaine, soit du samedi à 6 heures du soir jusqu'au dimanche à 6 heures du soir, dans le

Rhin et dans les parties de ses affluents qui servent à la circulation de ces poissons jusqu'aux endroits où ils fraient.

Article 9

Les poissons dont la pêche est interdite, soit parce qu'ils n'ont pas la longueur exigée (art. 5), soit parce qu'ils sont placés sous protection pendant une période déterminée (art. 6), ne peuvent être colportés, vendus ou expédiés; dans le second cas, les trois premiers jours de la période d'interdiction exceptés. De même, il est interdit de servir ces poissons dans des auberges, restaurants, hôtels, etc.

Cette interdiction ne s'applique pas aux saumons et aux corégones dont la pêche a été autorisée suivant l'avant-dernier alinéa de l'article 6. En outre, dans des cas extraordinaires comme lors de la pêche forcée de poissons se trouvant dans des étangs, ensuite de certains phénomènes ou d'autres cas de force majeure (par exemple détournement de cours d'eau, etc.), les autorités compétentes peuvent, exceptionnellement et sous réserve d'un contrôle suffisant, autoriser la vente et l'expédition de ces poissons. Cette même autorisation pourra être donnée pour des poissons qui sont destinés à la pisciculture artificielle.

Article 10

Il est interdit de verser ou de faire écouler, dans les eaux poissonneuses, des résidus de fabrique ou d'autres matières qui, par leur nature et leur quantité, pourraient nuire aux poissons ou les en chasser.

L'autorité compétente déterminera également jusqu'à quel point les écoulements existant aujourd'hui, qui proviennent d'établissements agricoles ou industriels, seront soumis à la règle posée ci-dessus.

Article 11

Chacun des gouvernements des Etats riverains intéressés nomme un représentant pour son territoire.

Ces représentants se communiqueront réciproquement les mesures prises par leurs gouvernements au sujet de la pêche dans le bassin du Rhin et ils se réuniront de temps en temps pour discuter sur les mesures à prendre dans l'intérêt de la pêche dans ce bassin.

Article 12

Les gouvernements contractants s'engagent à introduire, autant que possible, dans leurs lois et règlements sur la pêche les dispositions renfermées dans les articles 1^{er} à 11.

La présente convention n'enlève pas aux divers Etats contractants le droit d'édicter, pour leurs territoires, des dispositions plus sévères dans l'intérêt de la pêche.

Article 13

La présente convention est valable pour le lac de Constance et pour le Rhin depuis sa sortie du lac de Constance en aval.

Les dispositions de la convention qui ont trait aux poissons migrateurs (saumons et aloses) sont aussi applicables aux affluents du Rhin.

Article 14

La présente convention entrera en vigueur immédiatement après sa ratification et aura force de loi pendant dix ans. Après dix années à partir du jour de l'échange des ratifications, chacune des trois parties contractantes sera libre de se retirer en tout temps, une année après la date à laquelle elle en aura effectué la dénonciation.

Article 15

La présente convention sera ratifiée et l'échange des déclarations de ratification aura lieu le plus tôt possible.

EN FOI DE QUOI, les plénipotentiaires ont signé la présente convention en triple expédition.

Fait à Lucerne, le dix-huit (18) mai mil huit cent quatre-vingt-sept (1887).

PROTOCOLE FINAL

Au moment de signer la présente convention relative à la réglementation de la pêche dans le Rhin et ses affluents y compris le lac de Constance, les plénipotentiaires soussignés ont jugé utile et convenable d'insérer dans le présent protocole final les déclarations et explications suivantes.

I

Les plénipotentiaires sont d'accord sur le fait que l'interdiction complète temporaire de la pêche dans un cours d'eau peut être considérée comme admissible et autorisée, si, ensuite de détournement d'eaux poissonneuses, de manque d'eau ou d'autres événements, l'effectif du poisson menace de s'éteindre complètement (art. 1^{er}).

II

Il est convenu que le premier et le dernier jour des périodes d'interdiction doivent être compris dans ces périodes (art. 4, ch. 4, et art. 6 de la convention).

III

Il est réservé de fixer pour le bassin du petit lac des périodes d'interdiction pour des espèces de poissons autres que celles désignées dans l'article 6.

IV

On insiste expressément sur le fait que les déterminations qui ont été prises à Bâle à la date du 22/23 octobre 1883, non plus que les prescriptions qui ont été édictées en exécution de ces décisions, ne sont modifiées en aucun point par la présente convention.

V

Les plénipotentiaires sont d'accord sur le fait que l'engagement réciproque qui a été pris dans le temps et qui consiste à verser annuellement dans le bassin du Rhin, depuis sa chute près de Schaffhouse en aval, un

nombre de jeunes saumons calculé d'après la longueur de la rive (au moins 1.000 pièces par chaque kilomètre de longueur de rive), doit encore rester valable pour la durée de la présente convention.

VI

On considère comme désirable que, dorénavant, il ne soit pas versé dans le lac de Constance et dans le Rhin de nouvelles espèces de poissons sans une entente préalable réciproque entre les gouvernements des Etats riverains.

Fait à Lucerne, le dix-huit (18) mai mil huit cent quatre-vingt-sept (1887).

114. CONVENTION¹ ENTRE L'AUTRICHE-HONGRIE, LE BADE, LA BAVIÈRE, LE LIECHTENSTEIN, LA SUISSE ET LE WURTEMBERG ARRÊTANT DES DISPOSITIONS UNIFORMES SUR LA PÊCHE DANS LE LAC DE CONSTANCE, AVEC PROTOCOLE, CONCLUE À BREGENZ LE 5 JUILLET 1893²

Dans le but de conserver et de multiplier, dans le lac de Constance, les espèces précieuses de poissons, le Conseil fédéral de la Confédération suisse et les Gouvernements d'Autriche-Hongrie, de Bade, de Bavière, de Liechtenstein et de Wurtemberg sont convenus d'adopter des dispositions uniformes.

A cet effet, ils ont nommé comme délégués :

Lesquels ont, sous réserve de ratification, conclu la convention suivante :

Article premier

Les dispositions des articles 2 à 12 de la présente convention sont applicables au lac de Constance (lac Supérieur y compris celui d'Überlingen) jusqu'au pont sur le Rhin à Constance.

Article 2

Sont prohibés les engins de pêche de toute espèce et de toute dénomination, dont les mailles n'auraient pas, à l'état humide, au moins 3 centimètres de côté.

On pourra employer, pour la pêche du *Gangfisch* et du goîtreux, des filets dont les mailles ne seraient pas inférieures à 23 millimètres.

Pour la pêche des poissons destinés à servir de nourriture dans les établissements de pisciculture et de ceux destinés à servir d'amorces, l'autorité chargée de la surveillance peut, sous réserve d'un contrôle suffisant, permettre des filets dont les mailles seraient plus petites, sans toutefois porter atteinte aux dispositions relatives aux dimensions minima des poissons (art. 5) et aux périodes d'interdiction de la pêche (art. 6). Cette autorisation devra être donnée par écrit.

Le permis devra mentionner les espèces de poissons qui peuvent être capturés à cet effet, l'époque à laquelle cette pêche peut avoir lieu, la partie

¹ Entrée en vigueur le 22 décembre 1893.

² Confédération suisse, Chancellerie fédérale, *Recueil systématique des lois et ordonnances 1848-1947*, 14ème volume, p. 212.

du lac dans laquelle on pourra s'y livrer et toutes autres dispositions qui seraient nécessaires pour prévenir des abus.

L'autorité de surveillance peut aussi, de la même manière, permettre la pêche de l'ablette, même lorsque celle-ci est destinée à l'alimentation. On ne devra se servir, à cet effet, que de filets dont les mailles ne seraient pas inférieures à 14 millimètres.

Article 3

Les tramails ne devront pas être placés à plus de 20 mètres les uns des autres.

Dans le voisinage du mont, lorsque les berges sont particulièrement escarpées, l'autorité chargée de la surveillance pourra tempérer l'application du règlement.

Article 4

Sont interdits :

1. Les matières explosibles ou autres matières nuisibles (en particulier la dynamite, les cartouches explosibles, les amorces empoisonnées) et les matières destinées à étourdir les poissons ;

2. Les tridents à poissons et les harpons, les armes à feu et les autres engins de pêche de ce genre pouvant blesser les poissons ; il est permis de se servir de hameçons — à l'exception des engins dits *Zockschnur* ou *Juckschnur* ;

3. La pêche nocturne pratiquée avec l'intervention active de l'homme (à partir d'une heure après le coucher du soleil jusqu'à une heure avant son lever).

L'autorité de surveillance ne peut apporter d'exceptions à ces prohibitions qu'en cas de nécessité prouvée.

Article 5

Les poissons des espèces ci-après doivent être immédiatement rejetés à l'eau s'ils ne mesurent pas au moins les longueurs suivantes depuis la pointe de la tête jusqu'à l'extrémité de la queue, savoir :

anguille	} 35 cm	<i>Weissfelchen (Sandfelchen)</i>	} 20 cm
sandre		<i>Blaufelchen</i>	
brochet	} 30 cm	goîtreux	
truite des lacs		marène	
ombre de rivière	} 25 cm	marène américaine	
omble-chevalier		tanche	
barbeau			
carpe			

Article 6

Pour les espèces de poissons ci-dessous indiquées, les époques pendant lesquelles la pêche est interdite sont fixées comme suit :

1. Du 1^{er} mars au 30 avril, pour l'ombre de rivière ;
2. Du 1^{er} avril au 31 mai, pour la sandre ;

3. Du 1^{er} octobre au 31 décembre, pour la truite des lacs;
4. Du 1^{er} novembre au 31 décembre, pour l'omble-chevalier;
5. Du 15 novembre au 15 décembre, pour les corégones (*Weissfelchen*, *Blaufelchen*, goîtreux et marène).

On devra rejeter immédiatement à l'eau les poissons appartenant à l'une des espèces soumises à une période d'interdiction de pêcher et qui seraient pris lors de la pêche autorisée pour les autres espèces de poissons.

On peut aussi pêcher la truite des lacs, l'omble-chevalier et les corégones (*Weissfelchen*, *Blaufelchen*, goîtreux et marènes) pendant la période d'interdiction (al. 1), toutefois seulement avec l'autorisation expresse et toujours révocable de l'autorité compétente. Celle-ci ne donnera cette autorisation que si elle est sûre que les éléments de reproduction (œufs et laitance) des poissons pris au moment du frai seront employés pour la pisciculture artificielle.

Si cette dernière garantie est acquise, l'autorité compétente peut aussi, dans certains cas, permettre de pêcher, pendant la période d'interdiction, les autres espèces de poissons indiquées ci-dessus (al. 1).

La pêche des truites stériles, truites bleues ou argentées, dans le lac de Constance est permise sans autorisation spéciale, même pendant l'époque d'interdiction de pêcher la truite des lacs.

Article 7

Les autorités compétentes devront veiller à ce que, pendant *le frai du Gangfisch*, les œufs fécondés des poissons capturés soient remis aux établissements de pisciculture ou rejetés dans le lac aux bons endroits.

Article 8

Du 15 avril à fin mai, la pêche à la traîne est interdite.

Pendant cette période est permise la pêche de toutes les espèces de poissons pour lesquelles il n'y a pas de période d'interdiction. Elle pourra avoir lieu soit au moyen de filets flottants dans les parties profondes du lac, en évitant tout contact avec le mont et toute la flore aquatique, soit au moyen de tramails et de nasses placés à n'importe quel endroit, soit enfin à l'hameçon, y compris la pêche à l'hameçon exercée comme métier.

Article 9

Les poissons dont la pêche est interdite, soit parce qu'ils n'ont pas la longueur exigée (art. 5), soit parce qu'ils sont placés sous protection pendant une période déterminée (art. 6), ne peuvent être colportés, vendus ou expédiés; dans le second cas, les trois premiers jours de la période d'interdiction exceptés.

Il est, de même, interdit de servir ces poissons dans des auberges, restaurants, hôtels, etc.

Cette interdiction ne s'applique pas aux corégones dont la pêche a été autorisée conformément à l'article 6, alinéa 3. L'autorité compétente de surveillance peut, sous réserve d'un contrôle suffisant, autoriser la vente et l'expédition des autres poissons (art. 6), de la truite des lacs en particulier, lorsqu'ils sont destinés à la pisciculture artificielle.

Pendant la période d'interdiction de pêcher la truite des lacs, le colportage, la vente et l'expédition des truites bleues ou argentées devront être soumis à un contrôle spécial.

Article 10

L'autorité de surveillance pourra, dans un but scientifique, apporter quelques exceptions aux règles relatives à la largeur des mailles, à la dimension des poissons et aux périodes d'interdiction de pêcher.

Article 11

Les prescriptions édictées par les différents Etats sur la pêche à la ligne dont on ne fait pas métier (sport à la ligne ordinaire ou à la ligne flottante tenues à la main) ne sont nullement modifiées par la présente convention.

Article 12

Les Etats contractants régleront, conformément à leurs lois et en ménageant les intérêts de la pêche, les questions relatives aux constructions hydrauliques ou aux autres utilisations industrielles de l'eau.

Article 13

Dans les affluents du lac de Constance dans lesquels la truite des lacs a l'habitude de frayer, les gouvernements intéressés protégeront ce poisson pour le moins de la manière prévue par la présente convention pour le lac de Constance. Ils veilleront aussi à empêcher que la migration de la truite des lacs ne soit interceptée, dans ces affluents, au moyen de barrages sur plus de la demi-largeur du cours d'eau.

Le gouvernement du Grand-Duché de Bade et le Conseil fédéral suisse ne devront pas édicter, pour la pêche dans le lac Inférieur, des dispositions moins sévères que celles prévues dans la présente convention pour toutes les autres parties du lac de Constance.

Article 14

Chacun des gouvernements intéressés nomme un ou plusieurs commissaires.

Ceux-ci se communiqueront réciproquement les mesures prises par leurs gouvernements en vue de l'exécution de la présente convention et se réuniront, de temps en temps, pour discuter des mesures à prendre dans l'intérêt de la pêche.

Lors de leur première réunion, ils devront élaborer un règlement relatif à leurs travaux et le soumettre à l'approbation de leur gouvernement.

Article 15

La présente convention entrera en vigueur immédiatement après sa ratification par les gouvernements intéressés et aura force de loi pendant dix ans.

A l'expiration de ce délai calculé à dater du jour de l'échange des ratifications, chaque partie contractante pourra dénoncer la présente convention moyennant avertissement donné une année à l'avance.

Article 16

L'échange des ratifications aura lieu le plus tôt possible.

EN FOI DE QUOI, les plénipotentiaires ont signé la présente convention en six expéditions.

Fait à Bregenz le 5 juillet 1893.

PROTOCOLE FINAL

Au moment de signer la présente convention relative à l'adoption de dispositions uniformes pour la pêche dans le lac de Constance, les plénipotentiaires ont jugé utile et convenable d'insérer, dans le présent protocole, les déclarations et explications suivantes.

I

Les gouvernements intéressés pourront décider que, lors de la vérification des nasses et filets, une différence d'un dixième sera tolérée (art. 2 de la convention).

II

Il est convenu que le premier et le dernier jour des périodes d'interdiction doivent être compris dans ces périodes (art. 6, chiffres 1 à 5, et art. 8 de la convention).

III

Les gouvernements intéressés chargeront leurs commissaires (art. 14 de la convention) de prendre les mesures nécessaires en vue de l'adoption de marques de contrôle semblables (art. 9 de la convention).

IV

Il est à désirer que les gouvernements intéressés interdisent de verser, dans le lac de Constance et ses affluents, de nouvelles espèces de poissons, sans en avoir préalablement avisé l'autorité et en avoir reçu l'autorisation. Celle-ci ne devra être accordée qu'après examen des avantages que pourrait procurer une mesure semblable et seulement après entente entre tous les gouvernements ayant participé à la présente convention, c'est-à-dire entre leurs commissaires (art. 14 de la convention).

V

Il est à désirer que, lors de l'approbation, par les gouvernements, du règlement relatif aux travaux de leurs commissaires (art. 14 de la convention), on institue des réunions périodiques, à époque fixe, qui auront lieu alternativement dans les principales localités riveraines du lac de Constance.

Bregenz, le 5 juillet 1893.

115. TRAITÉ DE PAIX¹ ENTRE LES PUISSANCES ALLIÉES ET ASSOCIÉES, D'UNE PART, ET L'ALLEMAGNE, D'AUTRE PART, SIGNÉ À VERSAILLES, LE 28 JUIN 1919²

ARTICLE 358. Moyennant l'obligation de se conformer aux stipulations de la Convention de Mannheim, ou de celle qui lui sera substituée, ainsi qu'aux stipulations du présent Traité, la France aura, sur tout le cours du Rhin compris entre les points limites de ses frontières :

a) Le droit de prélever l'eau sur le débit du Rhin, pour l'alimentation des canaux de navigation et d'irrigation construits ou à construire, ou pour tout autre but, ainsi que d'exécuter sur la rive allemande tous les travaux nécessaires pour l'exercice de ce droit;

b) Le droit exclusif à l'énergie produite par l'aménagement du fleuve, sous réserve du paiement à l'Allemagne de la moitié de la valeur de l'énergie effectivement produite; ce paiement sera effectué, soit en argent, soit en énergie, et le montant calculé, en tenant compte du coût des travaux nécessaires pour la production de l'énergie, en sera déterminé, à défaut d'accord, par voie d'arbitrage. A cet effet, la France aura seule le droit d'exécuter, dans cette partie du fleuve, tous les travaux d'aménagement, de barrages ou autres, qu'elle jugera utiles pour la production de l'énergie. Le droit de prélever l'eau sur le débit du Rhin est reconnu de même à la Belgique pour l'alimentation de la voie navigable Rhin-Meuse prévue ci-dessous.

L'exercice des droits mentionnés sous les paragraphes a) et b) du présent article ne devra ni nuire à la navigabilité, ni réduire les facilités de la navigation, soit dans le lit du Rhin, soit dans les dérivations qui y seraient substituées, ni entraîner une augmentation des taxes perçues jusqu'alors par application de la Convention en vigueur. Tous les projets de travaux seront communiqués à la Commission centrale, pour lui permettre de s'assurer que ces conditions sont remplies.

Pour assurer la bonne et loyale exécution des dispositions contenues dans les paragraphes a) et b) ci-dessus, l'Allemagne :

1°. S'interdit d'entreprendre ou d'autoriser la construction d'aucun canal latéral, ni d'aucune dérivation sur la rive droite du fleuve vis-à-vis des frontières françaises;

2°. Reconnaît à la France le droit d'appui et de passage sur tous les terrains situés sur la rive droite qui seront nécessaires aux études, à l'établissement et à l'exploitation des barrages que la France, avec l'adhésion de la

¹ Entré en vigueur le 10 janvier 1920. L'Allemagne, l'Empire Britannique, la France, l'Italie, le Japon, la Belgique, la Bolivie, le Brésil, le Guatemala, le Pérou, la Pologne, le Siam, la Tchécoslovaquie, l'Uruguay, Cuba, la Grèce, Haïti, le Honduras, le Libéria, le Nicaragua, le Panama, le Portugal, la Roumanie et l'Etat Serbe-Croate-Slovène ont ratifié le Traité et déposé leurs instruments de ratification. Par deux Protocoles en date du 21 janvier 1921 et du 29 mars 1927, les Pays-Bas ont adhéré aux modifications apportées par le Traité de Versailles à la Convention de Mannheim de 1868 [Pour les textes de ces Protocoles voir : *Annuaire Européen*, 1956, Vol. II, p. 275.]

² De Martens, *Nouveau Recueil Général de Traités*, 3ème Série, tome XI, p. 323.

Commission centrale, pourra ultérieurement décider de construire. En conformité de cette adhésion, la France aura qualité pour déterminer et délimiter les emplacements nécessaires, et pourra occuper les terrains à l'expiration d'un délai de deux mois après simple notification, moyennant le paiement par elle à l'Allemagne d'indemnités dont le montant global sera fixé par la Commission centrale. Il appartiendra à l'Allemagne d'indemniser les propriétaires des fonds grevés de ces servitudes ou définitivement occupés par les travaux.

Si la Suisse en fait la demande et si la Commission centrale y donne son approbation, les mêmes droits lui seront accordés pour la partie du fleuve formant sa frontière avec les autres Etats riverains;

3°. Remettra au Gouvernement français, dans le mois qui suivra la mise en vigueur du présent Traité, tous plans, études, projets de concessions et de cahiers de charges, concernant l'aménagement du Rhin pour quelque usage que ce soit, établis ou reçus par le Gouvernement d'Alsace-Lorraine ou par celui du Grand-Duché de Bade.

ARTICLE 359. Dans les sections du Rhin formant frontière entre la France et l'Allemagne, et sous réserve des stipulations qui précèdent, aucun travail dans le lit ou sur l'une ou l'autre berge du fleuve ne pourra être exécuté sans l'approbation préalable de la Commission centrale ou de ses délégués.

ARTICLE 360. La France se réserve la faculté de se substituer aux droits et obligations résultant des accords intervenus entre le Gouvernement de l'Alsace-Lorraine et le Grand-Duché de Bade pour les travaux à exécuter sur le Rhin; elle pourra aussi dénoncer ces accords dans un délai de cinq ans à dater de la mise en vigueur du présent Traité.

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116. TRAITÉ DE PAIX¹ ENTRE LES PUISSANCES ALLIÉES ET ASSOCIÉES, D'UNE PART, ET L'AUTRICHE, D'AUTRE PART, SIGNÉ À SAINT-GERMAIN EN LAYE, LE 10 SEPTEMBRE 1919²

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ARTICLE 44.

. . .

L'Autriche reconnaît, en outre, le droit de l'Italie de faire libre usage des eaux du lac Raibl et de son émissaire, ainsi que de dévier lesdites eaux vers le bassin de la Korinitza.

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¹ Entré en vigueur le 16 juillet 1920. L'Empire Britannique, la France, l'Italie, la Chine, la Grèce, l'Etat Serbe-Croate-Slovène, la Tchécoslovaquie, et le Portugal ont ratifié le Traité et déposé leurs instruments de ratification.

² De Martens, *Nouveau Recueil Général de Traités*, 3ème série, tome XI, p. 691.

117. ACCORD¹ ENTRE L'ALLEMAGNE, LA FRANCE ET LA SUISSE RELATIF AU PROJET DU CANAL LATÉRAL DE KEMBS, AVEC PROCÈS-VERBAL, SIGNÉS À STRASBOURG LE 20 MAI 1922²

I

Dans le but d'apporter au projet de dérivation de Kembs, présenté par le Gouvernement français en exécution de l'article 358 du Traité de Versailles, les modifications recommandées par la Commission centrale pour la navigation du Rhin³, les représentants soussignés à la Commission centrale des Etats allemands, de France et de Suisse sont tombés d'accord sur les stipulations suivantes :

1. Le remous produit par le barrage de Kembs sera étendu en amont jusqu'à la Birs;

2. La concession de la chute correspondant au remous sur le territoire suisse et l'autorisation pour l'emprise supplémentaire sur territoire badois seront accordées au bénéficiaire désigné par le Gouvernement français, dans les formes et sous les conditions fixées par la législation des deux pays intéressés, dans le délai d'un an après le dépôt de la demande. Celle-ci devra être accompagnée de la documentation usuelle; le bénéficiaire de la concession recevra immédiatement les indications utiles.

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PROCÈS-VERBAL
DE LA RÉUNION TENUE LE 10 MAI 1922,
ENTRE LES DÉLÉGUÉS ALLEMANDS, FRANÇAIS ET SUISSES

Au moment de signer l'Accord ci-dessus, et en vue d'en préciser le sens, les délégations allemande, française et suisse ont fait les déclarations suivantes :

Ad I 1° et 2°

La délégation française déclare que ces stipulations doivent être interprétées comme impliquant d'ores et déjà, de la part de la France, l'acceptation de la concession, si les conditions en sont équitables et raisonnables.

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¹ Entré en vigueur le jour de la signature.

² Société des Nations, *Recueil des Traités*, vol. 26, p. 266.

³ Résolutions de la Commission Centrale du Rhin: a) approuvant le barrage et le bief de Kembs du Grand Canal d'Alsace, du 16 décembre 1921; b) relative au bief de Kembs, du 10 mai 1922; c) approuvant l'extension du remous du barrage de Kembs jusqu'à la Birs et la régularisation du Rhin entre Strasbourg et Bâle, du 10 mai 1922 [*Les Actes du Rhin, Traités, Conventions, Lois, et Règlements principaux concernant la navigation sur le Rhin et les voies navigables d'Europe Occidentale*, Strasbourg 1957, p. 34/35].

118. DISPOSITIONS¹ RELATIVES À LA FRONTIÈRE COMMUNE À LA BELGIQUE ET À L'ALLEMAGNE ÉTABLIES PAR UNE COMMISSION DE DÉLIMITATION² COMPOSÉE DE REPRÉSENTANTS DE L'EMPIRE BRITANNIQUE, DE LA FRANCE, DE L'ITALIE, DU JAPON, DE LA BELGIQUE ET DE L'ALLEMAGNE, EN EXÉCUTION DES CLAUSES DU TRAITÉ DE VERSAILLES DU 28 JUIN 1919, CONCERNANT CETTE FRONTIÈRE; ARRÊTÉES À AIX-LA-CHAPELLE, LE 6 NOVEMBRE 1922³

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- II. DISPOSITIONS RELATIVES AUX TERRITOIRES ALLEMANDS À L'OUEST DE LA VOIE FERRÉE DE RAEREN À KALTERHERBERG ET AUX PARTIES DU CERCLE DE MONTJOIE PASSÉES EN TERRITOIRE BELGE.

. . .

8° — Servitudes générales imposées à la voie ferrée Raeren-Kalterherberg

. . .

Sous réserve de ce qui est dit ci-dessus en ce qui concerne l'emprunt de la ligne pour la pose d'installations diverses et les autorisations à délivrer, la Belgique s'engage à ne porter aucun préjudice aux conduites d'eau alimentant l'hôpital de Montjoie, et à ne créer aucun obstacle aux projets futurs de travaux publics d'adduction d'eau, . . .

. . .

L'Allemagne s'engage, en outre, à assurer la protection de la conduite d'eau allant du barrage de la Vesdre à la station du chemin de fer à Rötgen sur le parcours situé sur son territoire, . . .

. . .

¹ Ces dispositions sont, obligatoires, en vertu du Traité de Versailles, pour les Parties intéressées. Elles n'ont besoin d'être ni sanctionnées, ni ratifiées par aucun organe ou autorité.

² Article 35 du Traité de Versailles: « Une Commission composée de sept membres dont cinq seront nommés par les Principales Puissances alliées et associées, un par l'Allemagne et un par la Belgique, sera constituée quinze jours après la mise en vigueur du présent Traité pour fixer sur place la nouvelle ligne frontière entre la Belgique et l'Allemagne, en tenant compte de la situation économique et des voies de communication. Les décisions seront prises à la majorité des voix et seront obligatoires pour les parties intéressées. »

³ De Martens, *Nouveau Recueil général des Traités*, 3ème série, tome XIV, p. 834.

III. DISPOSITIONS RELATIVES AU RÉGIME DES EAUX ET COURS D'EAU (ALIMENTATION EN EAU)

1. *Losheim-Hergersberg-Krewinkel*

La Belgique et l'Allemagne s'engagent :

1°. — A ne prendre, dans les territoires traversés par les conduites, aucune mesure de nature à en diminuer la production ou à leur causer un préjudice quelconque au détriment des communes intéressées.

2°. — Avant d'entreprendre toute modification à l'état actuel des conduites, modification qui pourrait avoir une fâcheuse influence sur la quantité ou sur la qualité de l'eau, les deux puissances s'engagent à se mettre d'accord sur les mesures à prendre.

3°. — La surveillance, le nettoyage et l'entretien de la source de Krewinkel et de la conduite qu'elle alimente, seront assurés exclusivement par les communes belges intéressées. Pour la source de Losheim il est décidé ce qui suit :

a) En cas d'interruption, nettoyage etc. . . il sera fait appel à des fonctionnaires du service compétent des deux Puissances, et toutes facilités leur seront accordées pour accéder aux installations et conduites.

b) Les frais occasionnés par les travaux de mise en état seront supportés en commun par les communes de Losheim et de Hergersberg, s'il s'agit de la partie située entre la source et le village de Losheim et par Hergersberg seule, s'il s'agit de la partie située au Sud de Losheim.

4°. — La communication établie autrefois dans l'Our-tal au point de croisement des deux conduites, sera supprimée, de façon que chaque conduite soit alimentée exclusivement par la source à laquelle elle s'approvisionne.

2. *Régime des eaux des bassins du Dreilägerbach, de la Vesdre et de l'alimentation en eau de Lammersdorf*

La Belgique et l'Allemagne s'engagent à respecter ce qui suit :

Le bassin hydrographique du barrage du Dreilägerbach, la partie du bassin de la Vesdre en territoire allemand, et le bassin hydrographique qui alimente la distribution d'eau de Lammersdorf, ne seront préjudiciés par aucune construction, établissement ou usine, dont les écoulements pourraient polluer les eaux.

Avant l'édification de toute installation modifiant l'état actuel des lieux et pouvant avoir une mauvaise influence sur la nature des eaux, les deux Gouvernements s'entendront pour prendre les mesures de protection nécessaires. Il est interdit, en tous cas, de laisser s'écouler dans les ruisseaux et fossés des eaux nuisibles à la santé publique.

Toutes les facilités désirables sont accordées aux fonctionnaires, employés et ouvriers du service des eaux pour se rendre librement à leur service.

La Belgique s'engage à ne permettre aucun détournement de cours d'eau capable de porter préjudice aux apports des bassins du Dreilägerbach et de l'alimentation en eau de Lammersdorf situés sur son territoire, sans entente préalable avec le Gouvernement allemand.

De son côté, l'Allemagne prend le même engagement pour ce qui concerne la partie du bassin de la Vesdre s'étendant sur son territoire.

3. Alimentation en eau d'Eynatten et de Raeren

Le Gouvernement allemand se porte fort que la ville d'Aix n'approfondira pas les puits existant à Lichtenbusch et à Schmidthof ni ne modifiera en aucune manière par le creusement de puits nouveaux ou de galeries nouvelles, la situation actuelle de l'approvisionnement en eau des communes belges situées le long de la portion du Cercle d'Eupen rétrocédée à l'Allemagne entre Lichtenbusch et Schmidthof.

En cas de violation des engagements ci-dessus, les communes lésées seront dédommagées.

En cas d'approfondissement des puits ou d'extension des galeries de Brandenburg le Gouvernement allemand s'engage à communiquer ses projets à la commune de Raeren avant la mise à exécution.

4. Régime des cours d'eau

Les deux Gouvernements s'engagent à n'aggraver en rien le régime actuel des cours d'eau qui traversent la frontière et à reconnaître les servitudes dont ils sont frappés concernant l'utilisation de leurs eaux.

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V. ARRANGEMENTS CONCERNANT LE MAINTIEN DE LA FRONTIÈRE FIXÉE ET LA CONSERVATION DES BORNES FRONTIÈRES

. . . .

ARTICLE 1. Les deux Parties contractantes s'engagent à prendre les mesures nécessaires pour que les cours d'eau, qui définissent la frontière, ne soient pas détournés arbitrairement et qu'aucune dégradation ne soit faite à leurs rives.

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Aucun cours d'eau ne peut être déplacé artificiellement sans une entente préalable entre les deux États riverains.

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ARTICLE 3. Partout où la frontière est définie par des cours d'eau il est entendu ce qui suit:

Chaque Etat doit faire le nécessaire pour que les cours d'eau frontière situés en entier sur son territoire soient tenus en bon état d'entretien et curés en cas de nécessité.

Ces cours d'eau sont:

Pour la Belgique :

1°. — Deux ruisseaux (sans nom) affluents de la Roer respectivement depuis la borne 683 jusqu'à la borne 684 et depuis la borne 685 jusqu'à la borne 690,

2°. — La Vesdre depuis la borne 827 jusqu'à la borne 829,

3°. — Le ruisseau Inde depuis la borne 904 jusqu'à la borne 912,

4°. — Un affluent (sans nom) du ruisseau Tulje depuis la borne 995 jusqu'à la borne 996.

Pour l'Allemagne :

1°. — L'Ihrenbach et un petit affluent (sans nom) depuis la borne 232 jusqu'à la borne 249,

2°. — Le Breitenbach depuis la borne 639 jusqu'à la borne 652,

3°. — Un ruisseau (sans nom) depuis la borne 770 jusqu'à la borne 772.

Dans tous les autres cas où la frontière est définie par la ligne médiane d'un cours d'eau, la charge totale d'entretien de ce cours d'eau est répartie entre les deux Etats :

La Belgique assure l'entretien de tous les cours d'eau depuis le Grand-Duché de Luxembourg jusqu'à la borne 332.

L'Allemagne assure l'entretien de tous les cours d'eau depuis la borne 333 jusqu'au Royaume des Pays-Bas.

Les dispositions qui précèdent ne dispensent pas les riverains, etc. de leurs obligations antérieures relatives au nettoyage et à l'entretien des cours d'eau et fonds. Chaque Etat s'engage à faire auprès de ses ressortissants le nécessaire pour assurer d'une manière convenable les travaux de nettoyage et d'entretien. En particulier, les deux Gouvernements, dans leur intérêt commun, s'entendront pour que dans les parties où la frontière est constituée par la ligne médiane d'un cours d'eau, les travaux prévus s'exécutent simultanément de part et d'autre.

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119. TRAITÉ DE PAIX¹ ENTRE L'EMPIRE BRITANNIQUE, LA FRANCE, L'ITALIE, LE JAPON, LA GRÈCE, LA ROUMANIE ET LA YOUGOSLAVIE, D'UNE PART, ET LA TURQUIE, D'AUTRE PART, SIGNÉ À LAUSANNE, LE 24 JUILLET 1923²

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ARTICLE 109. A moins de dispositions contraires, lorsque, par suite du tracé d'une nouvelle frontière, le régime des eaux (canalisations, inondations, irrigations, drainage ou questions analogues) dans un Etat dépend de travaux exécutés sur le territoire d'un autre Etat, ou lorsqu'il est fait usage sur le territoire d'un Etat, en vertu d'usages antérieurs à la guerre, des eaux ou de l'énergie hydraulique nées sur le territoire d'un autre Etat, il doit être établi une entente entre les Etats intéressés de nature à sauvegarder les intérêts et les droits acquis par chacun d'eux³.

A défaut d'accord, il sera statué par voie d'arbitrage.

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¹ Entré en vigueur le 6 août 1924.

² Société des Nations, *Recueil des Traités*, vol. 28, p. 12.

³ Des dispositions identiques étaient contenues dans l'article 309 du Traité de Saint Germain avec l'Autriche [De Martens, *Nouveau Recueil Général des Traités*, 3ème série, Tome XI, p. 691] et dans l'Article 292 du Traité de Trianon avec la Hongrie [De Martens, *Nouveau Recueil Général des Traités*, 3ème série, Tome XII, p. 423].

120. TRAITÉ¹ DE PAIX ENTRE LES PUISSANCES ALLIÉES ET ASSOCIÉES, D'UNE PART, ET L'ITALIE, D'AUTRE PART, SIGNÉ À PARIS, LE 10 FÉVRIER 1947²

Article 9

1. PLATEAU DU MONT CENIS

En vue d'assurer à l'Italie des facilités identiques à celles dont elle disposait pour l'énergie hydro-électrique et l'eau fournies par le lac du Mont Cenis avant la cession de cette région à la France, l'Italie recevra de la France par voie d'accord bilatéral les garanties techniques indiquées dans l'annexe III.

2. RÉGION DE TENDE-LA BRIGUE

Afin que l'Italie n'ait à subir aucune diminution des fournitures d'énergie électrique qu'elle recevait de sources existant dans la région de Tende-La Brigue avant la cession de cette région à la France, l'Italie recevra de la France par voie d'accord bilatéral les garanties techniques indiquées à l'annexe III.

Article 13

L'alimentation en eau de la commune de Gorizia et de ses environs sera réglée conformément aux dispositions de l'annexe V.

Article 21

5. L'Italie et la Yougoslavie s'engagent à donner au Territoire Libre de Trieste les garanties indiquées à l'annexe IX³.

¹ Entré en vigueur le 15 septembre 1947. Les Etats qui ont déposé des instruments de ratification ou d'accession sont les suivants: Albanie, Australie, Belgique, Brésil, Canada, Chine, Etats-Unis, Ethiopie, France, Grèce, Inde, Italie, Mexique, Nouvelle-Zélande, Pays-Bas, Pologne, Royaume-Uni, Tchécoslovaquie, Union Sud-Africaine, URSS et Yougoslavie. Le Pakistan a fait savoir qu'il considèrerait la ratification déposée par l'Inde comme engageant son pays.

² Nations Unies, *Recueil des Traités*, vol. 49, p. 4.

³ Les dispositions de cette annexe ne sont pas reproduites ici par suite des rectifications de frontière et des changements d'administration intervenus conformément au « Mémoire d'accord entre les Etats-Unis, le Royaume-Uni, l'Italie et la Yougoslavie relatif au Territoire libre de Trieste, signé à Londres le 5 octobre 1954 » [Voir: Nations Unies, *Recueil des Traités*, vol. 235, p. 100].

ANNEXE III

GARANTIES RELATIVES AU MONT CENIS ET À LA RÉGION
DE TENDE-LA BRIGUE
(voir article 9)

A.—GARANTIES QUE LA FRANCE DEVRA DONNER À L'ITALIE À L'OCCASION DE
LA CESSION DU PLATEAU DU MONT CENIS

*I. Garanties relatives à la fourniture d'eau prélevée dans le lac du Mont Cenis pour
la production d'énergie hydro-électrique*

a) La France réglera le volume de l'eau du lac du Mont Cenis déversée dans les conduites souterraines qui alimentent les centrales hydro-électriques de Gran Scala, de Venaus et de Mompantero de manière à fournir à ces centrales la quantité d'eau dont l'Italie pourra avoir besoin, selon le débit qui sera nécessaire à ce pays.

b) La France réparera, maintiendra en bon état de marche et, suivant les nécessités, renouvellera toutes les installations nécessaires pour fournir l'eau et en régler le débit conformément au paragraphe a), pour autant que ces installations seront situées en territoire français.

c) La France informera l'Italie, à la demande de celle-ci, du volume d'eau existant dans le lac du Mont Cenis et lui fournira à ce sujet tous autres renseignements de manière à permettre à l'Italie de déterminer en quelle quantité et suivant quel débit l'eau doit être déversée dans lesdites conduites souterraines.

d) La France appliquera les dispositions ci-dessus en observant une juste économie et facturera à l'Italie les frais effectivement engagés.

*II. Garanties relatives à l'énergie électrique produite par la centrale hydro-électrique
de Gran Scala*

a) La France exploitera la centrale hydro-électrique de Gran Scala de façon à produire (sous réserve du contrôle de l'approvisionnement en eau prévu dans la garantie I) les quantités d'électricité dont l'Italie pourra avoir besoin à la cadence nécessaire à ce pays, une fois que seront couverts les besoins locaux (besoins qui ne devront pas dépasser de façon substantielle les besoins actuels) de la région avoisinant Gran Scala située en territoire français.

b) La France exploitera l'usine élévatrice d'eau adjacente à la centrale de Gran Scala de façon à refouler l'eau dans le lac du Mont Cenis dans la mesure et au moment où l'Italie en aura besoin.

c) La France réparera, maintiendra en bon état de marche et, suivant les nécessités, renouvellera toutes les installations constituant la centrale hydro-électrique de Gran Scala et l'usine élévatrice ainsi que la ligne et l'appareillage de transport de force reliant la centrale de Gran Scala à la frontière franco-italienne.

d) La France assurera, par la ligne reliant Gran Scala à la frontière franco-italienne, le transport du courant correspondant aux besoins susmentionnés de l'Italie et elle livrera ce courant à l'Italie au point où la

¹ Voir *infra*, traité n^o. 181.

ligne de transport de force franchit la frontière pour pénétrer en territoire italien.

e) La France maintiendra le voltage et la fréquence du courant fourni conformément aux dispositions ci-dessus à un niveau correspondant aux demandes que l'Italie pourra raisonnablement formuler.

f) La France prendra avec l'Italie des dispositions en vue de l'établissement d'une liaison téléphonique entre Gran Scala et l'Italie et restera en communication avec l'Italie afin d'assurer que l'exploitation de la centrale de Gran Scala, de l'usine élévatrice et de la ligne de transport de force, soit conforme aux garanties énoncées ci-dessus.

g) Le prix que devra facturer la France, et que devra payer l'Italie, pour le courant produit par la centrale hydro-électrique de Gran Scala qui sera mis à la disposition de l'Italie (une fois que seront couverts les besoins locaux indiqués plus haut), sera identique au prix facturé en France pour la fourniture de quantités analogues d'électricité d'origine hydro-électrique en territoire français, aux environs du Mont Cenis ou dans d'autres régions où les conditions sont comparables.

III. *Durée d'application des garanties*

Sauf s'il en est autrement convenu entre la France et l'Italie, ces garanties resteront perpétuellement en vigueur.

IV. *Commission technique de surveillance*

Une Commission technique de surveillance franco-italienne composée en nombre égal de membres français et italiens sera créée pour surveiller et faciliter l'exécution des clauses de garantie ci-dessus dont le but est d'assurer à l'Italie des facilités identiques à celles dont elle disposait en ce qui concerne l'énergie hydro-électrique et l'eau fournies par le lac du Mont Cenis avant la cession de cette région à la France. Il entrera également dans le rôle de la Commission technique de surveillance de coopérer avec les services techniques français compétents pour s'assurer que la sécurité des vallées inférieures n'est pas mise en danger.

B.—GARANTIES QUE LA FRANCE DEVRA DONNER À L'ITALIE À L'OCCASION DE LA CESSION À LA FRANCE DE LA RÉGION DE TENDE-LA BRIGUE

1. *Garantie* permettant d'assurer à l'Italie l'énergie électrique produite par les deux alternateurs à 16 $\frac{2}{3}$ périodes de la centrale hydro-électrique de San Dalmazzo et l'énergie électrique à 50 périodes produite par les centrales hydro-électriques de Le Mesce, San Dalmazzo et Confine en plus de la quantité de courant provenant de ces usines qui peut être nécessaire à la France pour alimenter les régions de Sospel, Menton et Nice jusqu'à la reconstruction totale des centrales hydro-électriques détruites de Breil et de Fontan, étant entendu que cette quantité ira en diminuant à mesure des progrès de la reconstruction de ces centrales, que cette quantité ne dépassera pas une puissance de 5.000 kilowatts et 3.000.000 de kilowatts-heure par mois et que, si la reconstruction de ces centrales ne se heurte pas à des difficultés particulières, les travaux devraient être terminés à la fin de 1947 au plus tard.

a) La France exploitera lesdites usines de façon à produire (sous réserve des limitations qui peuvent être imposées par le volume d'eau utilisable

et compte tenu, autant qu'il est raisonnablement possible, des besoins des usines situées en aval) des quantités d'électricité à une cadence correspondant aux besoins de l'Italie, premièrement, en courant à 16 $\frac{2}{3}$ périodes, pour les chemins de fer italiens de Ligurie et du Piémont méridional, et deuxièmement en courant à 50 périodes pour les usages généraux, une fois que seront couverts les besoins de la France pour Sospel, Menton et Nice, comme il est dit ci-dessus, ainsi que les besoins locaux de la région avoisinant San Dalmazzo :

b) La France réparera, maintiendra en bon état de marche, et, suivant les nécessités, renouvellera toutes les installations constituant les centrales hydro-électriques de Le Mesce, San Dalmazzo et Confine ainsi que les lignes et installations de transport de force reliant les centrales de Le Mesce et Confine, d'une part, à celle de San Dalmazzo, d'autre part, et les lignes et installations principales de transport de force allant de la centrale de San Dalmazzo à la frontière franco-italienne;

c) La France informera l'Italie, à la demande de celle-ci, du débit de l'eau à Le Mesce et à Confine ainsi que du volume d'eau accumulé à San Dalmazzo et elle fournira tous autres renseignements du même ordre de façon à lui permettre de déterminer ses besoins en courant électrique conformément aux dispositions de l'alinéa a);

d) La France assurera, par les lignes principales reliant San Dalmazzo à la frontière franco-italienne, le transport du courant correspondant aux besoins susmentionnés de l'Italie et elle fournira ce courant à l'Italie aux points où lesdites lignes franchissent la frontière pour pénétrer en territoire italien;

e) La France maintiendra le voltage et la fréquence du courant électrique fourni conformément aux dispositions ci-dessus à un niveau correspondant aux besoins réels de l'Italie;

f) La France prendra avec l'Italie des dispositions en vue d'établir une liaison téléphonique entre San Dalmazzo et l'Italie et restera en communication avec l'Italie afin d'assurer que l'exploitation desdites centrales hydro-électriques et lignes de transport de force soit conforme aux garanties énoncées ci-dessus.

2. *Garantie* relative au prix que la France facturera à l'Italie pour le courant mis à la disposition de l'Italie, conformément au paragraphe 1 ci-dessus, jusqu'à ce que les livraisons cessent, conformément au paragraphe 3 ci-après.

Le prix que la France devra facturer et que l'Italie devra payer pour le courant produit par les centrales hydro-électriques de Le Mesce, San Dalmazzo et Confine qui sera mis à la disposition de l'Italie, une fois que seront couverts les besoins de la France pour Sospel, Menton et Nice, ainsi que les besoins locaux de la région avoisinant San Dalmazzo, conformément aux dispositions de l'alinéa a) de la garantie 1, sera identique au prix facturé en France pour la fourniture de quantités analogues de courant d'origine hydro-électrique en territoire français aux environs de la vallée supérieure de la Roya ou dans d'autres régions où les conditions sont comparables.

3. *Garantie* selon laquelle la France fournira du courant électrique à l'Italie pendant une période d'une durée raisonnable.

Sauf s'il en est autrement convenu entre la France et l'Italie, les garanties 1 et 2 resteront en vigueur jusqu'au 31 décembre 1961. Elles cesseront

d'être applicables à cette date ou le 31 décembre de l'une quelconque des années suivantes, à condition que l'un des deux pays donne par écrit à l'autre, deux ans à l'avance au moins, avis de son intention d'y mettre un terme.

4. *Garantie* concernant l'utilisation totale et équitable par la France et par l'Italie des eaux de la Roya et de ses affluents en vue de l'exploitation des ressources hydro-électriques;

a) La France exploitera les centrales hydro-électriques de la vallée de la Roya situées en territoire français en tenant compte, autant qu'il est raisonnablement possible, des besoins des centrales situées en aval. La France fera connaître d'avance à l'Italie le volume d'eau qui, d'après les prévisions, sera disponible chaque jour et elle fournira tous autres renseignements du même ordre;

b) La France et l'Italie élaboreront, par voie de négociations bilatérales, un plan coordonné d'exploitation des ressources hydrauliques de la Roya qui soit acceptable pour les deux parties.

5. Une commission, ou tel autre organisme analogue qu'il pourra être convenu de créer, sera instituée en vue de surveiller l'exécution du plan mentionné à l'alinéa b) de la garantie 4 et de faciliter l'observation des garanties 1 à 4.

ANNEXE V

ALIMENTATION EN EAU DE LA COMMUNE DE GORIZIA ET DE SES ENVIRONS

(voir article 13)

1. La Yougoslavie assurera en qualité de propriétaire l'entretien et l'exploitation des sources et des installations d'alimentation en eau de Fonte Fredda et de Moncorona, et elle assurera l'alimentation en eau de la partie de la commune de Gorizia qui, aux termes du présent Traité, reste en Italie. L'Italie continuera d'assurer l'entretien et l'exploitation du réservoir et du système d'adduction d'eau qui se trouvent en territoire italien et sont alimentés par les sources mentionnées ci-dessus; elle continuera également de fournir l'eau aux régions situées en territoire yougoslave, qui auront été transférées à la Yougoslavie aux termes du présent Traité, et dont l'alimentation en eau se fait à partir du territoire italien.

2. Les quantités d'eau ainsi procurées correspondront à celles qui ont été habituellement fournies à la région dans le passé. Au cas où les consommateurs de l'un ou l'autre Etat auraient besoin de fournitures supplémentaires d'eau, les deux Gouvernements examineront conjointement la question, en vue de réaliser un accord sur toutes mesures qui pourront être raisonnablement nécessaires pour satisfaire ces besoins. Dans le cas où la quantité d'eau disponible serait réduite pour des causes naturelles, les quantités d'eau provenant des sources d'alimentation précitées, qui seront fournies aux consommateurs se trouvant en Yougoslavie et en Italie, seront réduites pour les uns et les autres au prorata de leur consommation antérieure.

3. Le prix que la commune de Gorizia devra payer à la Yougoslavie pour l'eau mise à sa disposition et le prix que les consommateurs résidant en territoire yougoslave devront payer à la commune de Gorizia seront calculés uniquement sur la base du coût de l'exploitation et de l'entretien

du système d'adduction d'eau, ainsi que d'après le montant des nouvelles dépenses d'installation qui pourront être nécessaires pour l'exécution des présentes dispositions.

4. Dans le délai d'un mois après l'entrée en vigueur du présent Traité, la Yougoslavie et l'Italie concluront un accord déterminant les responsabilités respectives qui résultent pour elles des dispositions ci-dessus et fixant les sommes à payer en vertu de ces dispositions. Les deux Gouvernements créeront une Commission mixte chargée de surveiller l'exécution dudit accord.

5. A l'expiration d'une période de dix années après l'entrée en vigueur du présent Traité, la Yougoslavie et l'Italie procéderont à un nouvel examen des dispositions qui précèdent, en tenant compte de la situation à cette époque, afin de déterminer s'il y a lieu de les reviser, et elles y apporteront toutes modifications et adjonctions dont elles pourront convenir¹. Tous différends qui pourraient s'élever à la suite de ce nouvel examen, seront réglés suivant la procédure prévue à l'article 87 du présent Traité.

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121. CONVENTION² ENTRE L'UNION DES RÉPUBLIQUES SOCIALISTES SOVIÉTIQUES, LA RÉPUBLIQUE POPULAIRE DE BULGARIE, LA RÉPUBLIQUE DE HONGRIE, LA RÉPUBLIQUE POPULAIRE ROUMAINE, LA RÉPUBLIQUE SOCIALISTE SOVIÉTIQUE D'UKRAINE, LA RÉPUBLIQUE TCHÉCOSLOVAQUE ET LA RÉPUBLIQUE FÉDÉRATIVE POPULAIRE DE YOUGOSLAVIE, RELATIVE AU RÉGIME DE LA NAVIGATION SUR LE DANUBE, SIGNÉE À BELGRADE, LE 18 AOÛT 1948³

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CHAPITRE I
DISPOSITIONS GÉNÉRALES

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ARTICLE 2. Le régime établi par la présente Convention s'applique à la partie navigable du Danube (fleuve) d'Ulm à la mer Noire en suivant le bras de Soulina avec accès à la mer par le Canal de Soulina.

ARTICLE 3. Les Etats danubiens s'engagent à maintenir leurs secteurs du Danube en état de navigabilité pour les bâtiments fluviaux et en ce qui concerne les secteurs appropriés pour les bâtiments de mer, à exécuter les travaux nécessaires pour assurer et améliorer les conditions de navigation, et à ne pas empêcher ou entraver la navigation dans les chenaux

¹ Voir *infra*, traité n^o. 236 p. 866.

² Entré en vigueur le 11 mai 1949. La Bulgarie, la Tchécoslovaquie, la Yougoslavie, la Roumanie, la Hongrie, l'URSS et la RSS d'Ukraine ont ratifié et déposé leurs instruments de ratification. L'Autriche a déposé son instrument d'adhésion, le 7 janvier 1960 [Nations Unies, *Recueil des Traités*, vol. 351, p. 378].

³ Nations Unies, *Recueil des Traités*, vol. 33, p. 196.

navigables du Danube. Les Etats danubiens se consulteront sur les matières indiquées dans le présent article avec la Commission du Danube (article 5 ci-après). . . .

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CHAPITRE II

DISPOSITIONS RELATIVES À L'ORGANISATION

Section I. Commission du Danube

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ARTICLE 8. La compétence de la Commission s'étend au Danube tel qu'il est défini à l'article 2.

Il entre dans les attributions de la Commission :

a) de veiller à l'exécution des dispositions de la présente Convention;

. . .

h) de coordonner l'activité des services hydrométéorologiques sur le Danube, de publier un bulletin hydrologique unique et des prévisions hydrologiques de courte et de longue durée pour le Danube;

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Section II. Administrations fluviales spéciales

ARTICLE 20. Sur le bas Danube (de l'embouchure du Canal de Soulina à Braïla inclusivement) il est établi une Administration fluviale spéciale en vue d'exécuter des travaux hydrotechniques et de régler la navigation; elle est composée de représentants des Etats riverains adjacents (la République Populaire Roumaine et l'Union des Républiques Socialistes Soviétiques).

Cette Administration fonctionne sur la base d'un accord entre les Gouvernements des pays qui en font partie.

L'Administration a son siège à Galatz.

ARTICLE 21. Sur le secteur des Portes de Fer (de Vince à Kostol sur la rive droite et de Moldova Veche à Turnu-Severin sur la rive gauche du Danube), il est établi une Administration fluviale spéciale des Portes de Fer; cette Administration est composée de représentants de la République Populaire Roumaine et de la République Fédérative Populaire de Yougoslavie; elle a pour tâche d'exécuter des travaux hydrotechniques et de régler la navigation dans la zone indiquée.

Cette Administration fonctionne sur la base d'un accord entre les Gouvernements des pays qui en font partie.

L'Administration a son siège à Orsova et à Tekija.

ARTICLE 22. — Les accords relatifs aux Administrations fluviales spéciales ci-après désignées sous le nom d'« Administrations », mentionnés aux articles 20 et 21, sont portés à la connaissance de la Commission.

CHAPITRE V

DISPOSITIONS FINALES

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ARTICLE 45. — Tout différend entre les Etats signataires de la présente Convention au sujet de l'application ou de l'interprétation de cette Convention qui n'aurait pas été réglé par voie de négociations directes sera, à la demande d'une des parties au différend, soumis à une commission de conciliation composée d'un représentant de chaque partie et d'un tiers membre désigné par le Président de la Commission du Danube parmi les citoyens d'un Etat qui n'est pas partie au différend et, dans le cas où le Président de la Commission serait citoyen d'un Etat partie au différend, par la Commission du Danube.

La décision de la commission de conciliation est définitive et obligatoire pour les parties au différend.

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122. PROTOCOLE¹ FRANCO-BELGO-LUXEMBOURGEOIS, PORTANT CRÉATION D'UNE COMMISSION TRIPARTITE PERMANENTE DES EAUX POLLUÉES SIGNÉ À BRUXELLES, LE 8 AVRIL 1950²

La Commission tripartite des établissements classés, qui s'est réunie à Bruxelles sous les auspices de M. le Ministre des Affaires Etrangères, du 4 au 8 avril 1950, constatant, d'une part, que ses travaux ont abouti à la conclusion d'un arrangement en ce qui concerne les problèmes soulevés par l'installation à proximité de la frontière *de dépôts de substances explosives à usage civil*, et, d'autre part, que les travaux relatifs au problème *de la pollution des eaux* exigent des études techniques approfondies, prend la dénomination de "Commission Tripartite Permanente des Eaux Polluées (C.T.P.E.P.)".

Elle crée une Sous-Commission mixte technique de l'Espierre, qui sera composée:

Pour la *France*: des autorités ci-après du Département du Nord:

Le Préfet ou son représentant, Chef de délégation.

L'Ingénieur en Chef départemental des Ponts et Chaussées.

L'Ingénieur en Chef des Mines, chargé de l'Arrondissement minéralogique.

L'Inspecteur des Etablissements classés.

L'Inspecteur des Eaux et Forêts.

Pour la *Belgique*:

Du Gouverneur de la Flandre Occidentale ou de son représentant, Chef de délégation.

Du Chef du Service de l'Office d'Epuration des Eaux.

De l'Ingénieur en Chef-Directeur des Ponts et Chaussées de l'Escaut fluvial en Flandre Occidentale.

De l'Inspecteur des Eaux et Forêts, délégué par le Ministère de l'Agriculture.

¹ Entré en vigueur le 8 avril 1950.

² Nations Unies, *Recueil des Traités*, vol. 66, p. 286.

De l'Inspecteur en Chef-Directeur de l'Hygiène.

Chaque délégation pourra se faire assister par des experts de son choix.

Il est entendu que tout membre de la Commission Tripartite Permanente des Eaux Polluées a qualité pour prendre part aux travaux de la Sous-Commission mixte technique.

La Sous-Commission mixte technique a pour mission de :

(a) définir les éléments de la pollution (l'origine industrielle ou communale, le degré d'intensité, etc.), recueillir tout avis technique opportun, évaluer la part de responsabilité incombant à chaque Etat dans la pollution.

(b) élaborer un rapport qui sera soumis à la Commission Tripartite Permanente des Eaux Polluées sur les mesures à recommander.

La Sous-Commission mixte technique de l'Esperie est habilitée pour traiter de la même façon les problèmes posés par la pollution des canaux de la Haine, de l'Escaut et de la Lys.

La Sous-Commission mixte technique se réunira pour la première fois dans un délai de deux mois à dater de la signature du présent Protocole.

Les délibérations de cette Sous-Commission mixte technique se dérouleront alternativement à Lille et à Courtrai et seront présidées par le chef de la délégation invitante. La première réunion se tiendra à Lille à la diligence de M. le Préfet du Département du Nord.

La Sous-Commission mixte technique établit elle-même l'Ordre du Jour et la procédure de ses travaux; toutefois, elle fournira tous les six mois à la Commission Tripartite Permanente des Eaux Polluées un rapport sur l'état d'avancement de ses travaux.

Ce rapport sera adressé aux Présidents des délégations française, belge et luxembourgeoise, par l'entremise de leurs ministères des Affaires étrangères respectifs.

La Commission Tripartite Permanente des Eaux Polluées se réunira obligatoirement dès réception de chaque rapport semestriel de la Sous-Commission. Ces réunions auront lieu alternativement à Paris et à Bruxelles.

La présidence et le secrétariat de la session seront confiés à la délégation invitante.

La Commission Tripartite Permanente des Eaux Polluées se réserve de créer de nouvelles sous-commissions techniques lorsqu'elle abordera l'étude de la pollution d'autres cours d'eau considérés comme cause d'insalubrité sur le territoire d'un des trois pays signataires.

La Commission Tripartite Permanente des Eaux Polluées est actuellement composée :

Pour la *France* : de deux représentants du Ministère des Affaires Etrangères, du Représentant du Ministère de l'Intérieur et du Représentant du Ministère de l'Industrie et du Commerce;

Pour la *Belgique* : du Représentant du Ministère des Affaires Etrangères, du Directeur Général de l'Hygiène, du Chef de l'Office d'épuration des eaux usées;

Pour le Grand-Duché de Luxembourg : du Directeur des Services Agricoles.

Les dispositions du présent Protocole entrent en vigueur immédiatement.

123. CONVENTION¹ ENTRE LA RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE, LA RÉPUBLIQUE FRANÇAISE ET LE GRAND-DUCHÉ DE LUXEMBOURG AU SUJET DE LA CANALISATION DE LA MOSELLE, SIGNÉE À LUXEMBOURG, LE 27 OCTOBRE 1956²

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CHAPITRE I

*Réalisation de l'aménagement de la Moselle et entretien de la Moselle canalisée-
Utilisation de l'énergie hydro-électrique*

ARTICLE 1. (1) Les Etats contractants, conformément aux dispositions ci-dessous, agiront en commun pour rendre accessible aux bateaux de 1,500 tonnes le cours de la Moselle entre Thionville et Coblenze.

(2) La description des travaux à accomplir en exécution de la présente Convention ainsi que leur délimitation par rapport aux travaux relatifs aux centrales électriques font l'objet de l'annexe I de la présente Convention.

(3) Les travaux doivent tenir compte des besoins de l'électricité, de l'agriculture, de la pêche, de l'hydrologie et du tourisme. Ils doivent être accomplis de manière à respecter, dans toute la mesure du possible, l'harmonie des sites.

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ARTICLE 7. La construction des centrales et l'utilisation de l'énergie hydro-électrique de la Moselle sont réservées à chacun des Etats contractants sur son territoire.

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CHAPITRE VI

Dispositions générales

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ARTICLE 54. Les Etats contractants s'engagent à veiller à ce qu'aucune mesure ne soit prise qui porte gravement atteinte à la production de l'énergie hydro-électrique et notamment à ce que les eaux de la Moselle et de ses affluents ne soient pas détournées vers un autre bassin fluvial.

ARTICLE 55. Les Etats contractants prendront les mesures requises pour assurer la protection des eaux de la Moselle et de ses affluents contre leur pollution, et, à cet effet, une collaboration appropriée s'établira entre les services compétents desdits Etats.

ARTICLE 56. Les Gouvernements des Etats contractants régleront d'un commun accord et à titre bilatéral ou multilatéral les problèmes résultant

¹ Entrée en vigueur le 31 décembre 1956, par l'échange des instruments de ratification.

² Ministre fédéral de la Justice de la République Fédérale d'Allemagne, *Bundesgesetzblatt, Nr. 36, 1956, Partie II, p. 1838.*

du statut juridique des sections de la Moselle formant frontière entre le Grand-Duché de Luxembourg et la République Fédérale d'Allemagne et/ou la République Française respectivement, tel que ce statut est défini par les conventions internationales existantes, notamment en ce qui concerne les questions relatives à la construction des ouvrages, à l'exploitation, à l'entretien et au renouvellement de ces ouvrages et de la voie navigable, à l'utilisation des ressources hydrauliques, ainsi qu'à la compétence des tribunaux visés aux articles 34 et suivants.

CHAPITRE VII

Règlement des différends

ARTICLE 57. Les différends entre les Etats contractants relatifs à l'interprétation ou à l'application de la présente Convention seront, dans la mesure du possible, réglés d'un commun accord.

ARTICLE 58. Au cas où un différend ne pourrait, dans un délai de trois mois, être réglé de cette manière, il sera soumis à un Tribunal arbitral à la requête de l'un des Etats contractants.

ARTICLE 59. (1) Le Tribunal arbitral sera composé dans chaque cas de la façon suivante: chacune des Parties au différend nommera un arbitre et ces derniers désigneront d'un commun accord un sur-arbitre appartenant à un Etat tiers. Si les arbitres et le sur-arbitre n'ont pas été désignés dans un délai de trois mois après que l'un des Etats contractants aura fait connaître son intention de saisir le Tribunal arbitral, chaque Partie pourra, en l'absence de tout autre accord, demander au Président de la Cour Internationale de Justice de procéder aux nominations nécessaires. Au cas où le Président aurait la nationalité de l'un des Etats contractants ou serait empêché pour un autre motif, le Vice-Président sera chargé de procéder aux nominations nécessaires.

(2) Le Tribunal arbitral décidera à la majorité des voix. En cas de partage des voix, la voix du Président sera prépondérante. Les décisions du Tribunal lieront les Parties. Les Parties au différend supporteront les frais de l'arbitre qu'elles auront désigné et se partageront à part égale les autres frais. Sur les autres points, le Tribunal arbitral réglera lui-même sa procédure.

ARTICLE 60. Au cas où, pendant la construction du canal, un différend ne pourrait être réglé dans le délai d'un mois, et si les Parties au différend étaient d'accord pour recourir à une procédure d'urgence, le litige sera soumis à l'arbitrage d'un expert unique appartenant à un pays tiers et choisi d'un commun accord par celles-ci. Si l'expert n'a pas été désigné dans un délai d'un mois, après que l'une des Parties aura fait connaître son intention de recourir à la procédure d'urgence, chaque Partie pourra demander au Président de la Cour Internationale de Justice de procéder à sa nomination.

ARTICLE 61. (1) Chacun des Etats contractants pourra intervenir dans un différend entre les deux autres Parties s'il justifie d'un intérêt à la solution de celui-ci; cette intervention ne pourra avoir d'autre objet que le soutien des prétentions de l'une des Parties.

(2) Dans les cas visés à l'article 58, cette intervention ne modifiera pas la composition initiale du tribunal, telle qu'elle est prévue à l'article 59.

ARTICLE 62. La présente Convention et ses deux annexes entreront en vigueur à la date de l'échange des instruments de ratification.

ANNEXE I

*Description des travaux faisant l'objet de la Convention-Délimitation
entre ces travaux et ceux relatifs aux centrales électriques*

ARTICLE 3. Dans le cas où une usine hydro-électrique serait accolée au barrage à construire, les projets devront fixer la limite entre les deux ouvrages, de façon telle que le barrage puisse être construit indépendamment de l'usine.

ARTICLE 4. Le choix des types d'ouvrages, des procédés de construction, des caractéristiques des bouchures des barrages et des portes des écluses devra assurer la sécurité du fonctionnement, la facilité de l'entretien, préserver l'harmonie des sites de la Moselle et permettre d'obtenir les prix les plus favorables.

ARTICLE 5. Dans le cas où la construction d'une centrale électrique serait effectuée par une entreprise construisant en même temps le barrage ou l'écluse accolée, il sera fait une répartition équitable de tous les frais généraux de chantier entre les deux maîtres de l'oeuvre.

124. TRAITÉ¹ ENTRE LA BELGIQUE, LA RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE, LA FRANCE, L'ITALIE, LE LUXEMBOURG ET LES PAYS-BAS INSTITUANT LA COMMUNAUTÉ EUROPÉENNE DE L'ÉNERGIE ATOMIQUE (EURATOM), SIGNÉ À ROME LE 25 MARS 1957²

CHAPITRE III

La protection sanitaire

ARTICLE 35. Chaque Etat membre établit les installations nécessaires pour effectuer le contrôle permanent du taux de la radio-activité de l'atmosphère, des eaux et du sol, ainsi que le contrôle du respect des normes de base.

La Commission a le droit d'accéder à ces installations de contrôle; elle peut en vérifier le fonctionnement et l'efficacité.

ARTICLE 36. — Les renseignements concernant les contrôles visés à l'article 35 sont communiqués régulièrement par les autorités compétentes à

¹ Entré en vigueur le 1er janvier 1958.

² Nations Unies, *Recueil des Traités*, vol. 298, p. 267. Voir aussi: *Annuaire Européen*, vol. V, 1959, p. 454.

la Commission, afin que celle-ci soit tenue au courant du taux de la radio-activité susceptible d'exercer une influence sur la population.

ARTICLE 37. — Chaque Etat membre est tenu de fournir à la Commission les données générales de tout projet de rejet d'effluents radio-actifs sous n'importe quelle forme, permettant de déterminer si la mise en oeuvre de ce projet est susceptible d'entraîner une contamination radio-active des eaux, du sol ou de l'espace aérien d'un autre Etat membre.

La Commission, après consultation du groupe d'experts visé à l'article 31, émet son avis dans un délai de six mois.

ARTICLE 38. La Commission adresse aux Etats membres toutes recommandations en ce qui concerne le taux de radio-activité de l'atmosphère, des eaux et du sol.

En cas d'urgence, la Commission arrête une directive par laquelle elle enjoint à l'Etat membre en cause de prendre, dans le délai qu'elle détermine, toutes les mesures nécessaires pour éviter un dépassement des normes de base et pour assurer le respect des réglementations.

Si cet Etat ne se conforme pas, dans le délai imparti, à la directive de la Commission, celle-ci ou tout Etat membre intéressé peut, par dérogation aux articles 141 et 142, saisir immédiatement la Cour de Justice.

ARTICLE 39. La Commission établit dans le cadre du Centre commun de recherches nucléaires, et dès la création de celui-ci, une section de documentation et d'études des questions de protection sanitaire.

Cette section a notamment pour mission de rassembler la documentation et les renseignements visés aux articles 33, 37 et 38, et d'assister la Commission dans l'exécution des tâches qui lui sont imparties par le présent chapitre.

. . . .

125. CONVENTION¹ BETWEEN THE GOVERNMENTS OF THE ROMANIAN PEOPLE'S REPUBLIC, THE PEOPLE'S REPUBLIC OF BULGARIA, THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA AND THE UNION OF SOVIET SOCIALIST REPUBLICS CONCERNING FISHING IN THE WATERS OF THE DANUBE, SIGNED AT BUCHAREST, ON 29 JANUARY 1958²

. . . .

Having a common interest in the rational utilization and expansion of the stocks of fish in the river Danube,

Recognizing the need for co-operation in working out a scientific basis for intensive augmentation of the stocks of fish and the regulation of fishing,

. . . .

Article 1

The Contracting Parties agree to regulate fishing in the waters of the Danube throughout its course within the territory of the Contracting Parties

¹ Came into force on 20 December 1958.

² United Nations, *Treaty Series*, vol. 339, p. 58.

to the point of entry into the Black Sea, including the Danube Delta, in accordance with the provisions of this Convention.

Article 2

Each Contracting Party shall exercise the right of fishing in the Danube in its own waters bounded by the State frontier.

Article 3

This Convention shall apply to the waters of the Danube, including its mouth, to tributaries of the Danube up to the maximum extent of its flood waters, and to lakes, estuaries and pools permanently or temporarily connected with the Danube, in the Danube flood-basin in the territory of the Contracting Parties, including the area adjoining the mouth.

Article 4

The Contracting Parties agree to put into effect and apply on their own sections of the Danube and on the waters referred to in article 3, simultaneously with the entry into force of this Convention, the Regulations for Fishing in the River Danube which are annexed to and form an integral part of this Convention.

Article 5

The Contracting Parties agree to carry out in the river Danube and in the waters referred to in article 3 improvement works and piscicultural operations to ameliorate the natural conditions for the breeding, growth and normal increase in stocks of fish of economic importance.

In the event of the erection on the Danube of water engineering works, in particular dams, which may change the hydrological and hydrobiological regime of the river, those Contracting Parties which construct and use the said works shall prepare in advance and apply jointly a plan of action to safeguard the normal migratory movements of fish.

The Contracting Parties shall at the same time carry out such piscicultural operations as will safeguard the normal breeding and development of economically valuable species of fish, in the sections of the river situated above and below the said works, under the new environmental conditions created by the erection of those works.

The question of payment of the costs of construction and use of piscicultural and water improvement works on the Danube shall be resolved in each individual case by agreement between the States concerned.

Article 6

In order to increase the stocks of economically valuable species of fish in the waters referred to in this Convention, stations for the artificial breeding of such species of fish, in particular the *acipenseridae*, shall be established as necessary.

Article 7

The Contracting Parties shall work out and apply measures to prevent the contamination and pollution of the river Danube and of the waters referred

to in article 3 by unclarified sewage and other waste from industrial and municipal undertakings which are harmful to fish and other aquatic organisms, and measures to regulate blasting operations.

Article 8

In the interests of rational fishing and in order to ensure the normal breeding and conservation of economically valuable species of fish, the Contracting Parties shall communicate to one another, in good time, information on the catches and migratory movements of fish in all waters to which this Convention applies.

Article 9

In order to strengthen scientific and technical collaboration in matters of fishery economy, fish breeding and hydrobiology in the Danube basin, the Contracting Parties shall co-operate with one another under the appropriate scientific and technical agreements.

Article 10

For purposes of scientific research the Contracting Parties may conduct joint experimental fishing operations in the Danube waters of any of the States Parties to this Convention, on the basis of recommendations by the Mixed Commission and by agreement between the countries concerned in each particular case.

Article 11

With a view to working out and co-ordinating measures for the application of this Convention, a Mixed Commission shall be established. Each Contracting Party shall appoint two representatives to the said Commission within three months after the entry into force of this Convention. The Governments of the Contracting Parties shall communicate to one another through the diplomatic channel the names of their representatives on the Commission.

The Mixed Commission shall meet at least once a year in the territory of each of the Contracting Parties in turn.

The Mixed Commission shall function under a statute which shall be drafted by the Commission at its first meeting after the entry into force of this Convention and approved by the Governments of the Contracting Parties.

The place and date of meeting of the Mixed Commission shall be fixed by the Commission in advance.

Article 12

It shall be the duty of the Mixed Commission:

(1) To work out agreed measures, arising out of this Convention, for the regulation of fishing and the augmentation of the stocks of fish in the river Danube;

(2) To present proposals to the Contracting Parties with a view to amending or supplementing the Regulations for Fishing in the River

Danube and to take decisions on questions which it is authorized under the said Fishing Regulations to resolve;

(3) To organize the exchange of information among the Contracting Parties concerning the implementation of this Convention;

(4) To co-ordinate the planning of scientific research projects on the study of fishing in the Danube to be conducted jointly or severally by the competent agencies of the Contracting Parties;

(5) To determine the nature and scope of the statistical and other data which each Contracting Party shall furnish to the Mixed Commission for the purpose of implementing this Convention;

(6) To deal with such other matters as the Contracting Parties may refer to it.

Article 13

The Mixed Commission may make recommendations to the Contracting Parties on the matters within its competence.

The recommendations of the Mixed Commission and its decisions on the matters mentioned in article 12 above shall be deemed adopted by the Commission if they receive the favourable votes of the representatives of all the countries members thereof.

Article 14

In order that the measures to regulate fishing and operations for breeding and increasing the stocks of economically valuable species of fish may be extended to other parts of the Danube, this Convention shall be open for accession by other Danubian States.

Article 15

This Convention shall not impede the conclusion of bilateral agreements on matters relating to fishing in the Danube between any two Contracting Parties or between a Contracting Party and any other Danubian State, provided that such agreements do not conflict with the interests of the conservation of stocks of fish or with the Fishing Regulations laid down by this Convention.

ANNEX

REGULATIONS FOR FISHING THE RIVER DANUBE AND IN THE WATERS REFERRED TO IN ARTICLE 3 OF THE CONVENTION

PART I.

PROHIBITED PLACES AND TIMES FOR FISHING

Article 1

Fishing in the waters of the river Danube shall be prohibited each year for a period of thirty days between 15 April and 15 June, according to hydrometeorological conditions.

In 1958 the close period shall be from 15 April to 15 May. Thereafter the dates of the close period shall be determined by the Mixed Commission.

The Contracting Parties may by common agreement stagger the close period by sectors of the Danube, provided that such period is of thirty days' duration and falls between 15 April and 15 June.

The close period for the taking of *acipenseridae* and herring shall be as prescribed in article 2 below.

Article 2

For the *acipenseridae* the close period, sector by sector, shall be as follows:

— In the sector from the Black Sea to the mouth of the Prut: 15 March to 15 April;

— In the sector from the mouth of the Prut to the mouth of the Timok: 15 April to 15 May;

— In the sector from the mouth of the Timok up to Kladovo: 15 May to 15 June.

For the taking of Danube herring the close period, sector by sector, shall be as follows:

— In the sector from the Black Sea to Ceatalul Ismail: five consecutive days in the period between 15 March and 1 May;

— In the sector from Ceatalul Ismail to Vadul Oii: twenty consecutive days in the period between 1 April and 15 May;

— In the sector from Vadul Oii to the mouth of the Timok: thirty consecutive days in the period between 15 April and 1 July.

The date of each close period shall be recommended by the Fishery Research Institute of the Romanian People's Republic and shall be communicated to the Parties not later than ten days before the start of the close period.

Article 3

In order to safeguard the passage of Danube herring and *acipenseridae* in breeding condition into the Danube and the escape of the young of these species to the sea, fishing shall be prohibited throughout the year in the waters adjoining the mouth, in corridors extending laterally one kilometre on either side of the axis of each branch of the river and a distance of five kilometres out to sea.

During the period 1 June to 31 July the corridors referred to in the first paragraph of this article shall be extended laterally one additional kilometre on either side, so that each corridor covers a zone with a total width of four kilometres.

Article 4

The taking of Black Sea salmon (*salmo trutta labrax*) and Danube salmon (*salmo hucho*) in the Danube shall be prohibited throughout the year.

The taking of the said salmon may be permitted solely for purposes of pisciculture and scientific research.

PART II

PROHIBITED TACKLE AND METHODS OF FISHING

Article 5

The following shall be prohibited throughout the year:

- (1) Fishing with anchovy, sardine and herring seines in the system of the

Danube and in the waters adjoining the mouth for a distance of ten kilometres out to sea, over a zone extending laterally two kilometres on either side of the axis of each branch of the river;

(2) Fishing with drag-nets or trawls in the waters adjoining the mouth of the Danube;

(3) The use of explosive, poisonous and narcotic substances and of firearms for the purpose of fishing in the river Danube, in any waters connected therewith (channels, lakes, estuaries or pools) and in the waters adjoining the mouth;

(4) Fishing for *acipenseridae* with *ahana* nets;

(5) Fishing with fish-traps and bag-nets in the waters of the Danube shall henceforth be regulated by the Mixed Commission, which shall set a quota on such devices for each State Party to this Convention;

(6) Fishing with sardine nets in lakes and estuaries between 1 March and 31 October.

Article 6

The setting of fish barriers in canals and branches connecting the Danube with lakes in the sector between the mouth of the Danube and Kladovo shall be permitted only after the end of the spring run of fish, from 10 May to 31 October. The interval between the stakes of the barriers shall not be less than three centimetres.

Article 7

It shall be unlawful to fish with fixed or mobile tackle which takes up more than two-thirds of the width of the Danube, its channels or branches, or to cast seines from opposite points on both banks at once.

PART III

SIZE OF MESH OF FISHING-NETS

Article 8

It shall be unlawful to use fishing-nets with a mesh of less than the following size (in millimetres):

(1) Purse of fine-meshed seines and trawls	28
(2) Purse of herring-seines and trawls	26
(3) Sac of fish-traps	25
(4) Nets for catching pike-perch, bream and carp.	40
Nets for catching Danube herring	28

Trammel nets may be used provided that the size of the coarse mesh is not less than 50 millimetres, or for Danube herring-fishing, not less than 28 millimetres.

PART IV

SIZE OF FISH, CRAYFISH AND MOLLUSCS

Article 9

It shall be unlawful to take, receive, sell, process or preserve fish of less than the following industrial size (in centimetres) in fresh condition:

Beluga (<i>huso huso</i>)	140
Russian sturgeon (<i>acipenser güldenstaedti</i>)	80
Sevryuga (<i>acipenser stellatus</i>)	75
Sterlet (<i>acipenser ruthenus</i>)	33
Carp (<i>cyprinus carpio</i>)	25
Pike-perch (<i>lucioberca sandra</i>)	30
Bream (<i>abramis brama</i>)	20
Herring (<i>caspiatosa pontica</i>)	16
Crayfish (<i>astacus leptodactylus</i>)	9
Mussel (<i>unio pictorum</i>)	8

Measurements to determine the industrial size of fish must be made from the tip of the snout to the base of the tail fin.

The taking of fish under the prescribed industrial size shall be permissible in a proportion not exceeding 10 per cent by number of the total catch.

The taking of *acipenser nudiventris* shall be prohibited for five years from the date of entry into force of the Convention.

PART V

GENERAL PROVISIONS

Article 10

The acclimatization and breeding of new species of fish and other animals and of aquatic plants in the waters of the Danube to which the Convention applies may not be carried out save with the consent of the Mixed Commission.

Article 11

The penalties for violation of these Regulations shall be prescribed by the legislation of the Contracting Parties.

Article 12

The Mixed Commission shall have the right to fix the dates of close periods for fishing, to determine the boundaries of the sectors covered by the staggered close period for fishing provided for in articles 1 and 2 of these Regulations, and to revise and adopt decisions under articles 3, 5, 6 and 8 of these Regulations.

With the consent of the Governments of the Contracting Parties, the Mixed Commission may amend and supplement article 9 of these Regulations (on the basis of article 12, paragraph (2), of the Convention concerning fishing in the waters of the Danube).

Article 13

The use of fishing devices harmful to the stocks of fish shall gradually be discontinued; steps to this end shall be taken as soon as possible. Consequently, beginning in 1958, there shall be no increase in the number of such devices.

The introduction of all new fishing devices and methods (use of electric current, etc.) shall be subject to the condition that they have no adverse effect on the stocks of fish.

Article 14

With a view to the uniform interpretation of the provisions of the Convention and the Fishing Regulations, it is understood that the term “*rybolovstvo*” in the Russian text, the term “*ribarstvo*” in the Bulgarian and Serbo-Croat texts and the term “*pescuit*” in the Romanian text are identical in meaning.

Article 15

These Regulations for fishing in the river Danube shall constitute an annex to and an integral part of the Convention concerning fishing in the waters of the Danube.

126. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS, THE GOVERNMENT OF NORWAY AND THE GOVERNMENT OF FINLAND CONCERNING THE REGULATION OF LAKE INARI BY MEANS OF THE KAITAKOSKI HYDRO-ELECTRIC POWER STATION AND DAM, SIGNED AT MOSCOW, ON 29 APRIL 1959²

The Government of the Union of Soviet Socialist Republics, the Government of Norway and the Government of Finland,

Considering that, when they come into operation, the Kaitakoski hydro-electric power station and dam will serve as the control installation for Lake Inari in place of the Niskakoski dam, and

Desiring to serve in the best possible manner the interests of all three Parties in the regulation of Lake Inari,

Have decided to conclude this Agreement. . . .

Article 1

The Government of the Soviet Union shall have the right to regulate Lake Inari by means of the Kaitakoski hydro-electric power station and dam, which are shown on the attached map (annex No. 1), within the limits of the water-levels in the control reservoir of Lake Inari—minimum 115.67 metres above sea level and maximum 118.03 metres above sea level.

These levels are given according to the Finnish system of altitude measurement and relate to the benchmark of 118.04 metres above sea level on the bank of the Nellimvuono inlet of Lake Inari, which is marked on the attached map (annex No. 2).

Article 2

The Government of the Soviet Union, in regulating Lake Inari, shall follow the “Regulations for the regulation of Lake Inari by means of the Kaitakoski hydro-electric power station and dam” which constitute an integral part of this Agreement (annex No. 3).

The Government of the Soviet Union undertakes to ensure that the

¹ Came into force on 29 April 1959 by signature, in accordance with article 9.

² United Nations, *Treaty Series*, vol. 346, p. 192.

Kaitakoski hydro-electric power station and dam and the course of the river Paatsjoki between Lake Inari and the Kaitakoski hydro-electric power station are in such condition that the discharge of water from Lake Inari may proceed at all times in accordance with the aforesaid Regulations.

Article 3

If, in the light of experience in the operation of the Kaitakoski hydro-electric power station and dam or in timber-floating, or in connexion with the construction and operation of any new electric power stations or dams on the river Paatsjoki, it is found necessary to amend the Regulations referred to in article 2 of this Agreement, such amendments shall be made by agreement between the Ministry of Electric Power Station Construction of the USSR, the Royal Norwegian Ministry of Industry and Handicrafts and the Ministry of Transport and Public Works of Finland. These Ministries are hereafter referred to in this Agreement and the attached Regulations as "the USSR Ministry", "the Norwegian Ministry" and "the Finnish Ministry" respectively.

Article 4

The Government of Finland undertakes not to carry out and not to authorize another to carry out any measures likely to affect the regime of Lake Inari or of the river Paatsjoki.

Article 5

The USSR Ministry, the Norwegian Ministry and the Finnish Ministry shall each appoint a representative authorized to act on the Ministry's behalf in matters relating to the implementation of this Agreement. For this purpose the representatives of the Norwegian Ministry and the Finnish Ministry shall have access to the Kaitakoski area.

Each Ministry shall inform the Ministries of the other Contracting Parties of the appointment of its representative.

Article 6

Officials of the USSR Ministry and the Norwegian Ministry shall have access to the water-level observation post situated on the bank of the Nellimvuono inlet in the territory of Finland upon presentation to the Finnish frontier authorities of an identity certificate drawn up in accordance with the form attached to this Agreement (annexes Nos. 4 and 5).

Article 7

Any dispute arising between the USSR Ministry, the Norwegian Ministry and the Finnish Ministry concerning the application of this Agreement shall be settled by a Mixed Commission composed of two members appointed by the USSR Ministry, two members appointed by the Norwegian Ministry and two members appointed by the Finnish Ministry. If agreement is not reached in the Mixed Commission, the dispute shall be settled by the Government of the USSR, the Government of Norway and the Government of Finland through the diplomatic channel.

Article 8

This Agreement shall supersede:

The Agreement between the Government of the Union of Soviet Socialist Republics and the Government of Finland concerning the regulation of Lake Inari by means of the Niskakoski control dam, signed at Moscow on 24 April 1947;

The Protocol for the implementation of the Agreement of 24 April 1947 between the Government of the Union of Soviet Socialist Republics and the Government of Finland concerning the regulation of Lake Inari by means of the Niskakoski control dam, signed at Helsinki on 29 April 1954;

The Protocol concerning amendments to the Regulations of 24 April 1947 for the regulation of Lake Inari in connexion with the use of the Niskakoski dam and to the Protocol of 29 April 1954 concerning amendments to paragraph 2 of the said Regulations, signed at Oslo on 24 February 1956.

. . .

ANNEX No. 3

REGULATIONS FOR THE REGULATION OF LAKE INARI
BY MEANS OF THE KAITAKOSKI HYDRO-ELECTRIC POWER STATION AND DAM

1. The flow of water from Lake Inari shall be so regulated that the water-level of the lake does not rise above 118.03 metres above sea level nor fall below 115.67 metres above sea level.

The levels relate to the benchmark of 118.04 metres above sea level which is carved in the rock at the end of the Nellimvuono inlet of Lake Inari and is marked on the map attached to the Agreement of 29 April 1959 between the Government of the USSR, the Government of Norway and the Government of Finland concerning the regulation of Lake Inari by means of the Kaitakoski hydro-electric power station and dam.

2. The flow of water from Lake Inari shall be continuous within the limits of a daily mean discharge of 120 to 240 cubic metres per second on condition that the water-level of Lake Inari does not rise above 118.03 metres above sea level nor fall below 115.67 metres above sea level and that the rate of discharge at the Rajakoski hydro-electric power station can fluctuate within a daily range of 80 to 240 cubic metres per second.

With a view to preparing Lake Inari to receive the spring flood, preventing any rise above the maximum permissible water-level of the lake and limiting the volume of flood discharge and the flood levels on the river Paatsjoki below the Rajakoski hydro-electric power station, the flow of water from Lake Inari shall be regulated on the basis of forecasts and recommendations drawn up by the Finnish Ministry, in accordance with the following conditions:

(a) The water-level of Lake Inari shall be lowered to a level not exceeding 116.53 metres above sea level by 1 May. If the forecasts indicate that the spring flood will be very heavy, the water-level of Lake Inari shall be reduced to below 116.53 metres above sea level by 1 May; however, during the period from the beginning of January to the end of April the discharge from the lake shall not exceed 280 cubic metres per second;

(b) After 1 May the discharge of water from Lake Inari may be gradually

increased but shall not exceed 450 cubic metres per second before the water-level of Lake Inari has risen to 118.03 metres above sea level.

If in the case of very heavy floods the water-level of Lake Inari threatens to rise above 118.03 metres above sea level, the rate of discharge may, as an exceptional measure, be increased up to 500 cubic metres per second when the water-level reaches 117.98 metres above sea level. This shall be the maximum permissible rate of discharge;

(c) When the water-level of Lake Inari falls to 116.28 metres above sea level, the rate of discharge may be reduced to 75 cubic metres per second, and when the level falls below 115.83 metres above sea level, the rate may be reduced to 45 cubic metres per second. This shall be the minimum permissible rate of discharge.

3. For the purpose of allowing the machinery of any hydro-electric power station on the river Paatsjoki to be overhauled, the discharge of water from the lake may be reduced to 85 cubic metres per second for not more than 15 days a year. Between 1 June and 15 September such reduction shall be allowed only in cases of urgent necessity.

4. In special circumstances or when the spillway of the Rajakoski hydro-electric power station must be inspected and repaired, the management of that station may stop the flow of water at Rajakoski completely for not more than eight hours, provided that the Norwegian frontier authorities are given notice thereof, in advance if possible.

5. The rate of discharge of 120 to 240 cubic metres per second referred to in paragraph 2, first sub-paragraph, above shall be maintained in connexion with the floating of timber in the river Paatsjoki. In case of special need the daily mean discharge shall, on the basis of a request made by the Finnish or the Norwegian Party ten days in advance, be maintained at not less than 150 cubic metres per second for a total period of not more than 30 days a year. The requested rate of discharge must not coincide with the overhaul of the machinery of hydro-electric power stations on the river Paatsjoki.

6. The rate of discharge may not be suddenly increased or decreased to such an extent as to be prejudicial to private or public interests.

In years when there is an abundance of water, the Finnish Ministry shall communicate to the Norwegian Ministry forecasts concerning the amount of water and recommendations for its discharge.

7. The Finnish Ministry shall supply to the Kaitakoski hydro-electric power station and to the future Skogfoss hydro-electric power station in good time forecasts of the volume of run-off into Lake Inari expected during the periods 1 November to 30 April, 1 May to 31 July and 1 August to 31 October, special forecasts concerning summer floods, and in case of necessity, new forecasts in the course of the said periods. In connexion with the discharge of water, the Kaitakoski hydro-electric power station shall follow the recommendations given by the Finnish Ministry on the basis of the said forecasts.

8. The water-level of the control reservoir shall be determined by means of the automatic water-level gauge which is maintained in the Nellimvuono inlet of Lake Inari by the Finnish Ministry.

The discharge of water from Lake Inari shall be calculated daily in cubic metres per second from the flow of water through the turbines and dam-slucices of the Kaitakoski hydro-electric power station. For this purpose the

USSR Ministry shall as soon as possible prepare at its own expense graphs showing the recorded flow of water through the turbines, the flood-gate and the timber-floating gate. Copies of these graphs shall be supplied to the Finnish Ministry and the Norwegian Ministry. Until such time as the said graphs have been prepared, the USSR Ministry shall determine the flow of water from Lake Inari on the basis of readings taken at hydro-electric power stations below Kaitakoski.

9. The Finnish Ministry shall keep a daily log of the mean readings of the water-level gauge in the Nellimvuono inlet.

The USSR Ministry shall keep a daily log of the mean daily discharge of water from Lake Inari and also of the mean readings of the water-level gauge to be installed by the USSR Ministry at its own expense in the river Paatsjoki above the Kaitakoski hydro-electric power station. After the graphs referred to in paragraph 8, second sub-paragraph, have been prepared, the USSR Ministry shall keep a separate daily log of the mean flow of water through the turbines of the Kaitakoski hydro-electric power station and a separate daily log of the corresponding discharge through the dam-sluices of that hydro-electric power station.

The Norwegian Ministry shall keep a daily log of the mean levels of Lake Björnvatn.

Extracts from the logs and copies of the water-level graphs shall be communicated to the other Parties on request.

10. For the purpose of forecasting the volume of run-off into Lake Inari, the Finnish Ministry shall make the necessary measurements of precipitation.

The USSR Ministry and the Norwegian Ministry shall also make the necessary measurements of precipitation.

11. The USSR Ministry shall maintain in good condition the gate for timber floating at the Kaitakoski dam.

The USSR Ministry shall, by agreement with the Finnish Ministry, participate in such measures as may in future be found necessary to preserve the stocks of fish.

12. The levels prescribed in these Regulations are given according to the Finnish system of altitude measurement which, according to the results of the levelling carried out by the Soviet Party in 1956, differs by minus 1.87 m from the altitude system used by the Norwegian Party on the section of the river Paatsjoki extending from the Rajakoski hydro-electric power station to the Barents Sea.

127. CONVENTION¹ ENTRE LE PAYS DE BADE-WURTEMBERG, L'ÉTAT LIBRE DE BAVIÈRE, LA RÉPUBLIQUE D'AUTRICHE ET LA CONFÉDÉRATION SUISSE, SUR LA PROTECTION DU LAC DE CONSTANCE CONTRE LA POLLUTION, CONCLUE À STECKBORN, LE 27 OCTOBRE 1960²

Désireux de protéger, par des efforts communs, le lac de Constance contre la pollution, ont résolu de conclure une convention . . .

¹ Entrée en vigueur le 10 novembre 1961.

² *Feuille fédérale de la Confédération suisse*, 113ème année, 1961, vol. I, p. 1171.

ARTICLE PREMIER. 1. Les Etats riverains du lac de Constance, à savoir le Pays de Bade-Wurtemberg, l'Etat libre de Bavière, la République d'Autriche et la Confédération suisse (cantons de Saint-Gall et de Thurgovie), s'engagent à collaborer dans le domaine de la protection des eaux du lac de Constance contre la pollution.

2. Les Etats riverains prendront sur leur territoire les mesures nécessaires en vue de prévenir une augmentation de la pollution du lac de Constance et d'améliorer autant que possible l'état sanitaire de ses eaux. A cet effet, ils appliqueront strictement, en ce qui concerne le lac de Constance et ses affluents, les dispositions sur la protection des eaux qui sont en vigueur sur leur territoire.

3. En particulier, les Etats riverains se communiqueront mutuellement, en temps opportun, les projets d'utilisation d'eau dont la réalisation pourrait porter atteinte aux intérêts d'un autre Etat riverain en ce qui concerne le maintien de la salubrité des eaux du lac de Constance. Ces projets ne seront réalisés qu'après avoir été discutés en commun par les Etats riverains, à moins qu'il n'y ait péril en la demeure ou que les autres Etats n'aient consenti expressément à leur exécution immédiate.

ARTICLE 2. Par lac de Constance au sens de la présente convention il faut entendre le lac Supérieur et le lac Inférieur.

ARTICLE 3. 1. La collaboration entre les Etats riverains est assurée par la commission internationale permanente pour la protection des eaux du lac de Constance (dénommée ci-après la commission) instituée par ces Etats.

2. Chaque Etat riverain est représenté au sein de la commission par une délégation qui dispose d'une voix.

3. Le gouvernement de la République fédérale d'Allemagne peut envoyer des observateurs aux séances de la commission.

4. Chaque délégation a le droit de s'adjoindre des experts.

5. La commission peut aussi confier à des experts des tâches particulières nettement définies.

ARTICLE 4. La commission a les tâches suivantes:

a. Elle détermine l'état sanitaire du lac de Constance et les causes de sa pollution.

b. Elle contrôle régulièrement l'état sanitaire des eaux du lac de Constance.

c. Elle discute de mesures propres à remédier à la pollution actuelle et à prévenir toute pollution future du lac de Constance et les recommande aux Etats riverains.

d. Elle discute des mesures que projette de prendre un Etat riverain conformément à l'article premier, paragraphe 3 ci-dessus.

e. Elle examine la possibilité de mettre sur pied une réglementation visant à maintenir le lac de Constance à l'abri de la pollution; elle discute du contenu éventuel d'une telle réglementation qui, le cas échéant, fera l'objet d'une autre convention entre les Etats riverains.

f. Elle s'occupe de toute autre question concernant la lutte contre la pollution du lac de Constance.

ARTICLE 5. 1. La commission prend ses décisions à l'unanimité en présence de toutes les délégations. Pour les questions de procédure, la majorité simple suffit.

2. Un Etat riverain peut s'abstenir de voter dans des affaires qui ne le concernent pas, sans qu'il soit dérogé par là à la règle de l'unanimité. Les décisions se rapportant exclusivement au lac Inférieur exigent seulement l'accord des délégations de la Confédération suisse et du Pays de Bade-Wurtemberg.

3. La commission établit son règlement interne; il est adopté à l'unanimité.

4. Les chefs des délégations correspondent entre eux directement.

ARTICLE 6. 1. Les Etats riverains s'engagent à examiner avec soin les mesures de protection des eaux touchant leur territoire qui font l'objet de recommandations de la commission et à s'employer de leur mieux à faire appliquer ces mesures dans les limites de leur législation interne.

2. Les Etats riverains sur le territoire desquels des mesures de protection des eaux faisant l'objet de recommandations de la commission doivent être prises peuvent reconnaître comme obligatoire en ce qui les concerne une recommandation de la commission et charger leur délégation de faire une déclaration dans ce sens.

ARTICLE 7. Chaque Etat riverain assume les frais de sa délégation et de ses experts. Si des experts sont désignés par la commission, les frais qui en résultent seront répartis entre les Etats riverains selon une clé qui sera fixée dans chaque cas par la commission. Il en va de même des publications de la commission.

ARTICLE 8. 1. Les accords internationaux sur la navigation et la pêche ne sont pas touchés par la présente convention.

2. Dans son champ d'activité, la commission collabore avec les organes internationaux compétents en matière de navigation et de pêche ainsi qu'avec la commission internationale pour la protection du Rhin contre la pollution.

ARTICLE 9. 1. La présente convention sera ratifiée. Les instruments de ratification seront déposés dans le plus bref délai possible auprès du gouvernement du Pays de Bade-Wurtemberg. La convention entrera en vigueur dans les trente jours suivant le dépôt du dernier instrument de ratification.

2. La convention restera en vigueur tant qu'elle n'aura pas été dénoncée par un des Etats riverains moyennant préavis donné au moins six mois avant la fin d'une année.

En foi de quoi les plénipotentiaires des Etats riverains ont signé la présente Convention.

Ainsi fait, en quatre exemplaires, à Steckborn (canton de Thurgovie) le 27 octobre 1960.

(ii) **BIPARTITE TREATIES**
(ii) **TRAITÉS BILATÉRAUX**

Albania-Yugoslavia

128. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF ALBANIA CONCERNING WATER ECONOMY QUESTIONS, TOGETHER WITH THE STATUTE OF THE YUGOSLAV-ALBANIAN WATER ECONOMIC COMMISSION AND WITH THE PROTOCOL CONCERNING FISHING IN FRONTIER LAKES AND RIVERS, SIGNED AT BELGRADE ON 5 DECEMBER 1956²

The Government of the Federal People's Republic of Yugoslavia and the Government of the People's Republic of Albania, in order to settle questions of water economy on watercourses which form the State frontier and watercourses, lakes and water systems intersected by the State frontier, have decided to conclude an Agreement. . . .

Article 1

1. The Contracting Parties undertake, pursuant to the provisions of this Agreement, to examine and to resolve by agreement all questions of water economy, including measures and works which may affect the quantity and quality of the water and which are of interest to both or either of the Contracting Parties, having due regard to the maintenance of a common policy in water economy relations and recognizing the rights and obligations arising out of such policy.

2. The provisions of this Agreement shall apply to all water economy questions, measures and works on watercourses which form the State frontier and watercourses, lakes and water systems which are intersected by the State frontier (especially Lake Ohrid, the Crni Drim, the Beli Drim, Lake Skadar and the Bojana), and which are of interest to both Contracting Parties, and in particular to:

- (a) The utilization of water power;
- (b) The regulation and canalization of watercourses and lakes and the maintenance of their beds;
- (c) The discharge of water, drainage and similar measures;
- (d) Protection against flooding;
- (e) Storage and retention works;
- (f) Water supply and pipe-laying;

¹ The Agreement entered into force on 6 August 1957, date of the exchange of the instruments of ratification, which took place at Tirana.

² *Federazione Narodne Republike Jugoslavije, Medunarodni Ugovori*, 1957, n° 74, p. 16. (Translated from the Serbo-Coat by the Secretariat of the United Nations.)

- (g) Navigation;
- (h) Ground water;
- (i) Protection against soil erosion;
- (j) The utilization of water in agriculture;
- (k) Hydrological studies, the preparation of projects and the execution of works;
- (l) Fishing;
- (m) The apportionment of the cost of survey, planning and construction works, and of operation and maintenance;
- (n) The exchange of data and plans and of information on the above questions; and
- (o) The exchange of data on water levels.

3. The expression "water system" shall mean, in this Agreement, all watercourses (surface or underground, natural or artificial), installations, measures and works which may affect watercourses from the standpoint of water economy, and installations forming or intersected by the State frontier.

4. The expression "water economy" shall mean, in this Agreement, everything covered by the sense of the French expression "*régime des eaux*".

5. The question of fishing shall be regulated by a separate Protocol which shall constitute annex II to this Agreement.

Article 2

The Contracting Parties undertake:

1. By agreement, each in its own territory and jointly in the case of watercourses which form the State frontier and watercourses, lakes and water systems intersected by the State frontier, to maintain in good condition the beds of watercourses and lakes and all installations and structures thereon, in so far as they are of interest to both Parties.

2. To effect the co-ordinated management and operation of installations and structures, with due regard to the interests of both Parties.

3. By agreement, to modify existing installations or to erect new installations and to initiate new works and measures in the territory of either Contracting Party for the purpose of changing the water economy relations on watercourses which form the State frontier and watercourses, lakes and water systems intersected by the State frontier.

Article 3

1. Where both or either of the Contracting Parties participate in planning, erecting, maintaining and operating new installations and structures in the interests of both Contracting Parties, the question of the apportionment of expenses and of the method of payment shall be settled by agreement between the Contracting Parties.

2. The entire cost of erecting and maintaining installations and structures, and of carrying on operations, measures and works, in the territory of one Contracting Party for the sole benefit of the other Contracting Party shall be borne by the interested Party.

Article 4

1. Questions arising out of the provisions of this Agreement, and measures and works undertaken pursuant thereto, shall fall within the competence of the Yugoslav-Albanian Water Economy Commission (hereinafter referred to as the Commission) which shall be established for this purpose. The composition, terms of reference and procedure of the Commission shall be as laid down in the Statute, which shall constitute an integral part of this Agreement as annex I.

2. The Commission shall, as necessary, draw up joint regulations for protection against flooding and other regulations. Such regulations shall be approved by the Governments of the Contracting Parties before their entry into force.

Article 5

1. The necessary construction materials and fuel for the execution of works under this Agreement, which are transferred from the territory of one Contracting Party to the territory of the other Contracting Party, shall be exempt from all import and export taxes and from all import and export restrictions.

2. The necessary equipment for the execution of works (machinery, vehicles, tools and the like) shall be provisionally exempt from taxes provided that the articles concerned are declared to the customs authorities for identification and are returned within the time-limit laid down by the customs authority. The deposit of security for this purpose shall not be required. The appropriate taxes shall be payable in respect of any articles not returned within the prescribed time-limit. Where any such article is completely worn out and thus rendered unusable, and consequently cannot be returned, the question shall be examined separately.

3. The two Contracting Parties guarantee to facilitate for each other the customs procedure for the transit of construction materials and fuel, and of equipment for the execution of works, which are exempt from taxes.

4. Construction materials, fuel and equipment for the execution of works shall be subject to customs supervision and examination by the Contracting Parties.

5. The Commission shall determine in each individual case the extent, and the conditions for the enjoyment, of the privileges provided for in this article of the Agreement.

Article 6

The Contracting Parties undertake, each in its own territory, to preserve and maintain and, where necessary, to augment or renew, such permanent benchmarks and datum marks along the frontier as are necessary for the purpose of works on the waters. Both Contracting Parties may use these marks. If it is necessary to cross the State frontier in order to use the said marks, the provisions of article 7 of this Agreement shall apply.

Article 7

For the purpose of applying and giving effect to the provisions of this Agreement, the members of the Commission and experts of the water economy

services of the Contracting Parties shall be supplied with official passports and official visas.

For the purpose of deciding upon joint measures or of carrying out joint works, such persons as either Contracting Party may designate shall meet at the State frontier at a place and time to be determined in each specific case by agreement between the competent local authorities of the Contracting Parties.

The persons referred to in the preceding paragraph shall be supplied with special passes issued by the competent authorities of the Contracting Parties and endorsed for passage across the frontier by the competent local authorities of the Contracting Party into whose territory the crossing is made.

Detailed provisions for the issue of special passes for crossing the State frontier shall be drawn up by the Commission and submitted to the Governments of the Contracting Parties for approval.

Article 8

The local authorities of the Contracting Parties shall advise each other, by the quickest possible means, of any danger from high water and of any other impending danger which may arise on watercourses which form the State frontier and watercourses, lakes and water systems intersected by the State frontier.

Article 9

Questions on which the Commission fails to reach agreement shall be transmitted by the Commission to the Governments of the Contracting Parties for decision.

Article 10

Any dispute between the Contracting Parties relating to the application and interpretation of this Agreement shall, unless the two parties to the dispute agree upon some other mode of settlement, be submitted at the request of either Contracting Party to a commission composed of two representatives of each Party. If this commission fails to reach agreement, the dispute shall be settled directly by the Governments of the two Contracting Parties.

Article 11

This Agreement shall be ratified. The instruments of ratification shall be exchanged at Tirana.

The Agreement shall enter into force on the date of the exchange of the instruments of ratification.

Article 12

The Agreement shall remain in force for a term of five (5) years from the date of its entry into force. Unless it is denounced by either Contracting Party one year before the expiry of the term of five (5) years, the Agreement shall be extended automatically, subject to denunciation by either Contracting Party at one (1) year's notice.

ANNEX I

STATUTE OF THE YUGOSLAV-ALBANIAN WATER ECONOMY COMMISSION

Article 1

The functions and terms of reference of the Commission shall comprise all matters placed within its competence by the Agreement between the Government of the Federal People's Republic of Yugoslavia and the Government of the People's Republic of Albania concerning water economy questions.

Under its terms of reference, it shall be the Commission's task, in particular:

1. To submit proposals concerning measures and works of interest to the Contracting Parties and their study from the technical and economic standpoints and, in particular, concerning the utilization of the water power of Lake Ohrid, the Crni Drim and the Beli Drim and the question of Lake Skadar and the Bojana;
2. To submit proposals for the investigation of problems *in situ*, the organization of topographical surveys, studies and research operations, and the preparation of projects;
3. To make a technical evaluation of projects submitted and to submit to the Governments of the Contracting Parties proposals for the execution of joint works or works of joint interest;
4. To examine and submit proposals concerning the execution of joint water economy works, structures and installations, the conditions for and method of executing the same, and the apportionment of expenses; to organize control over the completion and acceptance of jointly executed works;
5. To submit proposals concerning the issue of joint technical provisions and of provisions for protection and control, and concerning the application of biological measures relating to fishing;
6. To ensure compliance with decisions; to organize technical supervision of measures and works in progress which are of joint interest;
7. To study questions relating to joint protection against flooding and means of averting other dangers, and to draft joint regulations on the subject;
8. To submit proposals for the exchange of practical experience in the matter of water economy, for the exchange of hydrological and hydrometeorological data, and for the operation of the information service established to transmit particulars of the water level and so forth;
9. To ensure co-operation between the water economy authorities of both sides in the territory of the two Contracting Parties in the interest of maintaining a common policy in water economy relations in the spirit of the provisions of the Agreement concerning water economy questions concluded between the Government of the Federal People's Republic of Yugoslavia and the Government of the People's Republic of Albania;
10. To submit proposals for the management and operation of installations of joint interest.

Article 2

The Governments of the Contracting Parties reserve the right to deal directly with questions within the competence of the Commission.

Article 3

The Commission shall consist of twelve (12) members. Each Contracting Party shall appoint six (6) members of the Commission; each member may have an alternate. The Contracting Parties may likewise designate experts to take part in the Commission's work, in numbers to be determined in each individual case by agreement between the two Chairmen. Each Contracting Party shall appoint one member of the Commission as Chairman of its delegation. The Commission may if necessary set up sub-commissions composed of its members, their alternates and experts.

Article 4

The Commission shall meet in regular session once a year. In addition the Chairmen of the delegations may convene special sessions by agreement. Regular sessions shall be held alternately in the territory of each Contracting Party. Each session shall be convened by the Chairman of the delegation of the Contracting Party in whose territory the commission meets, in agreement with the Chairman of the delegation of the other Contracting Party.

Article 5

The Contracting Parties shall propose agenda items through the Chairmen of their respective delegations.

The final agenda shall be confirmed by agreement between the Chairmen of the delegations or through the diplomatic channel.

Article 6

While the Commission is in session, the Chairmen of the delegations shall preside alternately.

The official languages of the Commission shall be Serbo-Croat and Albanian.

In addition the Commission may decide to examine individual questions in another language.

Article 7

The Commission shall reach its conclusions by agreement between the Chairmen of the two delegations.

If the Chairmen of the delegations fail to arrive at an agreed conclusion, the delegations shall submit the question in dispute to their Governments for settlement.

A protocol of each meeting shall be drawn up in two copies, each in both the official languages. The protocol shall be signed by both Chairmen. The delegations shall submit the protocol to their respective Governments for approval.

Article 8

No conclusions of the Commission may be put into effect if either Government raises an objection. If no objection to the conclusions is raised by either Government within forty-five (45) days after the date of signature of the protocol, the conclusions shall be regarded as approved by both Governments.

Article 9

Each Contracting Party shall defray the expenses of its own delegation. Other expenses connected with the Commission's work shall, unless otherwise decided, be borne equally by the two Contracting Parties.

Article 10

The Commission shall prescribe its own rules of procedure on the basis of the Agreement between the Government of the Federal People's Republic of Yugoslavia and the Government of the People's Republic of Albania concerning water economy questions and of this Statute.

ANNEX II

PROTOCOL CONCERNING FISHING IN FRONTIER LAKES AND RIVERS BETWEEN THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA AND THE PEOPLE'S REPUBLIC OF ALBANIA

With a view to the regulation of questions relating to fishing in frontier lakes and rivers between the Federal People's Republic of Yugoslavia and the People's Republic of Albania, and especially questions relating to fishing in Lake Skadar, Lake Ohrid, Lake Prespa and the rivers Beli Drim, Crni Drim and Bojana, the Contracting Parties have agreed to work out special provisions which shall regulate the question of fishing and fishery in general in the said lakes and rivers.

The provisions and measures to be worked out by agreement and approved shall comprise the following:

(a) Protection and control provisions relating to fishing

The Contracting Parties shall adopt by agreement joint protection and control measures relating to fishing, with specific reference to the use of fishing tackle and especially large-scale, mechanized fishing equipment or fixed fishing devices; provisions concerning the application of protective measures, especially in respect of economically valuable species of fish; provisions concerning the removal of all obstacles to the free circulation of fish; and provisions concerning the suppression of smuggling and the prevention of trading in fish and fishing in frontier lakes and rivers. In addition the Contracting Parties shall by agreement adopt provisions concerning control over the execution of fish conservation measures during the breeding (close) season and the protection of the fry.

(b) Biological measures relating to fishing

The Contracting Parties shall prescribe by agreement measures to regulate the minimum size at which fish may be removed; the close season for economically valuable species of fish; measures for the definition and provisions

for the protection of fry; and, in particular, provisions concerning the permissible intensity of fishing for different species of fish. Also by agreement, they shall determine the application of fishing technique in relation to the taking of different species of fish. The question of introducing new species of fish into fishery waters and the questions of protecting and promoting common organic production in fishery waters shall also be settled by agreement in the provisions concerning biological measures relating to fishing. The provisions shall also cover measures to settle questions of protecting lake and river water from pollution.

The Contracting Parties shall settle by agreement the question of joint measures to augment the fish population by re-stocking, and questions of scientific research in the field of hydrobiology and fishery in frontier lakes and rivers.

(c) *Technical provisions relating to fishing*

The Contracting Parties shall by agreement adopt provisions and measures for all technical works on frontier lakes and rivers which may affect the fish population of the waters and their use for fishing. In particular, provisions shall be adopted concerning the use and the maximum permitted number of mechanized fishing equipments, the use of electric current in fishing and the installation and use of fixed fishing devices.

The study and examination of all provisions and measures concerning the settlement of questions relating to fishing in frontier lakes and rivers shall be carried out by the Fishery Sub-Commission as an organ of the Yugoslav-Albanian Water Economy Commission.

Proposals for the measures and provisions referred to in article 1, paragraph 5, of the Statute shall be submitted by the Yugoslav-Albanian Water Economy Commission on the basis of proposals by the Fishery Sub-Commission.

This Protocol shall constitute an integral part of the Agreement between the Government of the Federal People's Republic of Yugoslavia and the Government of the People's Republic of Albania concerning water economy questions and of the Statute of the Yugoslav-Albanian Water Economy Commission.

Austria-Czechoslovakia

129. CONVENTION¹ BETWEEN THE AUSTRIAN AND CZECHOSLOVAK REPUBLICS CONCERNING THE DELIMITATION OF THE FRONTIER BETWEEN AUSTRIA AND CZECHOSLOVAKIA AND VARIOUS QUESTIONS CONNECTED THERE WITH, SIGNED AT PRAGUE, MARCH 10, 1921²

¹ Came into force on 10 March 1921, date of signature of the Final Protocol.

² League of Nations, *Treaty Series*, vol. 9, p. 358.

I

UTILISATION OF THE WATER-POWER OF THE RIVER THAYA IN THE AREA
EXTENDING FROM THE BEGINNING OF THE COMMON FRONTIER NEAR
CIZOW (ZAISA) TO THE END OF THAT FRONTIER NEAR PODMOL (BAUMÖL)*Article 1*

1. The Austrian Government agrees that the whole water-power of the River Thaya in the section of the frontier from Cizow (Zaisa) to Podmol (Baumöl) shall be exploited as a single undertaking by an enterprise to be promoted by the Czechoslovak Republic.
2. The exploitation of this water-power will involve the erection of structures standing partly on Austrian and partly on Czechoslovak territory.

Article 2

As regards the works and secondary structures built on Austrian soil and territory, or in contact with that soil and territory, the Austrian Government undertakes to grant a valid concession, in accordance with the provisions of the existing laws, for the construction and utilisation of the works, not later than six months after the submission of an application in due form, subject to the following conditions:

- (a) The concession shall be granted for an unlimited time and shall be irrevocable.
- (b) The Austrian Government shall concede to the enterprise the right of expropriation.
- (c) The Austrian Government shall not impose any taxes or other duties whatsoever upon the materials and requisites for the construction, maintenance and exploitation of the whole of the works, in so far as they stand on Austrian soil, nor shall it impose such charges upon the enterprise itself.
- (d) Dams and water-power installations shall be built and worked with due regard to the requirements of public safety. In the working of these installations in connection with the Frain dam, due regard shall be paid to agricultural interests in the Thaya district below Znaim within the territory of the two States so that these interests may be benefited as far as possible.
- (e) Free access to Austrian soil and territory shall be granted by the Austrian Government to the agents of the enterprise with a view to the execution of preliminary operations and for the completion, upkeep and operating of the works; as regards the preparatory work, this access should be granted immediately, and as regards other work, as soon as both Governments have given their approval to the agreement.
- (f) The Czechoslovak Republic shall require the enterprise to undertake to give full compensation to the owner of the Lower Hardegger weir for the loss caused by the backwash from the Podmoler-(Baumöler) barrage.
- (g) The enterprise shall be liable for damage occasioned by its negligence in the construction or maintenance of the works; disputes shall be decided by a court of arbitration, on which the two States shall appoint one arbitrator each and a third member shall be nominated conjointly by the two States.

Article 3

In the event of important alterations in the works within the frontier section, which, according to the laws of the one State or of the other, require the consent of the authorities, the latter shall be guided by the same principles as were taken into account when granting the concession.

Article 4

The Czechoslovak Government shall require the enterprise, after the construction and starting of all the works in the Freistein-Znaim area, to supply, if requested to do so by the Federal Ministry for Commerce, Trade, Industry and Public Works, six million kilowatt-hours annually to the parties whose interests are concerned in Lower Austria, delivered at the frontier near one of the power-stations, at a suitable price — net cost plus a moderate profit.

Article 5

Should the Austrian Government fail to make by March 31, 1921, a declaration finally binding upon it to the effect that in the same manner as for the Czechoslovak territory the formal method of grant of an irrevocable concession, unlimited in point of time, is chosen, the said Government undertakes to cede the Austrian soil and territory required for the construction of the works for the exploitation of the whole of the water-power in the frontier area, to the sovereignty of the Czechoslovak Republic, at latest within two months after the Czechoslovak Government shall have declared that the work is to be begun and finished within a reasonable period. If the work of construction shall not have been begun within five years after such last-mentioned declaration, the ceded territory shall return to the sovereignty of the Austrian Republic.

All documents required in connection with the cession of the territory shall be delivered to the Austrian Government at the same time as the above-mentioned declaration of the Czechoslovak Government.

The cadastral surveys required for effecting the transfer of the territory shall be delivered with the least possible delay by the Austrian Government to the Moravian Land Commission, on the application of the latter body.

Article 6

In case this transfer of territory should take place, the conditions already set forth in Articles 1 to 4 shall hold good in so far as they may be applicable.

Article 7

The Czechoslovak Government undertakes not to move military forces for any reason whatever to the south bank of the Thaya — in the frontier area in question — or to cause any military defence works to be constructed on this bank of the Thaya.

Article 8

Should the provisions of Article 5 come into force, the two Governments shall request the Frontier Delimitation Commission to rectify the frontier

in the afore-mentioned Thaya section, having due regard to the terms of the Agreement, taken as a whole.

. . . .

V

WATER-WORKS OF THE BRECLAVA-LUNDENBURG MUNICIPALITY

The Austrian Government undertakes, within six months after the submission of an application in proper form from the Breclava-Lundenburg Municipality, to grant a valid concession, in accordance with the provisions of the existing laws, for the construction and operation of the water-works and minor installations for the supply of the municipality in question with drinking water and washing water from Föhrenwald at the northern edge of the Bernhardsal Commune, in so far as these works (or minor installations) are erected on, or are in contact with, Austrian soil or territory; in respect of this provision the Austrian Government further agrees to the following conditions:

(a) The concession shall be granted for an unlimited time and shall be irrevocable.

(b) The Austrian Government shall concede to the enterprise the right of expropriation.

(c) The Austrian Government shall not impose any taxes or other duties whatsoever upon the materials and requisites for the construction, maintenance and exploitation of the water-works, in so far as these works stand on Austrian soil.

(d) The Austrian Government shall allow the agents of the enterprise free access to Austrian territory for the planning, preparation, carrying out, maintenance and supervision of the works.

(e) The construction of the works must be completed within six years from the date of the granting of a legally valid concession.

Article 2

The Czechoslovak Government shall be entitled, in case of complications involving danger of war with any neighbouring State, to occupy with its troops such parts of the water-works to be built in Föhrenwald and of the conduit leading thence to Lundenburg as are in Austrian territory, for such a period as shall be absolutely necessary. The Czechoslovak outposts shall not, however, be advanced beyond the southern edge of Föhrenwald.

The Austrian Government shall be duly notified of such military measures before they are carried out.

. . . .

130. TREATY¹ BETWEEN THE REPUBLIC OF AUSTRIA AND THE CZECHOSLOVAK REPUBLIC REGARDING THE SETTLEMENT OF LEGAL QUESTIONS CONNECTED WITH THE FRONTIER DESCRIBED IN ARTICLE 27, PARAGRAPH 6, OF THE TREATY OF PEACE BETWEEN THE ALLIED AND ASSOCIATED POWERS AND AUSTRIA, SIGNED AT SAINT-GERMAIN-EN-LAYE ON SEPTEMBER 10, 1919 (FRONTIER STATUTE). SIGNED AT PRAGUE, DECEMBER 12, 1928²

SECTION III

LEGAL POSITION WITH REGARD TO FRONTIER WATERS

PART I

EXISTING RIGHTS IN CONNECTION WITH WATERWAYS
AND HYDRAULIC INSTALLATIONS

Article 19

1. Legally acquired rights in respect of waterways and the installations belonging thereto in so far as the frontier line runs along these waterways (liquid frontier waterways), or in respect of waterways which are intersected by the frontier — as regards the latter in so far as they are affected by the tracing of the frontier — shall be recognised by both States as legally existing, provided that they can be proved by the production of official documents. Such proof may be brought in concrete cases, but shall also be considered as having been brought in cases where the validity of the right has been proved in the last resort by the fact that it is contained in the waterways registers, which must be officially completed under the terms of Article 23, paragraph 1, and in the extracts from the said registers which must be handed over under the terms of the same Article.

2. Authorisations granted before the coming into force of the present Treaty shall, in all cases in which the hydraulic installations mentioned in these authorisations have not yet been completed, only come under the terms of paragraph 1 if the work has already been commenced, or is commenced within the period fixed in the act of concession, and in both cases if the work is pursued in a regular manner.

3. Rights of the nature specified in paragraph 1, which have been claimed by the parties concerned but which have not been proved within three years from the coming into force of the present Treaty (Article 23, paragraph 1), shall be regarded as non-existent, and must be made the subject of an express concession. Questions of procedure and competence shall be governed by the provisions of Part III of this Section.

¹ Came into force on 17 October 1930.

² League of Nations, *Treaty Series*, vol. 108, p. 56.

Article 20

1. As regards rights granted by the acting authorities during the period between the Revolution (October 28, 1918) and the final taking over of the administration by the Czechoslovak authorities, the Czechoslovak Republic reserves the right to acknowledge or refuse to acknowledge these rights.

2. This reservation shall not, however, apply to authorisations granted in the former territories of Lower Austria ceded to the Czechoslovak Republic in virtue of the Treaty of Saint-Germain-en-Laye, after the Revolution but before these territories were handed over (July 30, 1920).

Article 21

Private agreements concluded up to the present between owners of hydraulic installations and other interested parties regarding the use of the water shall, in so far as they are not at variance with the legislation of either State, remain in force even if a change has taken place in the nationality of one of the parties concerned as a result of the tracing of the frontier.

Article 22

Maintenance charges, servitudes and other obligations arising out of the rights mentioned in Article 19 shall continue to exist, irrespective of the nationality of the persons who are required to carry out such obligations or of the persons entitled to benefit thereby; it is, further, immaterial in which of the two States the hydraulic installation to which the rights in question relate is situated.

Article 23

1. The Contracting States shall take steps with a view to the proper completion of the waterways registers within three years from the coming into force of this Treaty, in accordance with the provisions of the laws relating to rights in respect of waterways. They shall accordingly enter the rights and the hydraulic installations mentioned in Article 19 in the register and shall see that certified copies of these entries are transmitted to the waterways authorities of the other State.

2. The stipulations of the present Article shall in no way affect the handing over of documents as provided for in the Treaty of Saint-Germain-en-Laye.

Article 24

If the authorisation granted for a hydraulic installation, the operation of which extends to the territory of both States, involves obligations expressed in pre-war currency, the competent waterways authorities of the two States shall, at the request of the parties, jointly check and fix the payments, which shall always be in the currency of the State in which the hydraulic installation is situated. All payments shall be effected in this currency.

Article 25

Without prejudice to the other provisions regulating frontier traffic, the owners of the installations mentioned in Article 19 shall, after an agreement on points of detail has been concluded between the competent authorities

of the two Contracting States, be granted all possible facilities for crossing the frontier for the purpose of ensuring the operation and upkeep of the installations.

Article 26

1. The Contracting States shall take steps to ensure that the hydraulic installations situated on the frontier waterways and in the sectors of waterways situated immediately above or below the frontier are maintained and operated in accordance with the existing obligations, and that the operation of installations situated in the territory of the other State is not interfered with by any arbitrary measures taken on their own territory. Temporary unavoidable disturbances such as those due to repairs, clearing work, etc., must, however, be tolerated.

2. Installations situated on ponds in the Customs frontier zone shall be so operated as to safeguard as far as possible the interests of the riparians resident below stream in the territory of the other State. In particular, in so far as this is not at variance with rights of the pond owners acquired by concession or proved to be of ancient standing, the damming of ponds in times of flood or high water, and the draining of ponds at a moderate speed, may only be effected after the second hay crop and after the authorities of the frontier commune of the other State have been advised in good time.

3. If the maintenance of any public utility installation (such as bridges or works for the regulation of water-courses) is not properly provided for, or if the frontier has been so drawn that it no longer appears feasible to provide suitably for such maintenance in accordance with the original concession, the question of maintenance shall be settled in each case, at the request of the parties concerned, in conformity with the provisions of Part III of this Section.

Article 27

1. The Contracting States shall take steps to ensure that the hydraulic installations erected on waterways intersected by the frontier and touched by the frontier are so operated and maintained that the advantages derived therefrom under the terms of the concession are maintained intact for all the parties concerned, including those who may now be residing in foreign territory, and that these parties suffer no prejudice. The fact of belonging to the other State shall not, however, relieve the parties concerned of the obligation devolving on them in respect of the hydraulic installation or of its maintenance.

2. The Contracting States shall further ensure the maintenance, in accordance with existing obligations, of the artificial water-courses and ponds situated on their own territories, in so far as, under the terms of the concession, these serve for the inflow and outflow of water used in hydraulic installations regularly established in the territory of the neighbouring State, and in so far as their maintenance is guaranteed by the act of concession relating thereto.

PART II

GRANTING OF NEW RIGHTS IN RESPECT OF WATERWAYS AND CONSTRUCTION
OF NEW HYDRAULIC INSTALLATIONS*Article 28*

1. Each of the two States is entitled in principle to dispose of half of the water flowing through frontier waterways. If the low level of the water in the frontier reaches of the Thaya or the March is raised by means of the construction of dams, the volume of water shown to represent the increase thus obtained shall, in the absence of any other arrangement, go to the State which has borne the cost of constructing such dams. The exercise of rights acquired by the Contracting States on the strength of the above shall in no way prejudice rights already acquired.

2. The utilisation of waterpower supplied by the Thaya in the frontier reach from Čížov (Zaisa) to Podmolí (Baumöhl) shall be governed by the provisions of the Agreement signed at Prague on March 10, 1921, between the Czechoslovak Republic and the Republic of Austria, relating to the tracing of the Czechoslovak-Austrian frontier and various questions connected therewith.

3. If the construction of an installation is calculated to cause any considerable or permanent change in the supply of water of a frontier waterway or of a waterway which cuts the frontier, the Contracting States shall as far as possible take account of the legitimate interests of the inhabitants of the other State.

Article 29

1. The Contracting States shall promote the construction of such works as are designed to protect the frontier waters and the contiguous flood area against damage by floods, and ensure the draining and irrigation of the adjacent territory, or as the case may be, regularise the flow of water, provide the frontier communes with water, and ensure the utilisation of the waterpower supplied by the frontier waterways.

2. In order to enable such works to be constructed in a businesslike way and in conformity with sound engineering principles, the Contracting States agree as to the following principles:

(a) The construction of engineering works on one bank of the river only shall be undertaken more particularly in places where such works are needed in order to strengthen the banks of the river, remove rifts and protect the land from floods, or for the general improvement of the land.

(b) When systematically regularising a frontier waterway (regularisation of the bed), care shall be taken to secure as far as possible the normal outflow of medium high water (summer high water) on the open reaches, and of flood water on the reaches which have been built upon. Care shall also be taken, when regularising waterways, to avoid any excessive draining of the land situated on one side or the other, and to facilitate the employment of muddy water on this land and its irrigation during periods of drought.

(c) When new rights are granted in respect of waterways, care shall be taken that these rights do not affect the volume of water which appears to

be necessary for the supply of muddy water for the adjacent land or for its irrigation during the summer months.

PART III

AUTHORITIES AND PROCEDURE

Article 30

All matters connected with river law relating to frontier waterways or waterways which intersect the frontier shall be dealt with exclusively in conformity with the legislation of the State on whose territory the installation is situated or is to be constructed.

Article 31

1. Matters connected with river law relating to frontier waterways shall, with the exception of criminal cases, in principle be settled by agreement between the waterways services of the two States, whether the territories of both States are affected or not. Should there be danger in delay, protective measures may be taken by one side alone, before such agreement has been reached. However, the competent waterways authority of the other State shall at the same time be advised of such measures with a view to an agreement being reached subsequently.

2. Decisions in matters connected with river law relating to waterways which intersect the frontier shall be taken exclusively by the competent authority of the State in question.

3. If, in the cases coming under paragraphs 1 and 2, a part of the works is to be situated in the territory of one State and the other part in the territory of the other State, each of the waterways services shall grant the necessary authorisation in respect of that part of the installation to be erected on its own territory; for this purpose consideration shall be given as far as is possible to the desirability of a simultaneous or at least a co-ordinated procedure, and an agreement shall be reached between the authorities of the two States with a view to avoiding discrepancies in the terms of the two authorisations.

4. Passages and bridges of all kinds across frontier waterways may only be constructed after agreement between the competent authorities of the Contracting States. The conditions to be laid down for the utilisation of the passages and bridges, and also the tariffs, shall be fixed in as uniform a manner as possible. The same procedure shall be followed when authorisations already granted are extended.

5. In matters connected with river law which affect the rights or interests of parties residing in the territory of the other State, even if rights guaranteed by river law are involved other than those mentioned in paragraph 1 of Article 19, these parties shall be treated both as regards the substance of the question and the form of procedure on the same footing as parties belonging to the State in whose territory the installation is situated or is to be erected. The authority competent to deal with the matter shall, through the intermediary of the competent authority of the other State, summon the said parties to intervene in the proceedings in exactly the same way as it summons the parties residing in its own territory.

6. If in matters coming under Section III no agreement is reached be-

tween the waterways services of the two States acting as authorities of first instance, the question shall be submitted to the competent higher authorities of the two States. Should the supreme authorities be unable to agree, recourse shall be had, if necessary, to the arbitral procedure provided for in Article 70 before the arbitral tribunal mentioned in that Article.

7. Should the proposed hydraulic installations or any other measures connected therewith involve a change in the frontier line, the authorities mentioned in paragraph 6 or the arbitral tribunal may only take a decision after the said change in the frontier has been accepted by both States in the manner laid down in their Constitutions.

8. The provisions of paragraph 1, sentence 1, and of paragraph 5, shall not apply to hydraulic installations with regard to which an agreement has already been reached between the Contracting States.

Article 32

The entering in the waterways registers of the Contracting States of all rights in respect of waterways, which relate to installations situated on frontier waterways or situated partly in the territory of one State and partly in the territory of the other State, shall be effected in virtue of the decision of the waterways services or of the award of the arbitral tribunal provided for in Article 70, and executed by these services.

Article 33

The waterways service within the meaning of the present Treaty shall be the authority competent to grant authorisations in respect of waterways in accordance with the legislation of its State.

Article 34

The waterways services of the Contracting States may communicate direct with one another in writing or otherwise in all matters connected with river law dealt with in the present Treaty.

Article 35

If during the period between the Revolution and the coming into force of the present Treaty, measures relating to hydraulic works were adopted or authorisations in respect of water were granted, which do not take account of the principles laid down in the present Treaty, the Contracting States reserve the right to institute negotiations in each particular case with regard to the possibility of removing or mitigating the disadvantages arising out of these measures or authorisations, without prejudice, however, to any decisions which may have acquired force of law.

PART IV

SPECIAL PROVISIONS

Article 36

Each State shall provide the water police service in its own territory. The competent administrative authorities in the two countries shall inform one another of water offences committed in frontier waters.

Article 37

The provisions of the present Treaty relating to the use of water generally shall apply *mutatis mutandis* to utilisation of the waterways for timber floating.

Article 38

The provisions of this Section shall also apply to the Danube, the March and the Thaya in so far as nothing else is laid down in the special agreements to be concluded concerning these waterways.

SECTION IV

REGULATIONS CONCERNING FISHERIES AND PISCICULTURE
ON FRONTIER WATERWAYS*Article 39*

Conditions of lease shall not be modified during the current lease period. Upon the expiration of this period, the laws of the State concerned shall come into force as regards the conditions of lease.

Article 40

When the new conditions of lease and of the fisheries generally are determined, the principle that each of the two States shall exercise sovereign rights over the waters in its territory and consequently over the part of the waters contiguous thereto up to the frontier of the State shall also apply to frontier waters.

Article 41

If the right to exercise fishing rights in one of the two States is granted to a national of the other State, such right shall be exercised in conformity with the laws and decrees of the State in whose territory such person fishes or engages in pisciculture. In waterways which cross the frontier, the exercise of fishing rights shall be governed by the laws and decrees of the State in which the fishing rights are exercised.

Article 42

The Contracting States shall conclude a special agreement uniformly establishing close seasons for fish and crayfish in the frontier waters and in the waterways intersecting the frontier, as also in water courses which are of importance for fishing in the two categories of waters mentioned above.

Article 43

1. Fish and crayfish found in the waters specified in Article 42 may be taken when they are of a certain minimum size to be fixed by the Contracting Parties in agreement with one another. This minimum size shall, in the case of fish, be determined by the length from the nose to the end of the caudal fin and, in that of crayfish, by the length from the eyes to the end of the outstretched tail.

2. Fish or crayfish under the minimum size must be thrown back into the water.

Article 44

1. In the waters specified in Article 42, fishing at night, from sunset to sunrise, shall in principle be forbidden. Exceptions to this prohibition may be allowed under conditions to be jointly laid down by the Contracting States.

2. Fishing in these waters with narcotic or poisonous substances, or with explosives (dynamite, etc.), or with spears or firearms shall be forbidden.

3. It shall further be forbidden to use fixed or movable fishing appliances in these waters in such a way as to block up more than half of the watercourse and consequently to hinder the free passage of the fish. The simultaneous use of two or more of these appliances extending to the middle of the watercourse shall only be allowed if they are 50 metres distant from one another in the lengthwise direction of the watercourse. By the middle of the watercourse shall be understood the median line of the surface at low water. Each of the Contracting States may grant exceptions in particular cases to these restrictions in the use of fishing appliances for its territory, if this should be necessary for the purpose of obtaining female fish for artificial pisciculture.

Article 45

The steeping of hemp and flax in the waters specified in Article 42 shall be forbidden.

Article 46

The competent authorities of the Contracting States shall lend one another every assistance and make available for one another any documents or certified copies thereof which there may be in the territory of one of the States and which are needed by the authorities of the other State for the purpose of deciding disputes arising in matters related to fishing rights in the frontier waters. For this purpose, the authorities of the Contracting States may communicate with one another direct in writing or otherwise.

Article 47

Fishing cards issued to persons entitled to fish in virtue of a right belonging or transferred to them, or to their authorised representatives in charge of the fisheries, must be accompanied by photographs where the fishing rights in question are to be exercised in the frontier waters.

Austria-Germany

131. AGREEMENT¹ BETWEEN BAVARIA AND AUSTRIA CONCERNING THE COURSE OF THE WATER FRONTIER ALONG THE SAALE² AND SALZACH RIVERS, CONCLUDED ON 24 DECEMBER 1820³

Whereas it has been mutually recognized that there is an urgent need to reach agreement both on the course of the water frontier along the Saale and Salzach rivers established under the Munich State Treaty of 14 April 1816⁴ and on the use of the waters forming that frontier; and

Whereas detailed negotiations concerning the regulation of that water frontier, i.e., "from that point on the right bank of the Saale at which the first land-frontier boundary-stone marked with a coat of arms stands, along the Salzach and to the point at which it issues into the Inn", have subsequently been conducted, with the assistance of the engineers appointed for the purpose, between the Royal Demarcation Commissions established by both Parties in accordance with the above-mentioned State Treaty,

Now therefore the said Royal Commissions have been empowered by their highest authorities also to conclude a formal Agreement concerning the water frontier on the Saale and Salzach rivers, and have agreed on the following articles:

. . .

Rectification of the Saale and the Salzach

ARTICLE 7. Both riparian States shall take the attached joint technical report as the basis for all future operations on the Saale and Salzach, and they undertake, as from the date on which the instrument of agreement is exchanged:

1. To ensure that all future works on the Saale and Salzach shall be carried out in conformity with the system laid down in the above-mentioned report and by specific mutual agreement;

2. To ensure, until such time as the new bed set out in the river and boundary map has been established, that the works in question are in all cases carried out not only to provide the desired local protection but also, wherever possible, to assist in the approved rectification of the river's course; to which end it is expressly provided that the original direction of any works leading from the present bank to the rectified line and constructed in such a way as to shift the stream lines shall be altered so that the works assume a more parallel direction the closer they approach the right or left side of the rectified line;

¹ This Agreement is still considered in force by both Parties.

² Now usually called the "Saalach".

³ *Edmund Hartig, Internationale Wasserwirtschaft und internationales Recht*, 1955, Annex I, p. 40. (Translated from German by the Secretariat of the United Nations.)

⁴ De Martens, *Nouveau Recueil de Traités*, Tome III, p. 11.

3. To ensure, as soon as the river settles into the designated new bed, that the new bank-line, together with its future works, as marked on the map shall never be exceeded, and that thus in no case are any further works constructed which will drive the stream from one side to the other of its new bed and inevitably give rise to further disturbances;

4. To promote with all care and diligence the shifting of the rivers as soon as possible into the course indicated on the attached map, and to that end vigorously to promote the planting of the old abandoned channel and the sandbanks.

ARTICLE 8. In order, however, to ensure that in future this system is not unilaterally applied or arbitrarily altered and, in particular, that no works are constructed without the consent of both Parties, the engineering authorities of the two sides shall each year, after the end of the summer spates, jointly tour the rivers, come to an agreement on the establishment and maintenance of the designated rectified line, and then draw up a joint protocol, which shall be submitted to their respective Governments, listing the works to be undertaken in the coming year.

Any works already constructed but constituting an obvious hindrance to carrying out the rectification system shall at the request of one Party be altered or removed by the other Party.

In addition to the respective engineering authorities, the chief technical authorities of the two States shall be consulted regarding the absolute necessity of altering or removing any existing work.

ARTICLE 9. If, in the course of the year, large and dangerous breaks in the banks occur as a result of natural phenomena or high water or for any other reason, the threatened Party shall in every case be free to repair the same by constructing works to protect the banks, subject to the condition that if these protective works approach the rectified line, they may consist only of works pointing downstream and paralleling the rectified line as closely as possible, and to the further condition that the engineering authorities of the other side shall be informed of these works in time to enable them to satisfy themselves, before construction is begun, that the works will not be detrimental to the common objective.

ARTICLE 10. Whereas cuts through bends and serpentines must be undertaken with special care and consideration and are to be carried out on a systematic basis, it is hereby provided that:

1. The cuts shall always be begun downstream and continued upstream;
2. Neither riparian State may arbitrarily abandon this arrangement and carry out cuts without the agreement of the other Party;

3. The width of the new canals shall be appropriate to the stream and the locality and shall, if necessary, be two-thirds of the ordinary width of the stream in order to prevent the outlets of the canals from silting up, care being taken in every case to ensure that the material removed from the cuts is deposited either in the river bed to be abandoned or in other tributary branches and depressions which are to be dammed up. No difficulty or objection shall be made by either Party to any other work carried out in connexion with the cuts if that work is undertaken in accordance with the provisions of article 8.

ARTICLE 11. Wherever the widening of an existing channel or the clearing of a sand or gravel bank will have the fortunate effect of laying the stream

in the rectified line or even of bringing it closer to that line, either Party shall at any time be free to carry out such work, on condition that the cut falls in the direction of the designated new channel or approaches the rectified line in a parallel direction, that the discharge of the new canal does not hinder the further progress of the rectification work and that the engineering authorities of the other Party are notified of the work three weeks in advance.

ARTICLE 12. Either Party shall remain entirely free to reopen a previous cut which has shifted or silted-up if the work in question can be regarded as a continuation of the previous system and if the direction of the reopened cut coincides with or approaches the direction of the proposed new channel.

ARTICLE 13. Compensation for whatever land is required for the cuts shall be paid by the State through whose territory the cut is made, but expenditure connected with the work itself must naturally be borne by the State which, for its own protection and in order to carry out the rectification, is undertaking such work in the territory of the other State.

ARTICLE 14. As the establishment of the new river-bed designated on the map necessitates special precautions to prevent the waters from dividing, either Party may at its discretion and at any time block off any branches or channels which now or may in future lie outside the rectified line of the rivers and which flow through or around meadows; provided that on both sides meadows and depressions lying between the present *thalweg* and the rectified line must be kept open.

ARTICLE 15. Material needed as ballast for works may be taken by either Party from areas lying beyond the existing main channel up to the middle of the approved normal bed, subject to the prior consent of the engineering authorities of the other side, which consent shall not, however, be denied without compelling reasons that must be specified in the reply.

ARTICLE 16. Both riparian States undertake to ensure the strict enforcement of the regulation in force under which no person may install or carry out works on the Saale and Salzach except under the control of the relevant engineering authorities, and of such other river regulations and provisions to facilitate navigation as are likewise in force.

. . .

ARTICLE 25. The agreement between the two States embodied in the foregoing articles shall in no way alter the rights and obligations deriving from the private ownership of adjacent property in so far as the exercise of such property or other private rights is consistent with the purpose of this Agreement, but where such is not the case, the said rights shall, to the extent required by the public interest, be restricted in conformity with the general principles of law.

. . .

ARTICLE 29. If, by virtue of the agreement that has been reached, one State wishes to carry out work in the territory of the other State, such work may in no circumstances be hindered by the judicial, administrative or police authorities on condition that the persons performing such work

can produce the authorization which under articles 10, 11 and 12 must be granted by the engineering authorities of the other State.

ARTICLE 30. This frontier Agreement shall be ratified by the two Parties, and the instruments of ratification shall be exchanged.

In witness whereof this Agreement, together with the attached expert opinions and river maps, has been drawn up in duplicate and been sealed.

132. AGREEMENT¹ BETWEEN AUSTRIA AND BAVARIA CONCERNING TERRITORIAL AND FRONTIER ARRANGEMENTS, CONCLUDED AT VIENNA ON 2 DECEMBER 1851²

. . .

ARTICLE 2. In that part of the above-mentioned section of the Danube which, in accordance with article 1,³ shall in future fall within Austrian territory, all royal prerogatives and crown property shall henceforth belong to Austria.

ARTICLE 3. Individuals, communes and institutions shall remain entitled without exception or hindrance to the free use and enjoyment of the property and the other rights falling by virtue of article 1 of this Agreement under Austrian sovereignty.

In particular, Bavarian nationals having property or possessions on the islands, water meadows and alluvial deposits situated on or along the above-mentioned section of the Danube henceforth to be under Austrian sovereignty shall remain entitled to dispose freely of the products of the soil without the payment of any levies or charges.

ARTICLE 4. . . .

The police and customs supervision of the said section of the river shall be exercised in accordance with the provisions of the separate agreement concerning police and customs supervision of the frontier rivers between the two States concluded on the same date as the present Agreement.

. . .

¹ The exchange of the instruments of ratification took place at Vienna on 14 May 1852.

² Edmund Hartig, *Internationale Wasserwirtschaft und internationales Recht*, 1955, Annex 4, p. 48. (Translated from German by the Secretariat of the United Nations.)

³ According to article 1, the "main *Thalweg*" of the Danube shall constitute the frontier between the two States along the entire frontier section of the river. As a result of the construction of the Jochenstein power-plant, the main thalweg in practice runs through the two locks. Although the Jochenstein Agreement of 13 February 1952 (see below) contains no specific stipulation that the frontier shall remain unchanged (see article 22 of the Agreement), both sides are of the opinion that this artificial interference should entail no alteration of the boundary. The frontier remains as before [Edmund Hartig, *Ibid.*].

133. NAVIGATION AGREEMENT¹ BETWEEN AUSTRIA
AND BAVARIA CONCLUDED ON 2 DECEMBER 1851²

. . .

ARTICLE 12. . . .

They further undertake, within their respective territories, to remove from the channel at their own cost all obstacles to navigation and until that is done to mark with warning signs any stones, trees or similar objects lying in or near the channel and constituting a danger to navigation, and to permit no construction on the stream or its banks which would endanger the security of navigation.

. . .

The greatest care shall also be taken to prevent navigation from being obstructed or hindered by mills or other machinery or by the rolling-down of blocks from quarries or the disposal of rubbish close to the banks.

. . .

On those sections of the rivers which form the frontier between the Contracting States no works shall be built in the water or on the banks except by mutual agreement, and to that end the plans for such works shall be communicated to the other Government concerned. The communication of such plans shall be the responsibility in Bavaria of the district governments and in Austria of the district presidents or district governments or, where these do not exist, of the governor's office.

Consent to the proposed works shall be deemed to have been granted if no reply has been received within a period of six weeks from the date on which the relevant plans were submitted. The agreements and usages relating to joint works or the sharing of the cost of works on individual rivers or sections of rivers shall remain in force.

. . .

134. AGREEMENT³ BETWEEN AUSTRIA AND BAVARIA CONCERNING THE REGULATION AND MANAGEMENT OF THE INN RIVER FROM ITS JUNCTION WITH THE SALZACH AT ROTHENBUCH TO THE POINT WHERE IT DISCHARGES INTO THE DANUBE AT PASSAU, OF 19 AND 31 AUGUST 1858⁴

¹ The exchange of the instruments of ratification took place on 14 May 1852. Accession of Württemberg on 5 June 1855 by Protocol.

² Edmund Hartig, *Internationale Wasserwirtschaft und internationales Recht*, 1955, Annex II, p. 46. (Translated from German by the Secretariat of the United Nations.)

³ Came into force on 1 January 1859.

⁴ Edmund Hartig, *Internationale Wasserwirtschaft und internationales Recht*, 1955, Annex 5, p. 51. (Translated from German by the Secretariat of the United Nations.)

The following Agreement has been reached between the Royal Government of Bavaria and the Imperial Government of Austria for the purpose of establishing a joint works-régime to be observed on the Inn river from its junction with the Salzach at Rothenbuch to the point where it discharges into the Danube at Passau:

ARTICLE 7. With respect to the works régime, the two riparian States have agreed on the following principles:

1. No works on the bank or in the stream may be carried out except with due regard for the correction plan referred to and by agreement between the two States, and for this purpose the plans for such works shall be communicated to the other Government concerned.

The communication of these plans shall be the responsibility, on the Bavarian side, of the competent district governments, and, on the Austrian side, of the Governor's office (*Statthaltereii*) at Linz. Agreement to the proposed works shall be deemed to have been granted if no reply has been received within a period of six weeks from the date of submission of the relevant plans.

2. Until such time as the new bed set out in the river map has been established, these works shall in all cases be carried out not only to provide the desired public protection but also, wherever possible, to assist in the approved rectification of the river's course. To this end, it is expressly provided that the original direction of any works leading from the present bank to the rectified line and constructed in order to shift the stream shall be altered, and that the works must be given a direction parallel to the desired regulated track as soon as they reach the right or left rectified line.

Works pointing downstream and intended to shift the river's course shall so far as possible be avoided in the main channel.

3. As soon as the river has settled into the designated new bed, the new bank-lines, together with their future works, as marked on the map shall never be exceeded, and thus in no case shall any further works be constructed which will drive the stream from one side to the other of its new bed and inevitably give rise to further disturbances.

4. The shifting of the river as soon as possible into the course indicated on the map shall be promoted with all care and diligence, and to that end the planting of the old abandoned channel and the sandbanks shall be vigorously promoted.

5. Under this arrangement, a water breadth at full stream (ten feet above zero on the Simbacher water-gauge) of 100 Austrian (Vienna) *Klafter* or 650 Bavarian feet shall be observed.

ARTICLE 8. In order, however, to ensure that in future this works régime is not unilaterally abandoned or arbitrarily altered and, in particular, that no works are constructed without the consent of both Parties, the engineering authorities of the two riparian States shall each year, after the end of the summer spates, jointly tour the river, come to an agreement on the establishment or maintenance of the designated rectified lines, and then draw up a joint protocol, which shall be submitted to the competent higher authorities, listing the works to be undertaken in the coming year.

Any works already constructed but constituting an obvious hindrance to carrying out the rectification system shall at the request of one Party be altered or removed by the other Party.

In addition to the respective local engineering authorities, the chief technical authorities of the two States shall be consulted regarding the absolute necessity of altering or removing any works already in existence.

In these cases also, any action taken as between the two States shall be governed by the provisions of article 7 (1) and the procedure therein prescribed.

ARTICLE 9. If, in the course of the year, large and dangerous breaks in the banks occur as a result of high water or other natural phenomena or for any other reason, the threatened Party shall in every case be free to repair the same by constructing works to protect the banks. If, however, the protective works approach the rectified line, they may consist only of works paralleling the said line as closely as possible, and the engineering authorities of the other riparian State shall be informed of these works in time to enable them to satisfy themselves, before construction is begun, that the works will not be detrimental to the common objective.

ARTICLE 10. Although cuts should not as a rule be carried out, the following provisions shall be complied with in the event that either State should find it necessary to make them:

1. Neither riparian State shall undertake cuts without the agreement of the other State (article 7 (1)).

2. The width of the canals shall be appropriate to the nature of the materials and to the locality.

ARTICLE 11. Wherever the stream can be laid in or even brought closer to the rectified line by the widening of an existing channel or the clearing of a sand gravel bank, either Party shall at any time be free to carry out such work, on condition that the cut falls in the direction of the designated new channel or approaches the rectified line in a parallel direction, that the discharge of the new canal does not hinder the further progress of the rectification work and that the engineering authorities of the other Party are notified of the work three weeks in advance.

ARTICLE 12. Either Party shall be entirely free to reopen a previous cut which has shifted or silted up if the work in question can be regarded as a continuation of the previous system and if the direction of the reopened cut coincides with or approaches the direction of the proposed new channel.

ARTICLE 13. The costs of carrying out cuts shall be borne by the riparian State which undertakes such work for its own protection and in order to carry out the rectification. If a cut is carried out in the territory of the other State, the required cessions of land shall be subject to the expropriation laws of that State.

ARTICLE 14. As the establishment of the new river-bed necessitates special precautions to prevent the waters from dividing into several channels, either Party may at its discretion and at any time block off any branches

or channels which now or may in future lie outside the rectified line of the river; provided that the blocking works shall not exceed the normal height of the banks and that on both sides arms and depressions lying between the present *thalweg* and the rectified line must be kept open.

ARTICLE 15. High-water embankments may come no closer to the rectified lines than 300 Austrian feet or 325 Bavarian feet. On sections where the high banks on the right or left side are less than that distance from the rectified line, the necessary high-water breadth or flood space must be given up on the opposite side to the extent that local conditions permit.

ARTICLE 16. Material needed as ballast for works may be taken by either Party from areas lying beyond the existing main channel up to the middle of the approved normal bed, subject to the prior consent of the engineering authorities of the other side, which consent shall not, however, be denied without compelling reasons that must be specified in the reply.

ARTICLE 17. Both riparian States undertake to ensure the strict enforcement of the regulation in force under which no person may install or carry out works on the Inn river without the knowledge and consent of the competent authorities, and of such other river regulations and provisions to facilitate navigation as are likewise in force.

. . .

ARTICLE 25. The agreement between the two States embodied in the foregoing articles shall in no way alter the rights and obligations deriving from the private ownership of adjacent property in so far as the exercise of such property or other private rights is consistent with the purpose of this Agreement, but where such is not the case, the said rights shall, to the extent required by the public interest, be restricted in conformity with the general principles of law.

. . .

ARTICLE 27. If, by virtue of the agreement that has been reached, one State wishes to carry out work in the territory of the other State, such work may, to the extent that private-law relationships are not involved, in no circumstances be hindered by the judicial, administrative or police authorities if it has received such authorization from the engineering authorities of the other State as must be granted under articles 10, 11 and 12.

The engineering authorities or construction contractors shall likewise be free, in the construction area, to transport workers across the river to the construction site, without prejudice to the provisions of the existing customs legislation or private law.

ARTICLE 28. The order in which the contemplated works are to be carried out shall be left to the discretion of each of the riparian States and shall be based on the degree of urgency of such works, but the two States shall come to an understanding with each other on all points in order through concerted action to secure various advantages, and in particular a reduction of costs.

. . .

ARTICLE 29. The manner of construction and choice of materials shall likewise be left to the discretion of each State, which may decide on the basis of its own interests whether to employ fascine or quarry stone.

In witness whereof this Ministerial declaration is hereby drawn up by the undersigned State Ministry for the Royal Household and Foreign Affairs, it being specified that its provisions shall enter into force on 1 January 1859 after it has been exchanged with an identical declaration drawn up by the Government of the Austrian Empire.

135. TREATY¹ BETWEEN AUSTRIA AND BAVARIA CONCERNING THE RÉGIME OF THE FRONTIER LINE² AND OTHER TERRITORIAL RELATIONS BETWEEN BOHEMIA AND BAVARIA OF 24 JUNE 1862³

ARTICLE 58. As the territorial frontier frequently follows the course of brooks in such a manner that the middle thereof forms the frontier, and these brooks serve to supply waterworks and water for land irrigation, while such diversion of the water often leaves the frontier brooks entirely dry and undistinguishable, now therefore, in order to remedy such inconveniences, the following provisions were agreed to in a Commission protocol of 26 July 1842, which has been approved by both the Supreme Courts: .

1. Such conduits or watercourses out of frontier brooks as were already laid down in the year 1842 shall continue on both sides, provided that they do not leave the frontier brook dry.

2. In the future, however, new watercourses out of frontier brooks shall be made only with the approval of both sides.

3. All watercourses out of frontier brooks shall be inspected by two experts on behalf of the two Parties, and wherever water is drawn off a sluice shall be fixed at the expense of the person using the water so diverted, and upon the said sluice shall be branded with a marking iron the lowest position allowed for the fall board, so that the bed of the brook may always be covered with water.

4. The person using the water which is drawn off shall maintain the sluice and give due attention to the branded height of the fall board.

5. No new conduit or watercourse may be constructed without permission.

6. Any person who alters the channel of a frontier brook by putting in stones or wood, building a weir or by any other means, in order to draw water off more easily, shall be liable to an appropriate punishment.

7. Any person who is allowed to draw water from a frontier brook shall be required to keep the channel of the brook clear at the place where

¹ The exchange of the instruments of ratification took place at Vienna on 30 July 1862.

² Reproduced in view of the similar treatment given to the *Mühlviertel*.

³ Edmund Hartig, *Internationale Wasserwirtschaft und internationales Recht*, 1955, Annex 6, p. 57. (Translated from German by the Secretariat of the United Nations.)

the outlet sluice is located for at least three inches below the brand mark of the lowest position for the fall board.

8. These regulations and prohibitions shall be promulgated in all the frontier communes in the spring of every year.

9. All existing conduits or watercourses out of frontier brooks shall remain subject to any claims arising out of treaties and State timber-floating regulations.

10. The frontier brooks shall be cleared out and adequately deepened every six years.

11. Infringements of these provisions shall be punished in conformity with the present laws and regulations of the two States (in Bavaria, according to the Act of 28 May 1852 on the appropriation of water). Permission to lay down conduits or watercourses in the case of frontier brooks of which the left or right banks forms the frontier, so that the whole channel is under the sovereignty of one of the frontier States alone, shall be granted by the State to whose territory the channel of the brook belongs. All the regulations of the Agreement of 26 July 1842 enumerated above shall be equally applicable to the said brooks, excepting that contained in No. 2.

Austria-Germany (Federal Republic of)

136. AGREEMENT¹ BETWEEN THE AUSTRIAN FEDERAL GOVERNMENT AND THE BAVARIAN STATE GOVERNMENT CONCERNING THE DIVERSION OF WATER IN THE RISSBACH, DURRACH AND WALCHEN DISTRICTS, REACHED ON 29 JUNE 1948 AND CONCLUDED ON 16 OCTOBER 1950²

1. Austria agrees to waive without compensation the right to lead off any waters of the Rissbach and its tributaries.

2. Bavaria agrees to the leading-off without compensation of:

(a) The Dürrach in Austria with a drainage area of fifty-five square kilometres;

(b) The Kesselbach with a drainage area of eight square kilometres;

(c) The Blaserbach with a drainage area of four square kilometres;

(d) The Dollmannbach with a drainage area of six square kilometres, on the condition that Austria shall allow all the water of the streams named under (a) to (d) to flow into the Isar for a period of not less than fifty days in the months of October to March, inclusive, and of not less than twenty-five days in the months of August and September at the request of, and for the length of time desired by, Bavaria in order to ensure the maintenance of a sufficient volume of water in the Isar bed.

¹ Came into force on 1 May 1951.

² Edmund Hartig, *Internationale Wasserwirtschaft und internationales Recht*, 1955, Annex 8, p. 64. (Translated from German by the Secretariat of the United Nations.)

3. Austria's obligation under paragraph 2 shall continue until provision, if any, is made through storage basins to ensure the maintenance of a sufficient volume of water in the upper Isar. If such storage basins are constructed, Austria shall, on conditions to be agreed on in greater detail, permit a partial backing-up of the dam, and the consequences thereof, on Austrian territory.

4. Notwithstanding the provisions of this Agreement, Austria and Bavaria maintain their respective positions regarding the legal principles governing international waters.

5. The date on which this Agreement enters into force shall be fixed by an exchange of notes between the two Governments.

137. AGREEMENT¹ BETWEEN THE FEDERAL GOVERNMENT OF THE REPUBLIC OF AUSTRIA AND THE FREE STATE OF BAVARIA CONCERNING THE OSTERREICHISCH-BAYERISCHE KRAFTWERKE AG (AUSTRIAN BAVARIAN HYDRO-ELECTRIC COMPANY) CONCLUDED ON 16 OCTOBER 1950²

An Austrian group and a Bavarian group shall establish a Company for the joint development and utilization of water power on the frontier rivers between Austria and Bavaria, in particular the Inn and the Salzach, but with the exception of the Danube. The Republic of Austria undertakes to ensure the observance of the provisions agreed upon below concerning the establishment and organization of the Company. The Free State of Bavaria assumes the same obligations as the Republic of Austria.

I. ORGANIZATION OF THE COMPANY

ARTICLE 1. (1) The Company shall be established as a joint-stock company within the meaning of the German Joint-Stock Company Act of 30 January 1937 (RGBl. I, p. 107), as amended, on the basis of the annexed articles of association.

[One or more lines have been misplaced or omitted here in the German text]

ARTICLE 2. (1) The shareholders of the Company shall be apportioned between an Austrian group and a Bavarian group, each of which shall contribute half of the share capital.

(2) Only the following may be shareholders:

(a) On the Austrian side: the Republic of Austria, the Federal *Länder*, the *Verbundgesellschaft* (Consolidated Network Company) — (article 5 of the Second Nationalization Act), special companies (article 4 of the Second Nationalization Act) and *Land* companies (article 3 of the Second Nationalization Act).

(b) On the Bavarian side: the Free State of Bavaria, power-supply undertakings in which the Free State of Bavaria holds a direct or indirect majority

¹ Came into force on 17 May 1951.

² Edmund Hartig, *Internationale Wasserwirtschaft und internationales Recht*, 1955, Annex 7, p. 58. (Translated from German by the Secretariat of the United Nations.)

interest and the Innwerk A. G., a holding company established by the Free State of Bavaria for the purpose of participating in commercial undertakings.

ARTICLE 3. The first shareholders and the extent of their participation shall be determined, from among the persons listed in article 2, paragraph (2), by the Austrian Federal Government in the case of the Austrian group, and by the Bavarian State Government in the case of the Bavarian group.

ARTICLE 4. Each Contracting Party shall endeavour to ensure that the members of its group of shareholders shall at the general meeting grant the consent required under article 6, paragraph (2), of the articles of association for the transfer of shares of a member of the other group as constituted under article 2, paragraph (2), of this Agreement if the other Contracting Party so requests.

ARTICLE 5. The board of management shall be made up of an equal number of representatives from the Austrian and the Bavarian side. If the groups of shareholders are unable to agree on the appointment of a member of the board of management, the group of shareholders whose representative has been rejected shall nominate another person. If a group of shareholders rejects both nominees or the board of directors revokes the appointment of members of the board of management, compelling reasons for the action taken must be given. In case of dispute as to whether the reasons thus given are compelling a decision shall be made in accordance with article 26.

ARTICLE 6. (1) The board of directors shall consist of eight or, at the request of one of the two groups of shareholders, of twelve members, half of whom shall be nominated by one of the said groups and half by the other group, the nominees of each group requiring the assenting votes of the other group in the election held at the general meeting.

(2) Committees of the board of directors shall be established in accordance with the same principles.

(3) If a member of the board of directors withdraws and the agreed number of members is not reduced by agreement so as to restore parity, another member shall forthwith be elected.

(4) In addition, a representative of the Austrian and of the Bavarian employees shall belong to the board of directors.

ARTICLE 7. The groups of shareholders shall appoint the chairman of the board of directors in annual rotation. The vice-chairman shall be elected from among the representatives of the other group of shareholders.

ARTICLE 8. The rules of procedure of the board of directors shall include the following provision:

The board of directors shall have a quorum if at least three representatives of each group of shareholders are present or represented (article 15 of the articles of association). The quorum shall be increased to four if the board of directors consists of ten or more members as provided in article 6, paragraph (1).

ARTICLE 9. (1) The provisions of article 23 of the articles of association shall apply, *mutatis mutandis*, to the internal auditors and the special auditors.

(2) The auditors appointed by the Austrian Audit Office shall have the same authority with respect to the Company as the annual, internal and special auditors.

(3) In addition, at the request of the Austrian Audit Office, orders shall be given, by virtue of article 23, paragraph (2), of the articles of association, by agreement between the Bavarian State Ministry of Finance and the Austrian Audit Office.

ARTICLE 10. If the majority required in the board of directors or the general meeting for the adoption of a decision on an important company matter is not obtained, the two States shall endeavour to arrange a settlement by negotiation.

If such endeavour is unsuccessful, the Governments shall call upon an internationally recognized expert to act as mediator.

ARTICLE 11. Either Contracting Party may ask that the Company be dissolved if essential provisions of this Agreement have been seriously infringed by the other Contracting Party or if dissolution is advisable for other compelling reasons. In such a case, each Contracting Party shall instruct its group of shareholders to vote in the general meeting for the dissolution of the Company. If the two Contracting Parties are not in agreement regarding the existence of conditions justifying dissolution, the matter shall, notwithstanding the provisions of article 10, be settled by the arbitration procedure laid down in article 26.

ARTICLE 12. (1) In the event of the Company being liquidated, the interests of both Parties shall be protected, and particular attention shall be given, in transferring the Company's installations, to ensuring the unimpaired continuance of operations.

(2) If unanimity (article 20, paragraph (2), of the article of association) is not achieved, a final decision on the form of liquidation called for under paragraph 1 shall, notwithstanding the provisions of article 10, be reached through the arbitration procedure laid down in article 26. The shareholders shall be required to vote in conformity with this decision.

ARTICLE 13. (1) As soon as ownership of the Ering and Obernberg works can be transferred to the Austrian-Bavarian Hydroelectric Company, the said works shall be transferred in their entirety in accordance with an arrangement to be further agreed upon and on conditions appropriate at the time of transfer; in this connexion payments to third parties entitled to compensation as a result of the construction of these works shall be taken into account in fixing the value of the works. If agreement is not reached within six months from the time referred to in the first sentence of this article, the matter shall, upon request, be decided by the board of arbitration provided for in article 26.

(2) Pending the transfer of ownership, the Ering and Obernberg works shall be administered and utilized by the Company in their entirety in accordance with a separate agreement which shall take effect upon the entry into force of the present Agreement.

ARTICLE 14. The Bavarian group of shareholders shall make available to the Austrian group of shareholders a loan of DM 250,000 for the payment

of the latter group's part of the share capital. No interest shall be charged. The loan shall be amortized through an internal clearing account.

ARTICLE 15. (1) The long-term ratio of internal to external financing shall be 1 : 2.

(2) The company shall at the outset be financed through loans to cover capital expenditure made to the Company by the two sides in amounts as nearly equal as possible. The loans shall be converted into capital stock at appropriate times and in appropriate amounts as the interests of the Company require. The conversion of the schilling debt into capital stock shall be based on the cost value and production value, in the German currency valid at the headquarters of the Company, of the assets attributable to the corresponding loan extended by the Austrian side. If no agreement is reached on the conversion rate to be established in this manner, the final decision shall, notwithstanding the provisions of article 10, be made in accordance with the arbitration procedure laid down in article 26.

(3) New external financing shall be taken up by the Company from both sides in, so far as possible, equal proportions, subject always to the condition that the interests of the Company shall be decisive.

ARTICLE 16. (1) Each group of shareholders shall be entitled to the delivery of half the amount of generable power and shall be required to pay half of the costs of production plus an appropriate rate of interest on the capital resources. Each shareholder shall make payment in the currency of its State to the branch situated in its State.

(2) The individual shareholder of each group shall, in accordance with a distribution schedule agreed upon among themselves, be entitled to a portion of that half of the generable power allotted to that group.

(3) The shareholders, by a majority representing at least three-quarters of the capital stock, may lay down procedures for the determination of production costs and may suspend the payment of interest on the capital resources.

(4) Where it appears from the annual statement of accounts that the Company has been taxed differently for the same tax period by the two States, the payment to be made by the shareholders of each group shall be determined by deducting the relevant taxes and public charges from the total production costs and adding half the remaining production costs to the amount levied by each State. In so doing, schilling amounts shall be converted into the currency valid at the Company's headquarters on the basis of the exchange rate for United States dollars so long as no direct rate of exchange between the two currencies exists.

(5) The procedure laid down in paragraph 4 shall also apply where claims by the Company against one or more shareholders of a group become irrecoverable.

(6) Wherever the laws of one State prevent the foregoing provisions from being carried out, the Company shall effect the necessary equalization by reducing the payments to be made by the shareholders of the other group.

(7) If the delivery of power to a shareholder is terminated by the Company because of non-fulfilment by the shareholder of its obligations under the agreement for the delivery of current, and if the power made

available is not taken up by a shareholder of the same group, the Company shall offer the power to the shareholders of the other group and shall credit the proceeds against the remaining obligation for the payment of production costs incumbent upon the group not taking up the power.

ARTICLE 17. Each State shall ensure that, in its territory, the Company is provided with adequate transmission facilities at the usual rates for the transmission of the power quota to which the group of shareholders of the other State is entitled and that the agreements necessary for this purpose are concluded.

ARTICLE 18. In the construction of the power-dams along the frontier sections, the power-plants and their transformer stations shall, so far as is technically and economically feasible, be so laid out that on completion of the system they are distributed equally between the two sides.

II. ADMINISTRATIVE PROVISIONS

ARTICLE 19. (1) The Company shall be taxed in accordance with the legislation of each State, on the basis of the following provisions.

(2) For the purposes of taxation, the Company's assets (trading capital) shall be considered to be divided equally between the two States.

(3) For the purposes of taxation in each State, income shall be considered to comprise the Company's total income minus the income falling to the other State. In this regard the income falling to the other State shall be deemed to consist of half the Company's total income. However, compensatory surcharges imposed by virtue of article 16, paragraph (4), for the equalization of higher taxation in one State shall be regarded as income in that State alone, and the additional tax liability so equalized shall be regarded as an operating expense in that State alone.

(4) For the purposes of turnover taxes, deliveries of electricity shall be deemed to have taken place in the State in which the power is consumed.

(5) No company tax and no purchase tax, including surtaxes, shall be levied on property acquired for the establishment of the Company. In addition, each of the two States shall grant the Company the most favourable tax treatment possible under its legislation.

(6) If taxes, for example, a capital levy, are assessed against the Company through special legislation in either of the two States, steps shall be taken to grant the necessary equalization to the other side.

(7) Goods imported and exported for the use or consumption of the Company shall, in so far as traffic between the two States is concerned and by further agreement between the said States, be exempted from customs duties and other customs charges.

(8) The two States shall grant each other legal assistance in the determination and assessment of taxes, and each State shall allow tax audits of the Company to be carried out in its territory by the other State.

ARTICLE 20. (1) The two States shall, so far as possible and having regard to the provisions of this Agreement in individual cases, grant the exchange control permits necessary for the achievement of the Company's

purposes. This shall apply in particular to the exchange control treatment of persons frequently crossing the frontier.

(2) If shares or interim certificates are issued by the Company, steps shall be taken to make possible the transfer to Austria of the relevant documents belonging to the Austrian group.

ARTICLE 21. The two States shall so far as possible grant the necessary residence, employment, entry and exit and other similar permits to all persons who at any time are needed for the construction of the power-plants and the operation of the undertaking.

ARTICLE 22. So far as the interests of the Company permit, the interests of the two States shall be taken into account as equally as possible in the hiring of employees, the letting of contracts and similar matters.

ARTICLE 23. Hunting and fishing rights shall be governed by the legislation applicable in each of the two States.

ARTICLE 24. This Agreement shall be without prejudice to the agreements reached concerning the course of the State frontier.

ARTICLE 25. (1) The two States shall grant the Company such water rights and water right permits as in pursuance of the relevant proceedings are found necessary for the construction of its installations on the frontier waters to which this Agreement refers, and they undertake not to grant to third parties, except by mutual agreement, water rights or water-right permits relating to these frontier waters that would be disadvantageous to the Company.

(2) Proceedings relating to water rights shall be governed by the legislation in force in each of the two States.

(3) All proceedings relating to water rights shall be conducted by each of the two States independently, but in consultation with the other State.

(4) The water-right permits granted by the two Parties shall be as equal in scope as possible, be non-conflicting and, if possible, be issued simultaneously; and in particular, neither Party may claim reversionary rights, water taxes or water-use charges. If differences of interpretation arise in discretionary matters, a solution shall be sought in accordance with the provisions of article 10. If differences of legislation in the two States make unequal taxation of the Company unavoidable, the provisions of article 16, paragraph (4), shall be applied so far as possible.

(5) The provisions of paragraphs (1) to (4) shall apply, *mutatis mutandis*, to all other administrative proceedings relating to the construction, maintenance and operation of the installations.

III. FINAL PROVISIONS

ARTICLE 26. In all matters which under this Agreement are made subject to arbitration (articles 5, 11, 12(2), 13(1), 15(2)), the final decisions shall be given by a board of arbitration. The said board shall also decide whether the matter at issue is among the questions which it is competent to decide. Further details shall be set out in a separate arbitration agreement.

ARTICLE 27. Save where questions falling within the competence of the board of arbitration established under article 26 of this Agreement are concerned, all differences of opinion between the two Contracting Parties arising out of this Agreement, including the questions whether a difference of opinion is to be regarded as falling under the provisions of this Agreement, shall be submitted to an arbitral tribunal. A separate agreement shall be drawn up concerning the arbitral tribunal.

ARTICLE 28. Where this Agreement entails rights and obligations which cannot by their nature be directly exercised or fulfilled by the two States, the two States shall take steps to ensure that the said rights and obligations can be directly exercised or fulfilled by the person or body concerned.

ARTICLE 29. If, as a result of legislative action by either of the two States, changes in the agreed arrangements should become necessary in order to protect the interests of the two Sides as established in those arrangements, such changes shall be agreed on immediately in a spirit of trust and co-operation.

. . .

138. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC OF AUSTRIA AND THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY AND OF THE FREE STATE OF BAVARIA CONCERNING THE DONAUKRAFTWERK-JOCHENSTEIN-AKTIENGESELLSCHAFT (DANUBE POWER-PLANT AND JOCHENSTEIN JOINT-STOCK COMPANY) CONCLUDED ON 13 FEBRUARY 1952²

The Government of the Republic of Austria and the Governments of the Federal Republic of Germany and of the Free State of Bavaria, desiring to promote the joint development and utilization of water power on the frontier section of the Danube, have agreed as follows:

ARTICLE 1. The *Rhein-Main-Donau-Aktiengesellschaft* (Rhine, Main and Danube Joint-Stock Company) of Munich, as an undertaking of the Federal Republic of Germany and of the Free State of Bavaria, and the *Österreichische Elektrizitätswirtschafts-Aktiengesellschaft (Verbundgesellschaft)* (Austrian Electric Power Joint-Stock Company (Consolidated Network Company)) of Vienna, as fiduciary for the Republic of Austria, shall establish, as principal shareholders, the *Donaukraftwerk-Jochenstein-Aktiengesellschaft* (Danube Power-Plant and Jochenstein Joint-Stock Company). This company shall construct a dam on the Danube at Jochenstein and utilize it as efficiently as possible for the production of power. In so doing it shall at its own cost and in good time take every precaution to avoid any material obstruction of navigation.

¹ Came into force on 13 February 1952.

² Edmund Hartig, *Internationale Wasserwirtschaft und internationales Recht*, 1955, Annex 9, p. 65. (Translated from German by the Secretariat.)

SECTION I

Construction and operation of the dam

ARTICLE 2. (1) The Jochenstein dam shall consist of:

(a) As a power-plant installation, a river power-plant together with a weir, drainage facilities and the other power-plant facilities auxiliary thereto;

(b) As a navigation installation, two sluices having a minimum breadth of twenty-four metres each, shore works and the other facilities necessary thereto.

(2) Beyond the common-frontier section of the Danube, the area of the dam shall include:

(a) On the German side, above the Kräutelsstein bridge, the section of the Danube as far as the Kachlet power-plant, with a total height of fall at mean water of about 2.0 metres, and the corresponding section of the Inn, with the result that the backflow of the dam at mean water ends at the Kachlet plant;

(b) On the Austrian side, below the mouth of the Dandelbach, a section of the Danube long enough to ensure an auxiliary height of fall of 1.20 metres at mean water on the sinking of the tail water at the power-plant.

(3) The Danube Power-Plant and Jochenstein Joint-Stock Company shall prepare the construction plans on the basis of the preliminary work already jointly carried out by the Rhine, Main and Danube Joint-Stock Company and the Consolidated Network Company; in the case of the plans for the navigation installation and the hydraulic works required for the power-plant installation, it shall obtain the approval of the competent Federal Ministries on both sides.

(4) The power-plant installation referred to in paragraph 1 shall also include a pump storage station connected with the river power-plant, should such a station be constructed by the Company in agreement with the competent Ministries of the two sides, the Rhine, Main and Danube Joint-Stock Company and the Consolidated Network Company.

(5) If the pump storage station referred to in paragraph 4 is not constructed, the Rhine, Main and Danube Joint-Stock Company or the Consolidated Network Company shall be entitled to construct a pump storage station connected with the river power-plant for the purpose of increasing their shares of the power produced (see article 14). The other side shall not thereby be placed at an economic disadvantage.

ARTICLE 3. (1) The Company shall construct the power-plant installations as its own property and the navigation installation as the property of the Federal Republic of Germany or the Republic of Austria in accordance with the situation of those installations in relation to the German-Austrian frontier.

(2) The Contracting Parties shall, to the extent necessary for the construction and operation of the dam, place their property and property rights at the disposal of the Company without special compensation.

(3) The Contracting Parties shall authorize the Company to acquire, on behalf of the Federal Republic of Germany or the Republic of Austria,

property and property rights required for the construction and operation of the navigation installation, to administer the property and rights so acquired and to conduct all business relating thereto. Under the terms of this authorization, the Company shall be permitted to engage in legal transactions with itself.

(4) All other business shall be transacted by the Company on its own behalf.

(5) The entire cost of construction of the dam shall be borne by the Company.

ARTICLE 4. (1) On completion of the dam, the Federal Republic of Germany and the Republic of Austria shall assume responsibility for the operation, maintenance and replacement of those installations which belong to them (see article 3, paragraph (1)).

(2) Before the completion of construction, a set of operating instructions shall be prepared or approved:

(a) For the navigation installation by the German and Austrian Federal Ministries having jurisdiction over the operation thereof;

(b) For the weir by the Competent German and Austrian authorities on the recommendation of the Company.

(3) The Company shall bear the cost of operating and maintaining the power-plant installation and, until such time as the assumption of responsibility provided for in paragraph (1) has become effective, the cost of operating the navigation installation.

(4) As from the date on which the assumption of responsibility provided for in paragraph (1) becomes effective, the Federal Republic of Germany and the Republic of Austria shall bear the costs of those navigation installations which belong to them; provided that the Company shall each year reimburse the costs attributable to:

(a) The operation, maintenance and replacement of the sluice installations;

(b) Necessary ice-breaking services;

(c) The maintenance of the control section below the dam (see article 2, paragraph (2) (b)), to the extent that they are occasioned by the artificial deepening thereof.

SECTION II

Legal status of the Company

ARTICLE 5. (1) The Company shall be established as a joint-stock company under German law on the basis of the annexed articles of association.

(2) Amendments to the articles of association other than of a drafting nature shall require the approval of the Contracting Parties.

ARTICLE 6. (1) The voting capital stock of the Company shall be taken up in equal parts by a German and an Austrian group of shareholders.

(2) In addition to the founders, only the following may be shareholders of the Company:

(a) On the German side:

The Federal Republic of Germany, the Free State of Bavaria and the Rhine, Main and Danube Joint-Stock Company;

(b) On the Austrian side:

The Republic of Austria, Federal *Länder*, the Consolidated Network Company (see article 5 of the Second Nationalization Act, BGBI. No. 81/1947), special companies (see article 4 of the Second Nationalization Act) and *Land* companies (see article 3 of the Second Nationalization Act).

(3) The Company may issue preferred shares without voting rights to persons other than those named in paragraph (2) in accordance with the regulations governing joint-stock companies. The Contracting Parties shall ensure that the holders of preferred shares are not granted voting rights under article 116, paragraph (2), of the Joint-Stock Companies Act.

ARTICLE 7. The German and the Austrian sides shall each endeavour to ensure that the members of its group of shareholders shall at the general meeting grant the consent required under article 6, paragraph (2), of the articles of association for the transfer of shares of a member of the other group as constituted under article 6, paragraph (2), sub-paragraphs (a) and (b), of this Agreement if the other side so requests.

ARTICLE 8. The board of management and the board of directors shall be made up of an equal number of representatives of the German and the Austrian voting shareholders.

ARTICLE 9. (1) The provisions of article 23 of the articles of association shall apply, *mutatis mutandis*, to the internal auditors, the special auditors and the annual auditors.

(2) The auditors appointed by the Austrian Audit Office shall have the same authority with respect to the Company as the annual, internal and special auditors.

(3) In addition, at the request of the Austrian Audit Office, orders shall be given, by virtue of article 23, paragraph (2) of the articles of association, by agreement between the German Federal Minister of Transport, the Bavarian State Ministry of Finance and the Austrian Audit Office.

ARTICLE 10. (1) Either the German or the Austrian side may ask that the Company be dissolved if essential provisions of this Agreement have been seriously infringed by the other side or if dissolution is advisable for other compelling reasons.

(2) In such a case, the Contracting Parties shall jointly consider whether the purpose of the Agreement can be achieved by amending or supplementing the existing provisions thereof.

(3) If the Company is dissolved, an agreement, in which the interests of the Contracting Parties and the shareholders are taken into account, shall be reached concerning the continued operation of the undertaking as a whole.

ARTICLE 11. If the majority required in the board of directors or the general meeting for the adoption of a decision on an important company matter is not obtained, the Contracting Parties shall arrange a settlement.

ARTICLE 12. (1) The long-term ratio of the Company's internal financing to its external financing shall be 1 : 2.

(2) The two groups of shareholders as defined in article 6, paragraph (2), sub-paragraphs (a) and (b), shall each contribute to raising half of the external financing which the Company itself is unable to raise. The obligations of the Contracting Parties shall be governed by the provisions of article 23, paragraph (2).

(3) The Contracting Parties undertake to give the Company and the two groups of shareholders all possible assistance in obtaining financing. The competent authorities of each of the Contracting Parties shall do everything possible to ensure that, where necessary, a State surety is provided for that part of the Company's external financing raised by its group of shareholders.

ARTICLE 13. The two groups of shareholders as defined in article 6, paragraph (2), sub-paragraphs (a) and (b), shall contribute equally to the fulfillment of the Company's purpose. The criteria for determining whether such contributions are to be regarded as equal shall be established by agreement between the two groups of shareholders. In establishing such criteria, account shall be taken of price and wage rates in the two States and of all other factors relevant to an evaluation of the contributions.

ARTICLE 14. (1) The Company shall supply the Rhine, Main and Danube Joint-Stock Company and the Consolidated Network Company, as consumers, each with one-half the generable power corresponding to the natural water yield at any given time less the power needed for the dam ex transformer station. If the technical facilities of the Company are unable to provide a direct equal distribution of power, the Consolidated Network Company shall ensure by power exchange that so far as possible the two consumers receive the amount of power to which they are entitled in relation to the natural water yield. Any costs occasioned in this connexion shall be determined and charged off. The Contracting Parties shall ensure that the agreements necessary for the exchange of power can be concluded and executed and that the necessary transmission installations in their territory, to the extent that such exist, are made available.

(2) If the delivery of power to one consumer is terminated by the Company because of non-fulfilment by that consumer of its obligations, the Company shall offer to the other consumer the power thus made available and shall charge off the proceeds against the obligation for the reimbursement of production costs which is still incumbent upon the consumer to which delivery has been terminated.

(3) If a group of shareholders as defined in article 6, paragraph (2), sub-paragraphs (a) and (b), raises less than 50 per cent of the required external financing, the Company shall, as a temporary departure from the provisions of paragraph (1), deliver a quantity of current corresponding to the actual share of financing that has been raised. Further details shall be set out in an agreement between the Rhine, Main and Danube Joint Stock Company and the Consolidated Network Company.

(4) The Company shall be reimbursed in advance by each consumer for the financing charges on loans credited to the share of financing raised by the relevant group of shareholders (see article 12, paragraph (2)) and

for the taxes and charges levied in the territory of the relevant consumer's State; in addition, the company shall receive from each consumer 50 per cent of its other production costs, including an appropriate rate of interest on its capital resources. The crediting of the aforementioned loans shall be decided upon by the board of directors at the time when the loan is approved.

(5) As a general principle, each consumer shall make payment in the currency of its State to the branch of the Company in its State. So far as possible, the Company shall allocate its production costs in such a way that they are payable half in German marks and half in Austrian schillings.

(6) The voting shareholders, by a majority representing at least three quarters of the voting capital stock, outside the general meeting, lay down procedures for the determination of production costs and may suspend the payment of interest on the Company's capital resources.

SECTION III

Administrative provisions

ARTICLE 15. The administrative authorities shall apply the laws in force on the German and on the Austrian side in the manner most conducive to the accomplishment of the Company's tasks.

ARTICLE 16. (1) The Contracting Parties shall, to the extent of their jurisdiction, ensure that the water rights and water-right permits which, on the basis of the construction plans (see article 2, paragraph (3)) and in pursuance of the relevant water-rights proceedings of the two sides, are found to be necessary for the construction and operation of the Jochenstein dam are granted or, where they have expired, are, upon request, renewed. They shall not grant to third parties, except by mutual agreement, water rights or water-right permits relating to the area of the Jochenstein dam or the area below it which would be disadvantageous to the dam.

(2) The water-rights proceedings shall be carried out on the German and on the Austrian side independently in accordance with the legislation in force, but on a basis of mutual consultation and, so far as possible, mutual support.

(3) The Water-right permits granted by the two sides shall be as equal in scope as possible, be non-conflicting and, if possible, be issued simultaneously; in particular, neither side may claim reversionary rights, water taxes or water-use charges. Claims by the Rhine, Main and Danube Joint-Stock Company for compensation on account of the blocking of the Danube power-plant at Kachlet (see article 2, paragraph (2), sub-paragraph (a)), shall be settled in accordance with the water-rights procedure.

(4) The Contracting Parties shall proceed as provided in paragraphs (1) to (3) if one of the shareholders as defined in article 6, paragraph (2), sub-paragraph (a) or (b), constructs a pump storage station in pursuance of article 5.

(5) The provisions of paragraphs (1) to (4) shall apply, *mutatis mutandis*, to all other administrative proceedings relating to the construction, maintenance and operation of the Jochenstein dam, in particular proceedings relating to navigation rights.

ARTICLE 17. (1) The Company shall be taxed in accordance with the legislation of each State, on the basis of the following provisions.

(2) For the purposes of taxation, the Company's assets and trading capital shall be considered to be divided equally between Germany and Austria.

(3) For the purposes of taxation on each side, income shall be considered to comprise the Company's total income minus the income falling to the other side. Half of the income shall fall to the German and half to the Austrian side. However, any excess in the payments made by the consumer of one side in pursuance of article 14 shall be regarded as income only in that consumer's State, and the additional tax liability so equalized shall be regarded as an operating expense only in that State.

(4) For the purposes of turnover taxes, the production and delivery of electricity shall be deemed to have taken place in the State in which the power is consumed.

(5) No company tax and no purchase tax, including surtaxes, shall be levied on property acquired for the construction of the Jochenstein dam. In addition, each of the two sides shall grant the Company the tax allowances permissible under its legislation.

(6) The Contracting Parties shall, in accordance with the legislation in force on the two sides, impose no import or export duties on goods to be used for the construction, operation, maintenance or replacement of the dam. The Contracting Parties shall ensure that any necessary import or export licences are issued. The customs authorities of the two sides shall take the necessary control measures in consultation with each other.

(7) The Contracting Parties shall assist each other in the determination and assessment of taxes and shall allow the other side to carry out tax audits in their territory.

ARTICLE 18. (1) The Contracting Parties shall endeavour to make available as soon as possible the exchange-control permits necessary for giving effect to this agreement.

(2) With a view to the fulfilment by the Company of its purposes and the transfer of any profits, exchange-control restrictions shall be relaxed by the German and the Austrian side wherever possible. This shall also apply to the exchange-control treatment of persons frequently crossing the frontier.

(3) If shares or interim certificates are issued by the Company, steps shall be taken to make possible the transfer to Austria of the relevant documents belonging to the Austrian group.

ARTICLE 19. Wherever possible, the necessary residence, employment, entry and exit and other similar permits shall be granted, on the German and the Austrian side, to all persons needed for work in connexion with the construction and operation of the Jochenstein dam.

ARTICLE 20. So far as the interests of the Company and the provision of financing permit, the German and the Austrian side shall be given equal consideration in the letting of contracts and similar matters. As a matter of general principle, the German and the Austrian side shall share equally in the hiring of employees by the Company. The Company shall transmit the necessary information to the labour authorities of the two sides.

ARTICLE 21. Hunting and fishing rights shall be governed by the legislation applicable in each of the States concerned.

ARTICLE 22. This Agreement shall be without prejudice to the agreements reached concerning the course of the State frontier.

SECTION IV

Final provisions

ARTICLE 23. (1) The Contracting Parties shall take steps for the immediate establishment of the new Company and, to the extent of their jurisdiction, shall further the activities of the Company in every possible and permissible way.

(2) Where the Agreement entails rights and obligations which the Contracting Parties cannot directly exercise or fulfil, they shall take steps to ensure that the rights are exercised and the obligations fulfilled by the other parties concerned to the extent of their powers with respect to such parties.

ARTICLE 24. If, for compelling reasons, and in particular as a result of legislative action by either of the States concerned, it should become necessary to modify or supplement the arrangements provided for in this Agreement in order to protect the interests of the States concerned as established in those arrangements, such modifications or additions shall be agreed on immediately in a spirit of trust and co-operation.

ARTICLE 25. (1) If a difference of opinion arises between the German and the Austrian side concerning the interpretation or application of this Agreement, the matter shall, at the request of either side, be settled through arbitration by an arbitral tribunal.

(2) The arbitral tribunal shall also, at the request of either side, make arrangements for the continued operation of the undertaking as a whole which take into account the interests of the Contracting Parties and the shareholders, if an agreement on the matter as provided in article 10, paragraph (3), is not reached within a period of six months from the time the Company is dissolved.

(3) The arbitral tribunal shall for each dispute be constituted through the appointment by each side of two qualified persons from among its nationals as arbitrators and the selection by both sides of a national of a friendly third State as umpire. Both sides reserve the right to agree in advance and for a specified period of time on the person to be appointed umpire in a given case.

(4) If the umpire is not selected or the arbitrators appointed within three months after the difference of opinion has been made known, the President of the International Court of Justice at The Hague shall, in the absence of other agreed arrangements, be requested to make the necessary appointments.

(5) The umpire shall be the chairman of the arbitral tribunal. The arbitral tribunal shall reach a decision by majority vote. The decision shall be binding.

(6) In the first dispute, the arbitral tribunal shall meet in the territory of the respondent side, in the second dispute in the territory of the other side, and so on in rotation in the territory of one or the other side, and at a place fixed by the Contracting Party concerned. This Party shall provide the premises and the secretarial and other staff required by the arbitral tribunal for its work.

(7) The German and Austrian sides shall agree in individual cases or on a permanent basis on the form of proceedings to be adopted by the arbitral tribunal. In the absence of such agreement, the arbitral tribunal itself shall determine the form of its proceedings. The proceedings may be in written form if neither of the Contracting Parties objects; in such a case the provisions of the foregoing paragraph need not be applied.

(8) With respect to the summoning and hearing of witnesses and experts, the authorities of each of the Contracting Parties shall, in response to request by the arbitral tribunal to the Government concerned grant the same legal assistance as it would at the request of a domestic civil court.

ARTICLE 26. This Agreement shall not affect the laws in force in the territory of the Contracting Parties.

Austria-Italy

139. ACCORD¹ ENTRE L'ITALIE ET L'AUTRICHE CONCERNANT LES RELATIONS ÉCONOMIQUES ENTRE LES ZONES DE FRONTIÈRE DES DEUX ÉTATS, SIGNÉ À ROME, LE 28 AVRIL 1923²

ARTICLE XII. Les dispositions stipulées aux Articles IX et X sont aussi applicables aux droits de pêche, si ces droits sont justifiés par les permis de pêche délivrés et visés par l'autorité politique compétente.³

¹ Entré en vigueur le 20 juillet 1923.

² *British and Foreign State Papers*, vol. 118, p. 691.

³ *Article IX*. Les droits de chasse existant actuellement sur des terrains entrecoupés par la ligne douanière, soit que ces droits proviennent d'un contrat d'adjudication encore en vigueur, soit qu'ils se rapportent à des réserves de chasse, obtenues conformément aux lois en vigueur, seront respectés jusqu'à l'expiration des contrats ou jusqu'à ce que le droit de chasse réservée, reconnu par les lois en vigueur, subsiste. Par conséquent, pendant cette période les ayants droits à chasser, comme les propriétaires des cantons de réserve, les adjudicataires et leurs hôtes de chasse, pourront, dans ces cantons, élever, chasser, prendre et y tuer le gibier, s'en approprier et s'approprier de tout ce qu'on peut en tirer, sans égard à la frontière entre les deux États.

A cet effet il sera nécessaire que le chasseur, pour passer la frontière, soit muni non seulement des documents ordinaires (carte frontalière ou passeport) mais aussi des documents relatifs à la chasse (port d'armes ou permis de chasse) délivrés par les autorités compétentes et reconnues réciproquement.

Les gardes-chasse en service dans des cantons de chasse divisés par la ligne frontière, devront être reconnus par les autorités de l'Etat dans lequel ils exercent leurs fonctions.

Les armes pour la chasse et les munitions relatives ainsi que les autres instru-

ARTICLE XIII. Les prescriptions relatives à la destruction des animaux nuisibles à la pêche dans les zones-frontières et les modalités de cette destruction seront adoptées d'un commun accord entre les Gouvernements des deux Etats.

Dans les zones-frontières l'emploi pour la pêche de matières explosibles, caustiques, assoupissantes ou d'une manière quelconque toxiques, sera rigoureusement défendu.

Les dispositions particulières pour résoudre les questions techniques relatives à la pêche dans les zones-frontières seront adoptées d'un commun accord entre les autorités politiques de l'arrondissement ou du district de l'un et de l'autre Etat.

ARTICLE XIV. En accordant des concessions relatives à l'exploitation des eaux situées à la frontière, dont à l'Article suivant, soit pour des installations industrielles ou de production d'énergie, soit dans l'exécution de travaux de consolidation ou de défense le long des cours d'eau situés dans la zone-frontière, on devra, autant que possible, éviter de préjudicier les droits de pêche des voisins et tâcher de ne pas détruire le poisson.

ARTICLE XV. Sont considérées comme eaux de frontière les eaux qui courent le long de la frontière ainsi que celles qui la traversent, pour la partie qui sera délimitée, le cas échéant, d'un commun accord par des Commissions mixtes.

Réserve faite pour la disposition de l'alinéa suivant, aucun des deux Etats contractants ne pourra, dans les eaux susdites, supprimer ou réduire, moyennant des travaux ou utilisations, les usages existant en faveur de propriétés ou installations industrielles situées dans l'autre Etat.

Chaque fois qu'il sera nécessaire de construire des installations de forces hydrauliques dans les eaux de frontière ou de modifier, par des travaux quelconques, le régime et l'exploitation hydraulique de ces eaux, ou bien encore d'y exécuter de nouveaux travaux de protection ou de canalisation, les deux Etats devront procéder d'un commun accord, moyennant l'institution éventuelle d'une Commission mixte.

ARTICLE XVI. Le droit de l'Italie, prévu par le Traité de Saint-Germain, d'utiliser le Lac de Raibl et même d'en détourner les eaux dans le bassin de la Korinitza, ne pourra, en aucun cas, être préjudicié.

ments de chasse permis dans l'un et dans l'autre des deux Etats en quantité correspondante à l'usage qu'on doit en faire chaque fois dans les cas susdits, pourront être transportés d'un côté à l'autre de la ligne frontière, qui les divise, en franchise de tout droit de douane et sans qu'une autorisation spéciale soit requise.

Les autorités douanières et de la sûreté publique pourront donner des dispositions pour garantir le retour, dans l'Etat d'où ils proviennent des armes et autres instruments de chasse.

Article X. Les périodes de défense de chasse dans les zones-frontières dans lesquelles se trouvent des cantons de chasse dans les conditions prévues à l'Article précédent, ne peuvent être modifiées que d'un commun accord entre les deux Etats.

Austria-Liechtenstein

140. TREATY¹ BETWEEN AUSTRIA AND LIECHTENSTEIN REGARDING THE REGULATION OF THE RHINE AND TRIBUTARY WATERS, SIGNED AT VADUZ ON 23 JUNE 1931²

With the intention of continuing the regulation of the Rhine on Liechtenstein and Austrian territory up to the mouth of the Ill river in accordance with uniform points of view and of regulating the construction of the Liechtenstein inland canal and the erection of drainage works within range of the Austro-Liechtenstein boundary, the Federal President of the Republic of Austria, on the one hand, and His Serene Highness Prince Franz I of Liechtenstein, on the other, have decided to conclude an agreement

ARTICLE 1. 1. The two contracting States shall at all times act in agreement in regard to the improvement and upkeep of the weirs and banks of the Rhine from the mouth of the Ill upwards, as well as regards the determination of the elevations of the lower edges of the Rhine bridges, and for this purpose they shall communicate to each other their building and repair programmes annually for approval.

2. In case one contracting State offers no objection to the building schemes proposed by the other within a period of 3 months, its consent thereto shall be considered as having been given.

3. By means of continuous soundings, regular surveys of the high-water level, and periodical recording of the Rhine bottom levels, the necessary data for examining the levels of the water and the condition of the construction works shall be obtained.

4. The two contracting States undertake to direct their special attention to the organization and development of the service for reporting high waters and for damming the water of the Rhine.

ARTICLE 2. For the purpose of maintaining in good condition the regulated course of the Rhine and the necessary keeping of the inland canal free from impurities, the Liechtenstein Government undertake to erect dams and works, calculated to hold back boulders, in the lateral affluents of the Rhine which either indirectly or directly carry boulders to the Rhine.

ARTICLE 3. 1. The two contracting States undertake to keep in good condition at all times the weirs and banks on the Rhine in the section covered by the treaty (article 1).

2. The Liechtenstein Government undertake to arrange matters so that the maintenance in order of the dams and weirs is not left to the communes, but is effected by the State itself.

¹ The exchange of the instruments of ratification took place on 20 October 1931.

² *British and Foreign State Papers*, vol. 134, p. 581.

ARTICLE 4. 1. The projects for the construction of the Liechtenstein inland canal from Triesen downwards to its projected outlet above the Matschelser Bergle and for its possible reconstruction at a later period to include the top section from Triesen to Balzers, as well as for the regulation of the Spirsraben, require the approval of both States, whereupon they shall be binding on them.

2. Every fundamental alteration of the projects requires discussion for the purposes of securing agreement.

ARTICLE 5. As regards the construction of the Liechtenstein inland canal, the following is agreed upon:

(a) This canal shall be fed only by water which is free from boulders.

(b) The commencement of the construction of the inland canal in the middle section from the Austro-Liechtenstein weir boundary upwards to the Gamprin dam and of a provisional outlet of the canal near the Austro-Liechtenstein weir boundary is approved on the understanding that this state of affairs is temporarily limited in an appropriate manner.

(c) The construction of the portion of the canal from the Gamprin dam downwards to the Austro-Liechtenstein weir boundary with the temporary outlet into the Rhine near the above-mentioned weir boundary shall be completed by the end of the year 1935.

(d) The Gamprin dam shall be levelled and the necessary works for making the dam water-tight and for increasing its strength in the ground at both ends shall be undertaken without delay.

ARTICLE 6. After the completion of the section from the Austro-Liechtenstein weir boundary to the Gamprin dam, representatives of both States shall, when required, ascertain whether any disadvantage or damage has been caused by the altered canal works to the underlying ground, and, if so, the nature thereof. As regards the obviation of any such disadvantages the States shall by negotiation settle the question whether it is necessary to continue the canal to the Matschelser Bergle, or whether constructions on a smaller scale would prove an effective remedy.

ARTICLE 7. 1. The Principality of Liechtenstein shall bear the cost of all the canal works necessary for carrying off the Liechtenstein inland waters, including that of the preparation of the project, the proceedings pertaining to the law of waterways, the acquisition of the land, etc., and shall be responsible for the maintenance of these works.

2. The necessary funds for the construction and maintenance of the canal shall be guaranteed before the work is begun.

ARTICLE 8. The regulation of the Spirsraben without its lateral affluents must be completed by Austria at the latest by the date of the completion of the Liechtenstein inland canal in the section from the Gamprin dam to the Austro-Liechtenstein weir boundary.

ARTICLE 9. 1. As regards the project agreed upon at Bregenz in October 1929 to regulate the Spirsraben from its mouth to the Frickgraben, but without its affluents, and estimated to cost 689,000 Austrian schillings, the Principality of Liechtenstein undertakes to pay 25 per cent of the actual

cost thereof; such contribution shall, however, not exceed the sum of 150,000 Swiss francs, and shall be paid in proportion to the progress of the work.

2. The Republic of Austria shall be responsible for the balance of the expenses required for the regulation of the parts of the Spirsgraben situated on Austrian territory after Liechtenstein's contribution is deducted, and also for the maintenance of the Spirsgraben when regulated.

ARTICLE 10. The cost of the regulation and maintenance of the Frickgraben along the boundary between Austria and Liechtenstein shall be shared equally by both contracting States in accordance with a project to be agreed upon at a later date.

ARTICLE 11. The Republic of Austria guarantees in principle to contribute to the cost of the regulation of the Esche in accordance with a project to be drawn up, in common, at a later date and in proportion to the benefit resulting to Austrian territory from this regulation.

ARTICLE 12. 1. The Republic of Austria and the Principality of Liechtenstein declare their agreement to a mutual control of all works carried out on the Rhine in accordance with article 1 of the present treaty at any time, which shall be undertaken jointly by technical authorities, one of whom shall be appointed by Austria and the other by Liechtenstein.

2. The details of this mutual control of the building and maintenance of the works shall be settled separately, but before the work is started.

3. Similar stipulations shall apply to the building and maintenance works carried out on the Liechtenstein inland canal, the Spirsgraben, the Frickgraben and the Esche.

ARTICLE 13. 1. In case the contracting States fail to come to agreement as regards the measures to be taken for the purpose of carrying on the building operations or as regards the interpretation or application of certain provisions of the treaty, the matter shall be decided by an arbitral tribunal to which each party shall send an arbitrator.

2. The umpire, who may not be a national of either contracting State, shall be designated jointly by both Governments.

3. In case the joint designation of the umpire fails to take place within 6 months after a party has referred a matter in dispute to the arbitral tribunal for decision, his selection shall be effected in accordance, *mutatis mutandis*, with the procedure prescribed in article 45, paragraphs 4 *et seq.*, of the Hague Convention for the pacific settlement of international disputes of 1907.

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Austria-Switzerland

141. TRAITÉ¹ ENTRE LA SUISSE ET L'AUTRICHE-HONGRIE
POUR LE REDRESSEMENT DU RHIN DÈS L'EMBOU-
CHURE DE L'ILL, EN AMONT, JUSQU'À L'ENTRÉE DU
FLEUVE DANS LE LAC DE CONSTANCE, EN AVAL,
SIGNÉ À VIENNE, LE 30 DÉCEMBRE 1892²

... animés du désir de remédier au danger des inondations, d'empêcher les deux rives du Rhin de se transformer en marécages et de redresser, dans ce but, le cours irrégulier de ce fleuve dès l'embouchure de l'Ill, en amont, jusqu'à l'entrée du Rhin dans le Lac de Constance, en aval, en se basant, pour cela, sur le projet général établi, d'un commun accord, d'après les principes de la technique, ont décidé de conclure un traité à cet effet . . .

ARTICLE I. Les ouvrages à exécuter en commun par les deux Gouvernements pour le redressement du Rhin sont les suivants:

(A) Ouvrages à exécuter à frais communs:

1. La coupure inférieure près de Fussach;
2. La régularisation et l'approfondissement du lit dans la section intermédiaire entre la coupure de Fussach et celle de Diepoldsau en amont;
3. La coupure supérieure près de Diepoldsau;
4. La régularisation de la section supérieure, dès la coupure de Diepoldsau jusqu'à la jonction de l'Ill en amont;
5. Les routes, chemins et ponts neufs à établir ensuite des ouvrages ci-dessus mentionnés et les réparations et modifications éventuelles à faire, ensuite du redressement du fleuve, à des objets déjà existants;
6. Les ouvertures nécessaires à apporter aux ponts actuels et le reculement des arrière-bords, dans le but de créer un profil suffisant au fleuve pour le bon écoulement des hautes eaux.

(B) Ouvrages à exécuter aux frais de la Suisse seule:

La canalisation de toutes les eaux (eaux atmosphériques, eaux d'infiltration, et eaux souterraines) du territoire de Diepoldsau jusqu'au canal d'assainissement de Koblach.

ARTICLE II. Chaque Gouvernement prendra à ses frais, sur son propre territoire, les mesures nécessaires pour le bon écoulement des eaux intérieures résultant des deux coupures, en observant exactement la prescription de l'Article IV concernant le délai d'exécution.

Toutes les eaux du bassin de Diepoldsau, qui se trouve entre l'ancien et le nouveau lit du Rhin, seront écoulées à temps par un canal spécial, qui coupera l'ancien lit et traversera le territoire Autrichien. Ce canal sera établi d'après le tracé fixé par le projet de redressement (Article III, lettre *a*) et se déversera dans le canal d'assainissement de Koblach que le Gouvernement Autrichien fera construire à ses propres frais. Il sera exécuté en commun, mais aux frais de la Suisse seule, y compris les expropriations et autres acquisitions de terrain (Article I^{er}, lettre B).

¹ Les instruments de ratification ont été échangés à Vienne, le 21 juillet 1893.

² *British and Foreign State Papers*, vol. 84, p. 690.

ARTICLE III. Les travaux communs énumérés dans l'Article I^{er} du présent Traité seront exécutés d'après une base technique, qui fait partie intégrante de ce Traité et qui comprend les plans et types normaux du projet général, savoir: —

(a) Plan de situation du Rhin depuis l'embouchure de l'Ill jusqu'au Lac de Constance;

(b) Profil en long du Rhin depuis l'embouchure de l'Ill jusqu'au Lac de Constance;

(c) Profils normaux pour exécuter les coupures et pour régulariser le profil d'écoulement des hautes eaux dans les sections du cours actuel du fleuve qui seront maintenues;

(d) Types pour les ponts du Rhin;

(e) Justification des frais sommaires des travaux à exécuter en commun.

Le tracé du canal (désigné à l'Article II, alinéa 2) d'écoulement des eaux du bassin de Diepoldsau jusqu'au canal d'assainissement de Koblach est fixé par le plan de situation indiqué sous lettre (a) ci-dessus.

Les ponts suivants seront construits sur le nouveau cours du Rhin, savoir:

1. Entre Fussach et Hard;
2. Entre Brugg et Haag;
3. Près de Widnau;
4. Près de Diepoldsau.

ARTICLE IV. Le délai d'exécution pour les travaux communs est fixé à quatorze ans. On commencera, en même temps, la construction des deux coupures désignées dans l'Article I^{er} savoir dans le courant de la première année qui suivra la ratification du présent Traité. Les travaux seront conduits de telle manière que la coupure de Fussach soit achevée au plus tard dans la sixième campagne, et celle de Diepoldsau dans la onzième, après régularisation de la section intermédiaire et après que l'écoulement naturel des eaux aura été assuré.

Dans ce but on commencera assez tôt les travaux sur la section intermédiaire, et, au fur et à mesure de l'approfondissement régulier du lit, on les poussera de telle façon que l'on puisse profiter de l'effet produit par la coupure de Fussach pour creuser plus promptement un lit régulier à cette section intermédiaire.

On doit aussi régulariser, de la même façon, la section en amont de la coupure de Diepoldsau, en ayant tout spécialement le dégagement normal des galets pour objectif.

Il faut attaquer, le plus rapidement possible, les corrections des eaux intérieures à exécuter en propre, par chacun des Gouvernements, sur sa rive respective. Pendant le délai d'exécution fixé ci-dessus, ces corrections seront activées de telle façon que les travaux et l'ouverture des deux coupures ne souffrent point de retard.

ARTICLE V. D'après les adjudications de travaux et dans la construction elle-même, on procédera de telle sorte que l'œuvre entière soit exécutée à temps et convenablement, mais à des conditions aussi avantageuses que possible pour les frais de l'entreprise.

ARTICLE VI. D'après le projet de construction mentionné à l'Article III, le total des dépenses pour les travaux à exécuter en commun s'élève à la somme de 16,500,000 fr.

Ces frais seront supportés à parts égales, par les deux Etats, de manière que, à partir de l'année civile qui suivra la mise en vigueur du présent Traité, chacun des deux Gouvernements mette annuellement, pendant douze ans, une somme de 690.000 fr. à la disposition de la Commission Mixte de Redressement du Rhin.

Ces annuités seront payées chaque année au mois de Janvier, aux offices que la Commission Mixte de Redressement du Rhin désignera tant sur le territoire Suisse que sur le territoire Autrichien.

Si, dans l'intérêt de l'œuvre commune, des circonstances exceptionnelles exigeaient une somme plus considérable, les deux Gouvernements, s'ils se mettent d'accord sur ce point, feront à la Commission, sur sa proposition, les avances qu'elle demandera, à compte des annuités.

Les Gouvernements déclarent spécialement être disposés à mettre, suivant les besoins, dans l'année où le présent Traité entrera en vigueur, une somme jusqu'à concurrence de 150,000 fr., à compte de la première annuité, à la disposition de la Commission Mixte pour faire les travaux préparatoires.

Dans les frais communs sont comprises les dépenses pour l'Administration, la direction des travaux, et les expropriations ou autres acquisitions de terrain.

Les objets faisant partie du plan de redressement exécuté en commun sur les sections du fleuve actuellement existantes seront, pendant la période d'exécution, entretenus pour le compte du fonds de construction. Pendant six ans à partir du jour de l'ouverture de la coupure respective, les travaux d'entretien à exécuter aux deux coupures seront à la charge du compte commun de construction.

ARTICLE VII. Les excédents de dépenses que les deux Gouvernements reconnaîtraient nécessaires pour les ouvrages à exécuter à frais communs seront aussi supportés, en parties égales, par les deux Etats.

Dans le cas où il serait indispensable, pour provoquer un dégagement plus intense des galets, de concentrer davantage le profil d'écoulement du Rhin, que l'on est convenu d'exécuter, dès l'abord, en deux parties, les deux Gouvernements déclarent tout particulièrement être disposés à y consentir, après avoir, toutefois, examiné les circonstances en commun.

ARTICLE VIII. L'entretien et, au besoin, le dégorgeement du profil normal dans le chenal du fleuve depuis l'Ill jusqu'au Lac de Constance devront se faire en commun, par les deux Etats, même après l'achèvement des ouvrages exécutés à frais communs; les dépenses qui en résulteront seront aussi supportées, en parties égales, par les deux Gouvernements. Par une inspection annuelle entreprise en commun par les Délégués des deux Etats, on se mettra d'accord, sur la procédure à suivre pour entretenir les ouvrages exécutés en commun, de manière à faire les constatations éventuelles dans le bassin immédiat de la correction du fleuve et du canal de dérivation des eaux de Diepoldsau et à déterminer, en même temps, les mesures nécessaires à prendre pour parer aux inconvénients qui pourraient se manifester.

Du reste, avant l'expiration du délai d'exécution, chacun des deux Gouvernements réglera par la voie légale, pour son compte, la question de l'obligation qui lui incombe d'entretenir, à l'avenir, la partie située sur son propre territoire, des ouvrages exécutés à frais communs.

Les digues et les arrière-bords actuellement existants qui rentrent dans le système de régularisation du cours du Rhin seront, aussi pendant la

période de construction, entretenus de la même manière qu'aujourd'hui, sur le territoire de chacun des deux Etats, par ceux qui y sont tenus.

Après l'achèvement du canal de dérivation des eaux de Diepoldsau, le Gouvernement Autrichien se chargera de son entretien sur la partie située sur son territoire. Le canal terminé et sa remise opérée, la Suisse paiera une fois pour toutes, pour cet entretien, une somme fixe à déterminer, d'un commun accord, par les deux Gouvernements sur la proposition de la Commission du Rhin.

ARTICLE IX. L'exécution de l'entreprise commune du redressement du Rhin et la direction de toutes les affaires qui s'y rapportent sont confiées à une Commission Internationale Mixte dite du Redressement du Rhin et composée de quatre membres et de quatre suppléants. Cette Commission administre l'œuvre commune tant sous le rapport technique et administratif qu'au point de vue financier.

Chacun des deux Gouvernements nomme deux membres et deux suppléants de cette Commission et prend, d'un commun accord, les mesures nécessaires pour sa première convocation.

Chaque année la Commission choisit, dans son sein, son Président, qui doit être alternativement de nationalité Suisse et de nationalité Autrichienne. La Commission doit se réunir en temps opportun, dans le cours de chaque exercice, en un lieu qu'elle désignera, pour débattre et décider les mesures nécessaires à prendre en vue d'une bonne exécution de l'entreprise commune. Elle a aussi le droit de faire exécuter ses décisions dans les limites du projet convenu et de requérir, à cet effet, la coopération des autorités compétentes.

Chacun des membres de la Commission, y compris le Président, a droit de vote. Si, dans la délibération sur des questions rentrant dans sa compétence, il ne peut se former la majorité nécessaire pour prendre une décision, la Commission doit s'en rapporter au jugement d'un expert technique ressortissant d'un autre Etat et désigné d'avance par les deux Gouvernements intéressés.

Les procès-verbaux des délibérations de la Commission doivent être expédiés en deux exemplaires, dont l'un sera remis au Conseil Fédéral Suisse et l'autre au Ministère Austro-Hongrois de l'Intérieur, à Vienne.

Les frais d'administration de la Commission, y compris les vacations et les indemnités de route de ses membres, sont, de même que les dépenses faites pour soigner les affaires courantes et pour diriger et surveiller les travaux, à la charge du compte de l'entreprise commune du redressement du Rhin.

Les indemnités des membres de la Commission et les honoraires des Directeurs des travaux sont fixés, d'un commun accord, par les deux Gouvernements sur la proposition de la Commission Internationale Mixte.

ARTICLE X. Pour diriger les travaux à exécuter en commun d'après les décisions de la Commission, on créera deux Directions locales: l'une pour la coupure de Diepoldsau, située sur territoire Suisse; l'autre pour la coupure de Fussach, située en territoire Autrichien.

La Commission répartira convenablement, entre ces deux Directions, les travaux à exécuter sur les autres sections de l'entreprise.

Chaque Gouvernement remettra à un technicien spécial la direction des ouvrages à faire sur son territoire.

Ces deux Directeurs sont chargés, avec l'aide du personnel qui leur est adjoint suivant les besoins, de soigner les affaires qui leur incombent res-

pectivement en conformité d'une instruction à élaborer par la Commission du Rhin.

Celle-ci examine et approuve les projets de détail dressés par les Directions locales.

Elle examine et approuve les programmes de campagne annuelle et en ordonne l'exécution; elle ratifie les contrats de construction et de fournitures et les cahiers de charge pour l'adjudication des travaux et des livraisons de matériaux; elle inspecte les ouvrages exécutés dans le cours d'une campagne, en opère la collaudation en se basant sur les décomptes qui lui sont soumis par la Direction locale, et en liquide les frais d'exécution conformément au résultat de sa vérification.

Elle décide des achats de terrain, de bâtiments, de places d'approvisionnement et de dépôt de matériaux, etc., donne les pleins pouvoirs nécessaires pour conclure des arrangements au sujet d'indemnités d'expropriation et ratifie ces arrangements.

Elle est autorisée à apporter des modifications dans les détails des ouvrages communs, mais sans outrepasser le devis préliminaire fixé pour l'ensemble des ouvrages.

Dans le cas contraire, ou si l'exécution exige que l'on s'écarte notablement des bases fixées par le présent Traité, l'assentiment des deux Gouvernements est nécessaire.

A la fin de chaque service la Commission fera rapport aux deux Gouvernements sur l'état des travaux et sur la situation financière de l'entreprise.

ARTICLE XI. Il est expressément réservé, à chacun des deux Gouvernements, le droit de faire, en tout temps et en toute liberté, inspecter et contrôler, par des organes spéciaux, l'entreprise commune au point de vue technique et financier.

ARTICLE XII. Une fois achevés les ouvrages communs énumérés dans l'Article I, et les affaires complètement liquidées, la Commission Internationale Mixte du Redressement du Rhin sera dissoute.

ARTICLE XIII. Les matériaux nécessaires pour la construction des ouvrages communs seront, autant que possible, tirés du pays même.

Les machines, instruments, outils, etc., nécessaires pour les travaux à exécuter ensuite du présent Traité et qui devront être transportés de l'un des pays dans l'autre jouiront temporairement de la franchise réciproque des droits d'entrée, à la condition que ces objets soient convenablement déclarés, leur identité constatée par les agents de la douane, la taxe douanière fixée et leur rentrée de l'étranger effectuée dans un délai raisonnable.

Les objets qui ne seront pas rentrés dans ce délai seront soumis aux droits de douane.

ARTICLE XIV. Lorsque le cours du Rhin aura été détourné dans la coupure de Fussach, l'ancien lit du Rhin servira de chenal pour déverser, jusque dans le lac de Constance, les eaux intérieures des deux rives, mais surtout celles de la rive Suisse. La Commission du Rhin fixe la largeur et la direction de ce chenal, qui devra rester dans le milieu de l'ancien lit, si cela est possible sans de trop grands frais.

Il appartient à la Confédération Suisse de décider s'il est nécessaire, pour obtenir une pente uniforme, de couper des gués et de régulariser le canal.

Une fois la régularisation établie, chacun des deux Etats se chargera de l'entretien des berges sises sur son territoire respectif.

ARTICLE XV. La frontière territoriale entre les deux Etats restera telle qu'elle est, même après l'achèvement complet des deux coupures, c'est-à-dire, au milieu de l'ancien lit du Rhin.

Il est expressément entendu que les arrangements relatifs à la frontière douanière, à la pêche, à la navigation, à l'extraction du sable, du gravier et des pierres, ou à d'autres circonstances, feront l'objet de négociations spéciales, s'il paraît désirable de conclure des arrangements de ce genre.

ARTICLE XVI. Dans le cas où les deux Gouvernements n'arriveraient pas à s'entendre sur l'interprétation ou l'application de certaines dispositions du présent Traité, l'objet de la contestation sera soumis au jugement d'un tribunal arbitral.

Chacun des deux Gouvernements nommera un membre de ce tribunal et ces deux membres choisiront le sur-arbitre.

Ce dernier ne doit pas appartenir à l'un des deux Etats Contractants.

Si les arbitres ne peuvent pas s'entendre sur le choix du sur-arbitre, le sort décidera entre les propositions des deux arbitres.

ARTICLE XVII. Le Conseil Fédéral Suisse et le Gouvernement Austro-Hongrois feront tous leurs efforts pour exécuter, dans les bassins de formation des affluents du Rhin, les corrections, barrages, et autres travaux propres à retenir leurs galets, afin de diminuer, autant que possible, les charriages dans le lit du Rhin et d'entretenir, à l'avenir un cours régulier à ce fleuve.

Chaque Gouvernement se réserve, il est vrai, de fixer l'époque et l'étendue de ces diverses corrections de torrents; toutefois, ces travaux doivent être attaqués le plus promptement possible et poussés activement, en commençant par les affluents causant les plus grands ravages par leur richesse en galets.

142. TRAITÉ¹ ENTRE L'AUTRICHE ET LA SUISSE POUR LE REDRESSEMENT DU RHIN DÈS L'EMBOUCHURE DE L'ILL JUSQU'AU LAC DE CONSTANCE, SIGNÉ À VIENNE, LE 19 NOVEMBRE 1924²

La Confédération Suisse et la République d'Autriche ont conclu pour la continuation et le parachèvement des travaux de redressement du Rhin dès l'embouchure de l'Ill jusqu'au lac de Constance, entrepris en commun en vertu du Traité entre la Suisse et la Monarchie Austro-Hongroise du 30 décembre 1892, la convention suivante:

ARTICLE I. Les travaux à exécuter en commun par la Suisse et l'Autriche sont d'après le Traité du 30 décembre 1892 et les arrangements intervenus ultérieurement, les suivants:

¹ L'échange des instruments de ratification a eu lieu à Vienne le 2 novembre 1925.

² Société des Nations, *Recueil des Traités*, vol. 39, p. 33.

- 1°. La coupure inférieure actuellement terminée, près de Fussach;
- 2°. La régularisation et l'approfondissement du lit dans la section intermédiaire entre la coupure de Fussach et celle de Diepoldsau;
- 3°. La coupure supérieure près de Diepoldsau;
- 4°. La régularisation de la section supérieure, dès la coupure de Diepoldsau jusqu'à l'embouchure de l'Ill;
- 5°. Les routes, chemins et ponts neufs à établir ensuite des ouvrages mentionnés ci-dessus et les réparations et modifications éventuelles à faire, ensuite du redressement du fleuve, à des objets existants;
- 6°. Les ouvertures nécessaires à apporter aux ponts actuels et le déplacement des arrière-bords, dans le but de créer un profil suffisant au fleuve pour le bon écoulement des hautes eaux;
- 7°. Comme nouvel ouvrage, le prolongement des travaux exécutés à la coupure inférieure près de Fussach sur le cône de déjection dans le lac de Constance.

ARTICLE 2. Toutes les eaux du bassin de Diepoldsau, qui se trouve entre l'ancien et le nouveau lit du Rhin, seront écoulées par un canal spécial, qui coupera l'ancien lit et traversera le territoire autrichien. Ce canal d'écoulement sera exécuté en commun par les deux Etats jusqu'au canal d'assainissement sur le territoire autrichien, mais aux frais de la Suisse seule, y compris les expropriations et autres acquisitions de terrain. Le Gouvernement autrichien fera construire à ses propres frais le canal d'assainissement (Neunergraben, Scheibenback et le canal de Lustenau), dont l'installation garantira un écoulement irréprochable du canal de Diepoldsau.

ARTICLE 3. Les travaux communs énumérés dans l'article premier du présent Traité seront exécutés d'après les bases techniques suivantes:

- 1°. Les plans et types normaux du projet général faisant partie intégrante du traité du 30 décembre 1892, qui n'ont pas été modifiés ou complétés depuis par des décisions communes des Gouvernements des deux Etats intéressés ou par des décisions de la Commission internationale du Rhin, acceptées par les deux Etats;
- 2°. Les changements ou compléments dont il est fait mention au chiffre précédent.

ARTICLE 4. Le délai d'exécution pour la section intermédiaire et la coupure de Diepoldsau s'étend jusqu'à la fin de l'année 1929, celui pour la section supérieure jusqu'à la fin de l'année 1931.

La construction du canal d'assainissement sur territoire autrichien (art. 2) se fera assez tôt par le Gouvernement autrichien pour que l'écoulement des eaux de Diepoldsau ne subisse aucun retard.

ARTICLE 5. Dans les adjudications de travaux et dans la construction elle-même, on procédera de telle sorte que l'œuvre entière soit exécutée à temps et convenablement, mais à des conditions aussi avantageuses que possible pour l'entreprise.

ARTICLE 6. A. Le montant total de tous les travaux encore à exécuter par les deux Etats en compte commun à partir du 1^{er} janvier 1920, sans

les ouvrages à l'embouchure du Rhin (art. 1^{er}, chiffre 7) atteint, d'après le devis estimatif accepté par les deux Gouvernements, la somme de 13.140.000 francs; de cette somme, il faut déduire le capital de construction de l'entreprise disponible au 31 décembre 1919 de 3.740.000 francs, de sorte qu'il reste encore une somme de 9.400.000 francs à couvrir par les deux Etats, correspondant à une part égale de chaque Etat de 4.700.000 francs.

Dans les frais communs sont comprises les dépenses pour l'administration, la direction des travaux et les expropriations ou autres acquisitions de terrain.

Les deux Etats contractants sont d'accord que non seulement la quote-part de 4.700.000 francs qui incombe à la Suisse sera payée par elle en neuf annuités de chacune 500.000 francs à partir de 1922 et un solde de 200.000 francs, mais qu'elle mettra en outre aussi à la disposition de la Commission internationale du Rhin, selon l'avancement des travaux, sous forme d'avances, la somme de 4.700.000 francs, qui doit être supportée par l'Autriche. Le Gouvernement de cet Etat s'engage à rembourser cette somme, mais sans intérêts, à partir de 1925, en payant à la Suisse les annuités suivantes:

Pour chacune des 6 premières années,	fr. 100.000
Pour chacune des 6 années suivantes,	fr. 150.000
Pour chacune des 6 années suivantes,	fr. 200.000
Pour chacune des 8 dernières années,	fr. 250.000

Ces annuités sont payables par acomptes semestriels égaux, le 1^{er} janvier et le 1^{er} juillet de chaque année.

Les paiements annuels autrichiens indiqués ci-dessus sont à considérer comme des minima qui pourraient dans les années subséquentes subir des augmentations suivant l'état financier de l'Autriche, de sorte que la somme totale de 4.700.000 francs pourrait éventuellement être remboursée en moins de 26 ans.

Les avances que la Suisse aura à faire à la Commission internationale du Rhin, comme acomptes sur les subventions qu'ont accordées les deux Etats ne devront pas dépasser, en général, la dépense prévue pour les trois mois suivants, en tenant compte du programme général et du devis des travaux dressés pour l'exercice annuel respectif.

Ces avances doivent être demandées par la Commission internationale du Rhin au département fédéral de l'Intérieur. A chaque demande la Commission joindra, pour les deux Gouvernements, un rapport périodique sur l'état financier de l'entreprise.

Ces avances figureront dans les comptes annuels de la correction internationale du Rhin, par moitié, comme subventions versées par les deux Etats.

Le remboursement intégral des avances, qui ne pourront pas dépasser la somme totale de 9.400.000 francs, s'effectuera au moyen des subventions accordées par la Suisse et la République d'Autriche.

B. En dehors des fonds mentionnés ci-dessus sous la lettre A, l'entreprise internationale du Rhin dispose encore du fonds de réserve alimenté principalement durant ces dernières années par les intérêts de banque et auquel viendront encore s'ajouter les intérêts ultérieurs, les produits de ventes diverses et aussi les bénéfices faits éventuellement par des opérations de change.

Le fonds de réserve supportera les pertes éventuelles sur le change. En outre, il trouvera son emploi pour des travaux communs de construction

et d'entretien qui ne sont pas prévus dans le projet de redressement du Rhin.

Le droit de disposer de ce fonds appartient aux deux Gouvernements; la Commission internationale du Rhin a aussi la compétence de faire supporter par ce fonds des dépenses résultant de l'exécution de travaux urgents et qui ne peuvent pas être renvoyés, ou si la dépense prévue ne dépasse pas la somme de 25.000 francs en une seule année.

Dans les comptes annuels de l'entreprise, le fonds de réserve sera traité spécialement. Les capitaux de ce fonds doivent être placés en Suisse.

ARTICLE 7. Les excédents de dépense qui se produiraient dans l'exécution des ouvrages à frais communs et que les deux Gouvernements reconnaîtraient comme nécessaires seront aussi supportés, en partie égale, par les deux Etats.

Dans le cas où il serait indispensable, pour provoquer un dégagement plus grand des galets, de concentrer davantage le profil d'écoulement du Rhin que l'on est convenu d'exécuter, dès l'abord, en deux parties, les deux Gouvernements déclarent tout particulièrement être disposés à y consentir, après avoir toutefois examiné les circonstances en commun.

La moitié des excédents de dépenses éventuelles à la charge de l'Autriche sera avancée par la Suisse et remboursée plus tard par l'Autriche, à la suite des restitutions que cet Etat doit effectuer à teneur de l'article 6 qui précède. Ces remboursements devront se monter au minimum à 250.000 francs par an.

ARTICLE 8. A. L'Autriche s'est déjà chargée, conformément aux articles 6 et 8 du Traité du 30 décembre 1892, de l'entretien des ouvrages de la coupure de Fussach.

Les travaux d'entretien des ouvrages exécutés à frais communs entre le pont de chemin de fer de St. Margarethen et l'embouchure de l'Ill seront supportés par le fonds de construction pendant la durée des travaux (art. 4). Plus tard, chaque Etat se chargera de l'entretien de la partie des ouvrages qui se trouvent dans son pays, tout en se réservant de régler sur son territoire de la façon qui lui conviendra le mieux cet entretien, ainsi que celui qui concerne les anciennes digues du Rhin.

Quant au maintien en bon état du profil mineur entre les digues maçonnées, les Etats contractants auront soin, même après l'expiration de la période de construction (art. 4) de veiller à ce qu'aucun dépôt de gravier ne vienne à se fixer dans le lit, ce qui pourrait provoquer des remous dangereux.

Les Gouvernements des deux Etats reconnaissent en outre que, non seulement les travaux d'entretien du profil mineur d'écoulement doivent être exécutés en commun et à parts égales, même après la période de construction (art. 4), attendu qu'ils sont d'intérêt général, mais qu'il sera aussi nécessaire pour l'entretien en état de parfaite sécurité des ouvrages exécutés de veiller également au maintien du profil normal complet d'écoulement.

Les deux Etats s'engagent en conséquence à exécuter à leurs frais tous les travaux reconnus nécessaires à empêcher ou à faire disparaître les changements qui pourraient influencer défavorablement l'écoulement sur les bermes du profil normal, pour autant que la sécurité des ouvrages de régularisation le réclamera.

La question de l'entretien des ouvrages pour le prolongement du canal de Fussach (art. 1, chiffre 7) fera l'objet d'un arrangement spécial entre les deux Etats. Jusque-là, ces ouvrages seront entretenus à frais communs.

L'entretien du canal d'écoulement près de Diepoldsau est à la charge de l'Autriche, pour la partie située sur son territoire et cela dans un délai

d'un an après l'introduction des eaux. Elle recevra de la Suisse, pour cet entretien, une somme à déterminer, d'un commun accord, par les deux Gouvernements sur la proposition de la Commission du Rhin.

B. Les deux Etats s'engagent à exécuter suivant les circonstances les ouvrages nécessaires au prolongement des ouvrages de la coupure de Fussach, mentionnés sous chiffre 7 à l'article premier.

Les dépenses y relatives seront supportées à part égales, par les deux Gouvernements.

C. Afin d'assurer l'entretien irréprochable des ouvrages exécutés en compte commun, il sera procédé chaque année à une inspection de la part de délégués nommés par les deux Gouvernements qui constateront l'état des ouvrages de la correction du fleuve et du canal de dérivation des eaux de Diepoldsau et qui fixeront, en même temps, les mesures utiles à prendre.

Le canal d'assainissement (Neunergraben, etc.) mentionné à l'article 2 pourra également faire partie de cette inspection, si son état exerce une influence quelconque sur l'écoulement des eaux du canal de Diepoldsau. Le Gouvernement autrichien s'engage à remédier aux inconvénients qui viendraient à être signalés à cet égard.

ARTICLE 9. A. L'exécution de l'entreprise commune du redressement du Rhin et la direction de toutes les affaires qui s'y rattachent sont confiées à une commission internationale mixte dite de redressement du Rhin et composée de quatre membres et de quatre suppléants, dans laquelle chaque Etat délègue deux membres et deux suppléants.

Chaque année la Commission choisit dans son sein son président, qui doit être alternativement de nationalité suisse et de nationalité autrichienne. La Commission doit se réunir en temps opportun, dans le cours de chaque exercice, en un lieu qu'elle désignera, pour débattre et décider les mesures nécessaires à prendre en vue d'une bonne exécution de l'entreprise commune. Elle a aussi le droit de faire exécuter ses décisions dans les limites du projet convenu et de requérir, à cet effet, la coopération des autorités compétentes.

Chacun des membres de la Commission, y compris le président, a droit de vote. Si, dans la délibération sur des questions rentrant dans sa compétence, il ne peut se former la majorité nécessaire pour prendre une décision, l'affaire doit être d'abord soumise aux deux Gouvernements. Si ceux-ci ne peuvent pas tomber d'accord sur la décision à prendre, l'objet en cause sera soumis au jugement d'un ingénieur, ressortissant d'un autre Etat, désigné dans chaque cas particulier par les deux Etats contractants.

Les procès-verbaux des délibérations de la Commission doivent être expédiés en deux exemplaires, dont l'un sera remis au Conseil fédéral suisse à Berne et l'autre au Ministère autrichien du commerce et des transports à Vienne.

Les frais d'administration de la Commission y compris les vacations et les indemnités de route de ses membres, sont, de même que les dépenses faites pour l'expédition des affaires courantes et pour la direction et la surveillance des travaux, à la charge du compte de l'entreprise commune de redressement du Rhin.

Les indemnités des membres de la Commission et les honoraires des

directeurs des travaux sont fixés, d'un commun accord, par les deux Gouvernements, sur la proposition de la Commission internationale.

B. La Commission internationale mixte du Rhin est chargée de la surveillance et de l'administration de l'entreprise commune, tant sous le rapport technique qu'au point de vue administratif et financier.

Dans ce cas, les projets élaborés par les directions de travaux (art. 10) doivent lui être soumis pour examen et approbation.

Elle examine et approuve les programmes de campagne annuelle et en ordonne l'exécution, elle ratifie les contrats de construction et de fournitures, ainsi que les cahiers des charges pour l'adjudication des travaux et des livraisons de matériaux; elle inspecte les ouvrages exécutés dans le cours d'une campagne, en opère la collaudation en se basant sur les décomptes qui lui sont soumis par la direction locale et en liquide les frais d'exécution conformément au résultat de sa vérification.

Elle décide des achats de terrain, de bâtiments, de places d'approvisionnement et de dépôt de matériaux, etc.; donne les pouvoirs nécessaires pour conclure des arrangements au sujet d'indemnités d'expropriation et ratifie ces arrangements.

La Commission est autorisée à apporter des modifications dans les détails des ouvrages communs, mais sans outrepasser le devis préliminaire fixé pour l'ensemble des ouvrages.

Dans le cas contraire ou si l'exécution exige que l'on s'écarte notablement des bases fixées par le présent Traité, l'assentiment des deux Gouvernements est nécessaire.

A la fin de chaque exercice, la Commission fera rapport aux deux Gouvernements sur l'état d'avancement des travaux et sur la situation financière de l'entreprise.

ARTICLE 10. Pour diriger les travaux à exécuter en commun au Rhin d'après les décisions de la Commission internationale, on créera deux directions locales, dont l'une, autrichienne, résidera à Bregenz, et l'autre, suisse, à Rorschach. La Commission répartira convenablement, entre ces deux directions, les travaux à exécuter par chacune d'elles. Tous les ouvrages en relation directe avec la coupure de Diepoldsau seront attribués à la direction suisse à Rorschach.

Chaque Gouvernement remettra à un ingénieur spécial la direction des ouvrages à faire sur son territoire.

Ces deux directions sont chargées, avec l'aide du personnel qui leur est adjoint suivant les besoins, de soigner les affaires qui leur incombent conformément à une instruction élaborée par la Commission internationale.

ARTICLE 11. Il est expressément réservé à chacun des deux Gouvernements le droit de faire, en tout temps et en toute liberté, inspecter et contrôler, par des organes spéciaux, l'entreprise commune au point de vue technique et financier.

ARTICLE 12. Après l'achèvement des ouvrages communs énumérés à l'article premier, chiffres 1 à 6, ainsi que de ceux indiqués à l'article 2, et après la liquidation complète des affaires, la Commission internationale sera dissoute.

Les deux Gouvernements s'entendront de commun accord sur la manière dont seront traités les objets de nature commune encore en suspens à ce moment-là.

ARTICLE 13. Les matériaux nécessaires pour la construction des ouvrages communs seront, autant que possible, tirés du pays même.

Les machines, instruments, outils, etc., nécessaires pour les travaux à exécuter ensuite du présent Traité et qui devront être transportés de l'un des pays dans l'autre jouiront temporairement de la franchise réciproque des droits d'entrée, à la condition que ces objets soient dûment déclarés, leur identité constatée par les agents de la douane, la taxe douanière fixée et leur rentrée de l'étranger effectuée dans un délai convenable.

Les objets qui ne seront pas rentrés dans ce délai seront soumis aux droits de douane.

ARTICLE 14. Lorsque le cours du Rhin aura été détourné dans la coupure de Fussach, l'ancien lit du Rhin servira de chenal pour déverser, jusque dans le lac de Constance, les eaux intérieures des deux rives, mais surtout celles de la rive suisse. La Commission du Rhin fixera la largeur et la direction de ce chenal, qui devra rester dans le milieu de l'ancien lit, si cela est possible sans de trop grands frais.

Il appartient à la Confédération suisse de décider s'il est nécessaire, pour obtenir une pente uniforme, de couper des gués et de régulariser le canal.

Une fois la régularisation établie, chacun des deux Etats se chargera de l'entretien des berges sises sur son territoire.

ARTICLE 15. La frontière territoriale entre les deux Etats restera telle qu'elle est, même après l'achèvement complet des deux coupures, c'est-à-dire au milieu de l'ancien lit du Rhin.

Il est expressément entendu que les arrangements relatifs à la frontière douanière, à la pêche, à la navigation, à l'extraction du sable, du gravier et des pierres ou à d'autres circonstances feront l'objet de négociations spéciales, s'il paraît désirable de conclure des arrangements de ce genre.

ARTICLE 16. Dans le cas où les deux Gouvernements n'arriveraient pas à s'entendre sur l'interprétation ou l'application de certaines dispositions du présent Traité, l'objet de la contestation sera soumis au jugement d'un tribunal arbitral.

Chacun des deux Gouvernements nommera un membre de ce tribunal. Le sur-arbitre, qui ne pourra appartenir à aucun des deux Etats contractants, sera désigné, d'un commun accord, par les deux Gouvernements.

Si une entente n'est pas possible dans le délai de six mois après qu'une des Parties aura demandé le jugement du tribunal arbitral, le choix du sur-arbitre se fera dans le sens des dispositions de l'article 45, alinéas 4 et suivants, de la Convention internationale de La Haye de 1907, conclue pour assurer le règlement pacifique des différends internationaux.

ARTICLE 17. Le Conseil fédéral suisse et le Gouvernement autrichien feront tous leurs efforts pour exécuter, dans les bassins de formation des affluents du Rhin, les corrections, barrages et autres travaux propres à retenir leurs galets, afin de diminuer, autant que possible, les charriages dans le lit du Rhin et d'entretenir, à l'avenir, un cours régulier de ce fleuve.

Chaque Gouvernement se réserve cependant de fixer l'époque et l'étendue de ces diverses corrections de torrents; toutefois ces travaux doivent être poussés activement surtout dans les affluents dont l'influence causée par l'apport des galets est la plus nuisible.

. . .

143. TRAITÉ¹ ENTRE LA CONFÉDÉRATION SUISSE ET LA RÉPUBLIQUE D'AUTRICHE POUR LA RÉGULARISATION DU RHIN DE L'EMBOUCHURE DE L'ILL AU LAC DE CONSTANCE, SIGNÉ À BERNE LE 10 AVRIL 1954²

La Confédération suisse et la République d'Autriche ont conclu, pour la continuation des travaux de régularisation du Rhin de l'embouchure de l'Ill au lac de Constance entreprise en vertu des traités des 30 décembre 1892 et 19 novembre 1924, le traité suivant:

I. OBJET ET BASES TECHNIQUES

Article premier

TRAVAUX À EXÉCUTER EN COMMUN

(1) Les travaux qui restent à exécuter en commun par la Suisse et l'Autriche sont les suivants:

1. Aménagement de la section du Rhin entre l'embouchure de l'Ill et le lac de Constance:

a. Exhausser les digues du chenal moyen du Rhin entre l'embouchure de l'Ill et le lac de Constance et, parallèlement, rétrécir ledit chenal entre le kilomètre 73,200 en amont du pont de Kriessern-Mäder et le kilomètre 89,840 près de l'embouchure du Rhin;

b. Exhausser, renforcer et déplacer les digues insubmersibles en vue d'assurer l'évacuation d'un débit de 3100 m³/sec.; enlever les arbres et buissons sur les glacis à tenir libres de constructions et d'autres obstacles artificiels pouvant entraver l'écoulement des eaux.

c. Pratiquer les ouvertures nécessaires pour assurer un profil d'écoulement suffisant pour une crue de 3100 m³/sec. sous les ponts existants et construire, rénover, modifier et relever les ponts, routes et chemins, en tant que l'obligation d'exécuter ces travaux n'incombe pas à des tiers;

d. Approfondir le fossé parallèle de la rive droite dans la coupure de Diepoldsau et adapter dans cette coupure les aqueducs du fossé parallèle de la rive gauche, en tant que ces travaux se révèlent nécessaires;

e. Construire un canal de drainage sur la rive droite dans la section intermédiaire entre Wiesenrain et le canal de Rheindorf près de l'ancienne gare de Lustenau (dit canal d'assainissement de Lustenau), en tant que ces travaux se révèlent nécessaires.

2. Prolongement des ouvrages de régularisation de la coupure de Fussach sur le cône de déjection formé dans le lac de Constance.

(2) Le pont du chemin de fer à St. Margrethen ne constitue pas un objet du présent traité. Sa transformation, y compris celle des rampes, selon les principes contenus dans le projet IIIb, sera exécutée, sur le territoire de chaque Etat, conformément à la législation interne.

¹ Entré en vigueur le 22 juillet 1955.

² *Recueil officiel des lois et ordonnances de la Confédération suisse*, année 1955, p. 741.

Article 2

BASES TECHNIQUES

Les travaux communs énumérés à l'article premier seront exécutés selon les bases techniques suivantes :

1. Pour l'aménagement de la section du Rhin entre l'embouchure de l'Ill et le lac de Constance :

a. Le projet que la commission mixte du Rhin (art. 9) a soumis aux gouvernements par office du 18 juillet 1947 pour l'aménagement de la section internationale du Rhin entre l'embouchure de l'Ill et le lac de Constance, variante III*b*, le rapport technique, les plans et profils normaux, ainsi que le programme de construction et le devis (art. 34) ;

b. Les modifications ou compléments indiqués à la lettre *a* dudit projet, qui résultent du présent traité ou qui ont été approuvés d'un commun accord par les gouvernements des deux Etats.

2. Pour le prolongement des travaux de régularisation de la coupure de Fussach sur le cône de déjection dans le lac de Constance :

Les plans et les devis qui, en raison du développement du delta du Rhin, seront soumis aux gouvernements par la commission mixte du Rhin à titre de propositions annuelles et approuvés par eux. En principe, le prolongement des ouvrages de régularisation sur la rive droite du Rhin, de la Rohrspitze vers l'ouest en direction des grandes profondeurs doit se faire de façon à prévenir autant que possible l'alluvionnement de la baie de Bregenz. Quant aux ouvrages de régularisation sur la rive gauche, leur prolongement doit être retardé le plus possible.

Article 3

PROGRAMME DES TRAVAUX

1. Aménagement de la section du Rhin entre l'embouchure de l'Ill et le lac de Constance.

a. La période d'exécution des travaux communs énumérés à l'article 1^{er}, chiffre 1, est fixée comme il suit, compte tenu de l'état actuel des travaux exécutés, conformément au projet d'aménagement III*b* et sous réserve de la modification de cette durée en vertu de décisions à prendre d'un commun accord par les gouvernements des Etats contractants selon des conditions du fleuve à déterminer au cours du temps :

Pour la section supérieure (du km 65,000 au km 74,000) jusqu'au 30 juin 1966 ;

Pour la coupure de Diepoldsau (du km 74,000 au km 80,200) jusqu'au 30 juin 1956 ;

Pour la section intermédiaire (du km 80,200 au km 85,000) jusqu'au 30 juin 1959, à l'exception du canal d'assainissement à Lustenau, dont le délai d'exécution est limité au 30 juin 1966 ;

Pour la coupure de Fussach (du km 85,000 au km 89,840) jusqu'au 30 juin 1962.

b. Le programme des travaux et des dépenses de la régularisation internationale du Rhin pour la période du 1^{er} juillet 1953 jusqu'à sa complète exécution (art. 34) servira de directive générale.

2. Prolongement des ouvrages de régularisation de la coupure de Fussach sur le cône de déjection dans le lac de Constance.

Le programme des travaux doit tenir compte de la formation future du delta du Rhin et des nécessités qui en résulteront. La commission mixte du Rhin fait chaque fois une proposition par la voie de ses projets annuels, conformément à l'article 2, chiffre 2.

II. RÈGLEMENT DES QUESTIONS FINANCIÈRES

Article 4

TABLEAU DES FRAIS

1. Aménagement de la section du Rhin entre l'embouchure de l'Ill et le lac de Constance.

Les frais des ouvrages à exécuter en commun conformément à l'article 1^{er}, chiffre 1, y compris les travaux accessoires, la dépense pour l'organisation commune (chapitre III) et l'indemnité pour les expropriations et les rachats de droits s'établissent comme il suit:

a. Les dépenses faites par les Etats contractants dans la période comprise entre le 1^{er} janvier 1942 et le 30 juin 1953, y compris celles qui découlent des mesures provisoires prises au profit de l'Autriche pendant la période du 13 mars 1938 au 31 décembre 1941 et qui sont à sa charge, se montent, selon les constatations reconnues par les deux Etats, aux chiffres suivants:

Suisse	10 089 101 francs
Autriche	7 887 037 francs
Total	<u>17 976 138 francs</u>

b. Calculés sur les prix de l'année 1953 et à un cours du schilling de 0,1682 franc, les frais qui, selon les expériences faites, seront probablement occasionnés aux deux Etats contractants à partir du 1^{er} juillet 1953 se montent, pour les travaux encore nécessaires sur le territoire des deux Etats, à 31 126 137 francs.

c. Le total des frais d'aménagement de la section du Rhin entre l'embouchure de l'Ill et le lac de Constance est par conséquent évalué comme il suit:

Selon la lettre <i>a.</i>	17 976 138 francs
Selon la lettre <i>b.</i>	31 126 137 francs
Total	<u>49 102 275 francs</u>
En chiffre rond:	49 100 000 francs

2. Prolongement des ouvrages de régularisation dans la coupure de Fussach sur le cône de déjection dans le lac de Constance.

a. Les dépenses des Etats contractants, du 1^{er} janvier 1942 au 30 juin 1953, pour les ouvrages de régularisation sur la rive droite, jusqu'au km 90,950, se sont élevées à:

Pour la Suisse	— francs
Pour l'Autriche	761 292 francs
Total	<u>761 292 francs</u>

b. Compte tenu des expériences faites, des prix de l'année 1953 et d'un cours du schilling de 0,1682 franc, les frais provisoires, occasionnés dès le

1^{er} juillet 1953, par un nouveau prolongement partiel des ouvrages construits de l'embouchure du Rhin jusqu'au km 91,300 s'élèvent à . . . 397 793 francs

c. Le total présumable des frais pour le prolongement des ouvrages jusqu'au km 91,300 est ainsi de 1 159 085 francs
soit, en chiffre rond: 1 160 000 francs

d. Les ressources financières pour le nouveau prolongement des ouvrages à l'embouchure du Rhin, dont le montant ne peut être fixé d'avance, devront être tenues à disposition par les gouvernements des Etats contractants selon les nécessités et en temps utile, au vu des propositions annuelles de la commission mixte du Rhin.

3. Total des frais d'aménagement et de prolongement des ouvrages. Abstraction faite de la dépense pour un prolongement des ouvrages de la rive droite au-delà du km 91,300, le total des frais est présentement fixé comme il suit:

Selon chiffre 1, lettre c	49 100 000 francs
Selon chiffre 2, lettre c	1 160 000 francs
Total	<u>50 260 000 francs</u>

Article 5

RÉPARTITION DES FRAIS

(1) Les frais des travaux communs seront supportés à parts égales par les Etats contractants.

(2) Les dépenses faites depuis le 1^{er} janvier 1942 par chaque Etat contractant pour ces travaux communs sont partie intégrante de ces frais.

(3) Les Etats contractants supportent à parts égales les frais supplémentaires qui pourraient résulter de l'exécution des travaux communs et seraient reconnus nécessaires par les deux gouvernements.

Article 6

FINANCEMENT

(1) Les Etats contractants accorderont, pour les travaux à exécuter sur leur territoire, des prestations annuelles selon les programmes des travaux établis par la commission mixte du Rhin et approuvés par les gouvernements.

(2) Les avances à faire par la Suisse devront être demandées au département fédéral de l'intérieur et celles à faire par l'Autriche, au ministère fédéral du commerce et de la reconstruction.

Article 7

SYSTÈME DES DÉCOMPTES ET ÉVALUATIONS DES PRESTATIONS

(1) Les dépenses effectives faites pour les travaux communs et inscrites dans le compte annuel seront calculées en francs suisses lors de l'établissement des comptes annuels et portées au compte des Etats contractants.

(2) Les dépenses faites du 1^{er} janvier 1942 au 30 juin 1949 seront évaluées d'après les cours du change établis à cet effet et approuvés par les gouvernements.

(3) Pour la période comprise entre le 1^{er} juillet 1949 et le 30 juin 1953, les dépenses de construction faites par l'Autriche sont évaluées sur la base suivante:

Année 1949/1950	1 schilling = 0,315 franc
Année 1950/1951	1 „ = 0,19 „
Année 1951/1952	1 „ = 0,19 „
Année 1952/1953	1 „ = 0,17 „

(4) Dès le 1^{er} juillet 1953, la conversion de montants en schillings en francs suisses, en tant qu'il n'en résulte manifestement aucune disproportion entre les prestations des Etats contractants, aura lieu d'après la moyenne entre les cours de Zurich et de Vienne au dernier jour de chaque année comptable ou entre les dernières cotes publiées avant ce jour. Sera considérée comme cours de Zurich ou cours de Vienne la moyenne entre le cours applicable aux paiements et aux versements dans le clearing austro-suisse.

(5) Le reste des prestations éventuelles concernant la répartition des frais en parts égales (art. 5) à la charge de l'un ou de l'autre Etat contractant sera compensé la première fois lors de la clôture du compte pour l'exercice de 1961/1962, puis chaque année. En principe, la compensation se fera en devises et, de ce fait, au profit de l'entreprise internationale de régularisation du Rhin, tant que l'Etat bénéficiaire aura encore à fournir des prestations. D'un commun accord, la compensation pourra s'opérer par des livraisons de matériaux de construction non assujetties au clearing ou par des travaux sur le territoire de l'Etat voisin pour la construction des ouvrages communs.

Article 8

FONDS DE RÉSERVE

(1) Le fonds de réserve constitué au cours des années par l'entreprise internationale de régularisation du Rhin continuera d'être alimenté par les intérêts de banque, toutes les recettes provenant des ouvrages et installations construits et entretenus en commun, les produits de ventes diverses et les bénéfices obtenus dans des opérations de change.

(2) Seront principalement couverts par le fonds de réserve les pertes sur le change, les frais d'expertises, ainsi que les frais de travaux de construction et d'entretien en commun prévus à l'article 16. Le cas échéant, les ressources du fonds de réserve pourront aussi être employées pour le financement d'autres travaux communs.

(3) Le droit de disposer de ce fonds et, le cas échéant, d'en limiter le montant, appartient conjointement aux deux gouvernements. La commission mixte du Rhin n'a ce droit de disposition que s'il s'agit d'un prélèvement annuel de 50 000 francs au maximum ou de l'exécution de travaux urgents ne souffrant pas de retard.

(4) Le fonds de réserve figurera séparément dans les comptes annuels.

(5) Les capitaux de ce fonds doivent être placés, selon leur origine, en Suisse ou en Autriche. Si leur emploi est nécessaire dans l'autre Etat, sont applicables par analogie les dispositions de l'article 7, 1^{er} et 4^{ème} alinéas.

III. ORGANISATION COMMUNE

Article 9

LA COMMISSION MIXTE DU RHIN

(1) La continuation des travaux de régularisation du Rhin, la direction de toutes les affaires d'ordre technique, administratif et financier, le contrôle courant des ouvrages du régime du fleuve, ainsi que de la constatation de la nécessité d'exécuter des travaux sont confiés à la commission mixte du Rhin.

(2) La commission mixte du Rhin se compose de quatre membres, chacun des États contractants en désigne deux. Si un membre est empêché, l'État qu'il représente désignera en temps utile son suppléant. Chaque année, la commission choisit son président dans son sein. Il la représente.

(3) La commission statue sur les modifications à apporter aux détails des travaux à exécuter en commun par les deux États, sous réserve que la dépense prévue pour l'ensemble des travaux ne soit pas dépassée. Dans le cas contraire ou si l'exécution exige que l'on s'écarte sensiblement des bases fixées dans le présent traité, l'assentiment des deux gouvernements est nécessaire, conformément à l'article 2, chiffre 1, lettre *b*.

(4) Chaque membre de la commission, y compris le président, a le droit de voter. S'il ne peut se former la majorité nécessaire pour prendre une décision, l'affaire doit être d'abord soumise aux deux gouvernements, qui, à défaut d'une décision commune, feront appel, dans chaque cas, à un spécialiste impartial et indépendant.

(5) Les frais d'administration de la commission, y compris les indemnités de déplacements, les vacations et les frais du bureau central, sont, de même que les dépenses faites pour l'expédition des affaires courantes et pour la direction et la surveillance des travaux, à la charge de l'entreprise internationale de régularisation du Rhin.

(6) Les indemnités dues aux membres de la commission sont fixées, d'un commun accord, par les deux gouvernements sur la proposition de la commission.

(7) La commission édicte son propre règlement, qui doit être approuvé par les deux gouvernements.

Article 10

LE BUREAU CENTRAL

(1) La commission mixte du Rhin traite ses affaires et remplit ses obligations avec l'aide du bureau central qui lui est subordonné.

(2) Les deux gouvernements désignent, d'un commun accord, le personnel nécessaire.

Article 11

LES DIRECTIONS DES TRAVAUX DU RHIN

(1) Pour l'exécution des tâches qui lui incombent, la commission mixte du Rhin dispose d'une direction autrichienne et d'une direction suisse,

entre lesquelles elle répartit judicieusement les affaires principalement selon des considérations territoriales.

(2) Chacune de ces directions est sous les ordres d'un ingénieur qualifié désigné comme directeur des travaux par le gouvernement intéressé.

(3) Ces directeurs traitent les affaires qui leur incombent avec l'aide du personnel qui leur est adjoint suivant les besoins et conformément aux instructions qui sont arrêtées par la commission mixte du Rhin.

(4) Les traitements des directeurs, ainsi que les autres indemnités sont fixés, sur la proposition de la commission mixte du Rhin, d'un commun accord par les deux gouvernements.

Article 12

HAUTE SURVEILLANCE EXERCÉE PAR LES GOUVERNEMENTS

(1) La commission mixte du Rhin ne répond de sa gestion qu'envers les deux gouvernements. Ceux-ci font procéder chaque année à une expertise commune par des organes qu'ils désigneront en nombre égal.

(2) Les Etats contractants ont en outre le droit de faire inspecter et contrôler en tout temps l'entreprise de régularisation du Rhin, tant du point de vue technique que financier.

Article 13

DIRECTIVES POUR L'EXÉCUTION DES TRAVAUX

(1) Pour l'adjudication et l'exécution des travaux, on procédera dans chacun des deux pays de telle sorte que l'œuvre entière soit exécutée à temps et convenablement, mais à des conditions aussi avantageuses que possible pour l'entreprise.

(2) La commission mixte du Rhin évalue les prestations en matériel et en travail fournies par les Etats contractants.

(3) La commission fixe la valeur économique des installations d'exploitation, des ouvrages et des avoirs.

(4) Les matériaux de construction nécessaires pour les travaux communs doivent, si possible, être prélevés aux lieux de production des Etats contractants.

IV. TRAVAUX D'ENTRETIEN

Article 14

TRAVAUX D'ENTRETIEN PENDANT ET IMMÉDIATEMENT APRÈS LA PÉRIODE DE CONSTRUCTION

(1) L'entretien des ouvrages de régularisation et des installations à exécuter conformément à l'article 1^{er} sera, jusqu'à leur remise à l'un des Etats contractants, à la charge de l'entreprise internationale de régularisation du Rhin.

(2) Les Etats contractants continueront d'être tenus d'entretenir les ouvrages de régularisation qui leur ont été attribués par les traités de 1892

et 1924, en tant que ces ouvrages ne seront pas modifiés par les travaux complémentaires prévus par le présent traité.

Article 15

TRANSFERT DE L'OBLIGATION D'ENTRETIEN AUX ETATS CONTRACTANTS

(1) Dès que la commission mixte du Rhin aura reconnu, à l'intention des deux gouvernements, l'état consolidé de certains ouvrages ou de parties de tels ouvrages et qu'elle aura proposé de les transférer, à un moment déterminé, à l'Etat sur le territoire duquel ils se trouvent, le gouvernement de cet Etat prendra les mesures nécessaires à leur entretien.

(2) Dans l'accomplissement de leur obligation d'entretien, les Etats exécuteront, en particulier, tous les travaux nécessaires pour empêcher ou faire disparaître les changements qui pourraient influencer défavorablement l'écoulement sur les glacis du profil normal.

(3) Chacun des deux Etats est libre de confier à des tiers l'exécution des travaux d'entretien.

Article 16

TRAVAUX D'ENTRETIEN À EXÉCUTER EN COMMUN

(1) Les Etats contractants s'engagent, même après que la consolidation des ouvrages communs aura été constatée, à entretenir en commun le plafond projeté du chenal moyen du Rhin, y compris le pied des berges, et à supporter à parts égales les frais découlant des travaux exécutés.

(2) Les gouvernements des Etats contractants s'engagent, en particulier, à entretenir en commun le plafond du fleuve, à la hauteur projetée au km 90,000 cote 393,63 (nouvel horizon suisse.) Ils chercheront, à cet égard, à différer le plus longtemps possible le prolongement de la digue insubmersible sur la rive gauche dans la coupure de Fussach sur le cône de déjection dans le lac de Constance et de stimuler judicieusement les dragages de gravier par des tiers à l'embouchure du fleuve pour réduire au minimum les travaux complémentaires qui pourraient être nécessaires. La priorité devra être donnée aux dragages à l'embouchure du Rhin, plutôt qu'à ceux à exécuter aux embouchures des cours d'eau les plus proches et sur les rives du lac de Constance entre Bregenz et Rorschach. En ce qui concerne les dragages, les entreprises suisses et autrichiennes seront traitées sur un pied d'égalité.

Article 17

CONTRÔLE DES OUVRAGES REPRIS PAR LES ETATS CONTRACTANTS

Afin d'assurer par des règles uniformes l'entretien irréprochable des ouvrages exécutés conjointement par les deux Etats, la commission mixte du Rhin fera procéder chaque année à des inspections communes, enregistrer les constatations faites et fixer, le cas échéant, les mesures qui devront être prises pour la section du Rhin comprise entre l'embouchure de l'Ill et le delta du Rhin.

Article 18

AFFLUENTS

(1) Le chenal de dérivation des cours d'eau de Diepoldsau et les ouvrages autrichiens d'assainissement (Neunergraben, Scheibenbach et canal de Lustenau) servant d'émissaires à ce chenal doivent être entretenus par l'Autriche, à partir de la frontière nationale, de telle façon que l'écoulement des cours d'eau de Diepoldsau soit absolument garanti.

(2) L'inspection en commun, selon l'article 17, s'étend par analogie aux ouvrages d'assainissement susindiqués, en tant que leurs conditions exercent une influence sur l'écoulement des cours d'eau de Diepoldsau.

(3) Après la dérivation du fleuve dans la coupure de Fussach, l'entretien des rives de l'ancien lit du Rhin, qui sert de chenal jusqu'au lac de Constance aux affluents des deux Etats et dont la régularisation en voie d'exécution sera entièrement à la charge de la Suisse, passera à l'Etat riverain dès que l'achèvement de cette régularisation aura été constatée en commun.

(4) L'entretien de tous les autres affluents de la plaine du Rhin relève du droit interne de chacun des deux Etats.

V. CORRECTIONS DE TORRENTS

Article 19

EXÉCUTION DES CORRECTIONS

(1) Pour maintenir en état la section du Rhin à régulariser selon le projet IIIb, les Etats contractants entreprendront, d'un commun accord, des travaux de correction et d'aménagement dans le bassin de réception et sur le cours des torrents qui charrient des matériaux dans le Rhin; ils prendront, si c'est nécessaire, d'autres mesures efficaces propres à réduire les charriages.

(2) Par des travaux d'assainissement et des mesures forestières, on cherchera en outre à réduire autant que possible les entraves que peut causer le charriage d'épaves diverses provenant de l'érosion et de l'affaissement des rives.

(3) Chaque Etat supporte les frais des mesures exécutées sur son territoire.

Article 20

PROGRAMME DES CORRECTIONS

Les services compétents des deux Etats établissent les programmes concernant l'exécution des mesures après avoir pris contact avec la commission mixte du Rhin. Une liste des différents torrents du bassin de réception du Rhin, constamment tenue à jour, sera remise à la commission mixte du Rhin. La commission sera périodiquement renseignée sur le genre et le coût des mesures exécutées.

VI. DROITS ET OBLIGATIONS D'ORDRE GÉNÉRAL

Article 21

FACILITÉS CONCERNANT LES LIVRAISONS ET LES TRAVAUX

(1) Les deux Etats s'engagent à ne pas entraver les livraisons de matériel et les travaux pour l'entreprise internationale de régularisation du Rhin par des interdictions d'importation et d'exportation, des mesures de nature à gêner le passage de la frontière, etc.

(2) Les livraisons de matériel et les travaux pour les ouvrages à exécuter en commun sur le territoire de l'autre Etat contractant ne sont pas soumis au clearing.

Article 22

IMPORTATION ET EXPORTATION DE MARCHANDISES EN FRANCHISE

Les matériaux et objets importés ou exportés d'un Etat dans l'autre sont soumis au régime suivant :

1. Sont définitivement francs de toutes taxes (droits de douane, émoluments, impôts), et de suppléments :

a. Les matériaux employés à la construction des ouvrages de régularisation prévus dans le présent traité ;

b. Les traverses, les rails et le petit matériel en fer, les mâts pour la conduite électrique et les fils destinés à l'entretien et à l'exploitation de la ligne servant au transport des matériaux, le matériel pour la ligne téléphonique du chemin de fer, et les objets analogues, puis, sous réserve des mesures de contrôle douanier nécessaires, les vagonnets, ainsi que les roues, les essieux, les coussinets et les roulements destinés à ces vagonnets.

2. Sont provisoirement exonérés des taxes visées sous chiffre 1 les machines, véhicules (sous réserve des dispositions du chiffre 1 applicables aux vagonnets, les ustensiles, les outils, etc.) à la condition que ces objets aient été dûment déclarés et identifiés par les organes douaniers, que les taxes afférentes soient garanties et que les objets soient réexportés dans le délai fixé. Les taxes doivent être payées pour les objets non réexportés dans le délai fixé lorsqu'ils ne peuvent être considérés comme entièrement hors d'usage.

Article 23

FRANCHISE D'AUTRES TAXES

(1) L'entreprise internationale de régularisation du Rhin jouit :

1. En Autriche, en matière de taxes de l'Etat, des pays et des communes, des franchises accordées à la République fédérale. Elle est en outre exonérée des taxes de transport et des impôts sur les véhicules automobiles.

2. En Suisse, en matière d'impôts fédéraux, cantonaux et communaux, des exonérations dont bénéficie la Confédération.

(2) Les documents, actes officiels, actes juridiques et pièces de procédure nécessités par l'exécution du présent traité ne sont, en principe, soumis à aucune taxe dans les deux Etats contractants.

(3) Les gouvernements des Etats contractants régleront par un échange de notes spécial l'étendue et le régime de la franchise de taxes prévue au 2^{ème} alinéa pour l'exécution du présent traité.

Article 24

FRAIS D'EXPLOITATION ET D'ENTRETIEN DU CHEMIN DE FER DE SERVICE

(1) Après l'exécution des travaux communs, le chemin de fer de service existant sera mis à la disposition des Etats contractants pour l'entretien desdits travaux. La répartition des frais d'exploitation et d'entretien de ce chemin de fer aura lieu selon les règles prévues pour l'obligation d'entretien des ouvrages communs.

(2) Les Etats contractants décideront d'un commun accord la suspension éventuelle, totale ou partielle, de l'exploitation du chemin de fer de service.

Article 25

MESURES D'EXÉCUTION CONCERNANT LES ARTICLES 21 À 24

Les Etats contractants se communiqueront les mesures d'exécution se rapportant aux articles 21 à 24.

Article 26

HYDROMÉTRIE

Les observations du niveau de l'eau et les levés hydrométriques opérés dans le Rhin et ses affluents seront à la disposition des organes officiels des deux Etats contractants.

Article 27

RÉSERVE CONCERNANT LES PRÉLÈVEMENTS DE MATÉRIAUX

L'entreprise internationale de régularisation du Rhin est compétente pour fixer tout prélèvement, excédant l'usage commun, de gravier, de sable et de limon dans le chenal du Rhin à entretenir en commun par les Etats contractants.

Article 28

OBJETS DE NÉGOCIATIONS PARTICULIÈRES ÉVENTUELLES

En tant qu'ils paraîtront désirables, des accords sur le cours de la frontière douanière, sur la pêche, la navigation ou sur d'autres questions non réglées par le présent traité feront expressément l'objet de négociations particulières.

VII. DISPOSITIONS TRANSITOIRES

Article 29

TRAVAUX EXÉCUTÉS ANTÉRIEUREMENT

Les travaux déjà exécutés conformément à des décisions prises de concert par les deux Etats depuis le 1^{er} janvier 1942 et selon les directives du projet IIIb sont considérés comme partie intégrante des travaux communs (art. 1^{er}).

Article 30

BAIE DE HARD-FUSSACH

(1) Eu égard aux mesures que la dérivation des affluents autrichiens implique pour l'Autriche dans la baie de Hard-Fussach en dehors du cadre des travaux communs, la Suisse accepte librement de verser à l'Autriche une indemnité unique de 600 000 francs (six cents mille francs), l'Autriche déclarant qu'elle supportera seule à l'avenir les dépenses que pourraient imposer d'autres mesures semblables.

(2) Cette somme sera payable en quatre annuités du même montant; la première sera versée pendant l'année de l'entrée en vigueur du présent traité.

Article 31

FRONTIÈRE NATIONALE

(1) Dans la zone touchée par la régularisation internationale du Rhin, le tracé de la frontière entre les deux Etats contractants est fixé dans les protocoles existants entre les deux Etats.

(2) En tant que le tracé de la frontière n'a pas encore été aborné, cette tâche est confiée à la commission austro-suisse pour la fixation de la frontière du Piz Lad au lac de Constance. A cet égard, il y aura lieu de fixer, dès que faire se pourra, au milieu du nouveau chenal moyen du Rhin, la frontière dans la zone touchée par la régularisation internationale du Rhin, à l'exception des sections comprises dans les coupures. Les frais d'abornement de la frontière seront à la charge de l'entreprise internationale de régularisation du Rhin.

VIII. DISPOSITIONS FINALES

Article 32

MESURES FINALES

Après la reprise de l'obligation d'entretien des ouvrages communs mentionnés à l'article 1^{er} et après le règlement complet de toutes les affaires en découlant, les gouvernements des Etats contractants s'entendront au sujet d'une liquidation éventuelle des installations et du matériel, de la mise à jour du compte final et de l'emploi du fonds de réserve. Ils régleront en outre, de la façon qui leur semblera appropriée, les affaires communes encore en suspens. Les Etats contractants pourront néanmoins, d'un commun accord et s'ils le jugent à propos, procéder à une liquidation anticipée d'une partie des installations et du matériel.

Article 33

CLAUSE ARBITRALE

(1) Si les deux gouvernements ne peuvent s'entendre sur l'interprétation ou l'application de certaines dispositions du présent traité, la question sera soumise à un tribunal arbitral.

(2) Chacun des deux gouvernements nommera un membre de ce tribunal. Le président, qui ne pourra appartenir à aucun des deux Etats contractants, sera désigné d'un commun accord par des deux gouvernements.

(3) A la demande d'un des Etats contractants, le tribunal arbitral devra entrer en activité au plus tard six mois après avoir été requis de le faire. Si tous les membres du tribunal n'ont pas encore été nommés dans ce délai, les membres manquants seront désignés, à la demande d'un des Etats contractants, par le président de la cour de justice internationale.

(4) A défaut d'un autre accord, la convention pour le règlement pacifique des conflits internationaux conclue à La Haye le 18 octobre 1907 sera déterminante pour la procédure à suivre devant le tribunal arbitral.

Article 34

ECHANGE DES DOCUMENTS FONDAMENTAUX RELATIFS AUX PROJETS

Chaque Etat contractant recevra, lors de la signature du présent traité, une expédition mise à jour et signée par les chefs des délégations du projet IIIb exposé à l'article 2, ainsi que du programme des travaux et des dépenses du 1^{er} juillet 1953, mentionné à l'article 3.

. . .

Austria-Yugoslavia

144. CONVENTION¹ BETWEEN THE GOVERNMENT OF THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA AND THE FEDERAL GOVERNMENT OF THE AUSTRIAN REPUBLIC CONCERNING WATER ECONOMY QUESTIONS RELATING TO THE DRAVA, SIGNED AT GENEVA, ON 25 MAY 1954²

Desirous of strengthening good-neighbourly relations, of increasing co-operation in respect of water economy, and of developing the utilization of the waters of the Drava for hydro-electric purposes by both parties to the greatest possible extent, especially with a view to preventing any harmful effects resulting from the mode of operation of the Austrian power stations of Schwabeck and Lavamünd, and further, having regard to the diversion of water from the Drava basin, the Governments of the Austrian Republic and of the Federal People's Republic of Yugoslavia, in accordance with the decisions taken at the meetings held at Bled on 29 February 1952, at Velden on 10 May 1952 and at Opatija on 10 July 1953, have agreed as follows:

ARTICLE 1. The discharge of water below the Lavamünd power station shall be regulated in accordance with the following provisions:

(a) The Austrian Drava power stations shall be so operated that the discharge below the Lavamünd power station is as provided in annex A for the various average daily inflow rates.

¹ Came into force on 15 January 1955 by an exchange of notes.

² United Nations, *Treaty Series*, vol. 227, p. 128.

(b) Austria shall endeavour, as a rule, not to use the Schwabeck power station for maintaining the frequency. Where such use proves necessary in exceptional cases, however, it shall be so restricted as to comply with the provisions of Annex A or with any other provisions in force relating to discharge.

(c) In the event of any major alterations in the Yugoslav Drava power stations or in the Drava river regime, either party may apply to the Joint Drava Commission for amendment of the agreed conditions set forth in annex A, and the Commission shall deal with such applications in accordance with the Statute. In particular, the installation of a third machine set at the Dravograd or Vuzenica power stations shall be regarded as a major alteration.

ARTICLE 2. As agreed at the meeting held at Opatija, the *Verbundgesellschaft Oesterreichische Elektrizitätswirtschafts A-G* and the *ELES (Elektroenergetski sistem Slovenije)* have concluded the "Power and Equipment Supply Contract" of 15 April 1954.

Both Governments note and approve this contract.

ARTICLE 3. The Federal People's Republic of Yugoslavia shall not press any claims for compensation which have arisen or may arise out of the manner in which the Schwabeck and Lavamünd power stations in Austria have hitherto been operated, or out of the quantities of water hitherto diverted from the Drava basin.

So long as the Dravograd power station remains in service with its present impounded water level, the Austrian Republic shall not press any past or future claims for compensation in respect of backing-up of water from the Dravograd power station into Austrian territory, or any other claims previously lodged in respect of the water economy of the Drava.

In the event of a clear breach of the contract referred to in article 2, both parties shall have the right to prosecute all claims referred to in the two preceding paragraphs, in which case the above provision shall be without prejudice to the respective legal positions previously adopted by the parties.

The Government of the Federal People's Republic of Yugoslavia further declares that it will not press any claims for compensation which may in future arise out of the mode of operation of the Austrian power stations of Schwabeck and Lavamünd, provided that the provisions of article 1 of this Convention are observed.

The quantities of water hitherto diverted from the Drava basin, as referred to in the first paragraph of this article, shall be understood to include only water from the catchment area from which diversion is effected by installations erected up to the end of 1953.

ARTICLE 4. Should the Austrian authorities seriously contemplate plans for new installations to divert water from the Drava basin or for construction work which might affect the Drava river regime to the detriment of Yugoslavia the Austrian Federal Government undertakes to discuss such plans with the Federal People's Republic of Yugoslavia prior to legal negotiations concerning rights in the water.

If no agreed settlement can be reached by discussion, either directly between the parties or in the Joint Drava Commission (art. 5), the matter shall be referred to the Court of Arbitration (art. 7) for a decision.

ARTICLE 5. The two Governments agree to establish a permanent Austro-Yugoslav Commission (the Joint Drava Commission) for the exchange of information and the achievement of agreement on all questions of common interest relating to the water economy of the Drava in Austria and Yugoslavia, and to give the said Commission the Statute appended as annex B to this Convention.

ARTICLE 6. The Summary Protocols of the meetings at Bled (29 February 1952), at Velden (10 May 1952) and at Opatija (10 July 1953), which have been noted and approved by both Governments, shall be used as supplementary material for the interpretation of this Agreement, in so far as they are not at variance with it or with the contract concluded between the Verbundgesellschaft and ELES on 15 April 1954 (art. 2).

ARTICLE 7. If the two Governments disagree on the interpretation or application of any of the provisions of this Convention, the question shall be referred to a Court of Arbitration.

Each Government shall appoint one member to the said Court of Arbitration. The Chairman, who shall not be a national of either Contracting State, shall be designated by agreement between the two Governments.

The Court of Arbitration shall convene at the request of either Contracting State within three months of such request being made. If all the members of the Court have not been appointed within that time, the remainder shall, at the request of either Contracting State, be appointed by the Executive Secretary of the United Nations Economic Commission for Europe (ECE) at Geneva.

ANNEX A

REGULATION OF THE FLOW OF THE DRAVA

(applicable until amended by the Joint Drava Commission in accordance with article 1)

(a) For average daily inflows under 200 m³/sec and over 300 m³/sec, taken at the Schwabeck discharge point:

The Austrian Drava power stations shall be so operated that the maximum difference between the discharge per second below the Lavamünd power station and the natural flow is such that the discharge below the Dravograd power station can be fully made up by drawing not more than 1 million m³ of water from the Dravograd power station reservoir, a margin of 5 per cent being permitted.

(b) For average daily inflows between 200 m³/sec and 300 m³/sec, taken at the Schwabeck discharge point:

The maximum permissible variations in the discharge per second below the Lavamünd power station are fixed as shown in the following table, intermediate values to be found by linear interpolation. Here, too, a margin of 5 per cent shall be permitted.

Average daily inflow m ³ /sec.	Time of day						
	0-2	2-7	7-12	12-19	19-21	21-22	22-24
210	180	180	250	210	250	210	180
230	180	200	280	230	280	230	180
250	200	220	300	250	300	250	200
270	220	240	320	270	320	270	220
290	240	260	340	290	340	290	240

The beginning of the two-hour evening peak period, which has been set at 19.00 hours in the table, shall be agreed according to the season.

The provisions of paragraphs (a) and (b) above shall be applicable only when the natural flow of the Drava remains roughly constant throughout the day. When there are major fluctuations during the day the Austrian Drava power stations shall, as far as possible, keep the differences and variations within the limits agreed in paragraphs (a) and (b) above.

ANNEX B

STATUTE FOR A PERMANENT AUSTRO-YUGOSLAV COMMISSION FOR THE DRAVA (JOINT DRAVA COMMISSION)

ARTICLE 1. The Commission shall have as its object the exchange of information and the achievement of agreement on all questions of common interest relating to the water economy of the Drava in Austria and Yugoslavia.

ARTICLE 2. (1) The terms of reference of the Commission shall include, in particular:

- (a) The exchange of information on questions relating to the water economy of the Drava;
- (b) Consideration of proposals and complaints relating to the utilization of the Drava for power production;
- (c) The amicable settlement of disputes;
- (d) The exchange of views on the further hydro-electric development of the Drava.

(2) The two Governments remain free to negotiate direct on matters within the terms of reference of the Drava Commission.

ARTICLE 3. Each Contracting State shall appoint a delegation of four members to represent it on the Commission and shall provide an alternate for each member. Each party may call in experts when necessary.

ARTICLE 4. (1) The Commission shall hold a regular session twice yearly, unless it is agreed to dispense with one of the sessions. The sessions shall, as far as possible, be held in the spring and autumn.

(2) Either party may request the convening of a special session, on submission of the proposed agenda. Such a session shall be held within a period of one month.

ARTICLE 5. (1) Any decision of the Commission shall require the assent of at least three members of each delegation.

(2) A record of each meeting shall be drawn up in two copies and signed as approved by the representatives of both parties. These records shall be submitted to the two Governments.

ARTICLE 6. Decisions of the Commission shall be in no way binding on the two Governments. No decision of the Commission shall be put into effect if either of the Governments raises an objection thereto. If no objection to a decision by the Commission is raised by either Government within two months of its adoption, the decision shall be regarded as approved by both Governments.

ARTICLE 7. (1) The working languages of the Commission shall be German and Slovene.

(2) The delegations may also correspond with each other direct.

(3) Further rules of procedure shall be adopted by the Commission itself.

ARTICLE 8. (1) Unless otherwise agreed, the Commission shall meet on the territories of each of the Contracting States alternately.

(2) Each session shall be convened and presided over by a duly authorised member representing the State on whose territory it is to take place.

(3) Each State shall defray the expenses of its own delegation. Any other expenses arising out of the activities of the Commission shall, unless otherwise agreed, be equally shared by the two Contracting States.

ARTICLE 9. This Statute shall enter into force when approved by the two Governments.

(2) It is drawn up in the German Slovene languages, both texts being authentic.

The text of the Power and Equipment Supply Contract mentioned in article 2 of the inter-governmental Convention is given below for information.

POWER AND EQUIPMENT SUPPLY CONTRACT CONCLUDED BETWEEN THE ELEKTROENERGETSKI SISTEM SLOVENIJE AND THE OESTERREICHISCHE ELEKTRIZITÄTSWIRTSCHAFTS AKTIENGESELLSCHAFT (VERBUNDGESELLSCHAFT)

In pursuance of the proposal on pages 4 and 5 of the summary Protocol of the meeting held at Opatija from 8 to 10 July 1953, for a Power and Equipment Supply Contract between the Elektroenergetski sistem Slovenije, hereinafter referred to as "ELES", and the Oesterreichische Elektrizitätswirtschafts A. G. (Verbundgesellschaft), hereinafter referred to as "VG", it is hereby agreed as follows:

(1) ELES shall purchase in Austria from Austrian suppliers, for itself and its subsidiaries, industrial products selected from the attached list to a total value of not less than 50 million Schillings, such products to be supplied in the name of ELES.

(2) In payment for the goods supplied by Austria under paragraph (1) above, ELES shall supply and VG shall accept such quantities of power as

can be produced by the third machine sets at the Dravograd, Vuzenica and Vuhred or Mariborski Otok power stations, in accordance with the following reference schedule:

- (a) In each of the calendar years 1954-1959: approximately 21.5 million kWh of summer power from the Dravograd power station;
- (b) In each of the calendar years 1955-1959: approximately 30.5 million kWh of summer power from the Vuzenica power station; and
- (c) In each of the calendar years 1956-1959: approximately 30.5 million kWh of summer power from the Vuhred or Mariborski Otok power station.

(3) ELES shall provide for power supplies under paragraphs (2) (a), (b) and (c) using the existing flow of the Drava in such a way that the capacity corresponding to the quantities of water turbined in the third machine sets at any time, is fully available to and is taken up by VG. This capacity shall be used for chain operation as required by the flow of the Drava and in accordance with a time-table to be agreed.

With a view to punctual execution of this contract, ELES shall be entitled to substitute power from other sources for the supplies required under paragraph (2) above, without regard to the completion dates for the third sets or the existing flow of the Drava, up to the installed capacities of one-machine set each at the Dravograd and Vuzenica plants and in accordance with the agreed time-table.

(4) In addition to summer power under paragraphs (2) and (3) above, this contract shall also include a sustained base supply of, if possible, 3.75 MW from the power due under the supply contract of 4 August 1951.

(5) For power supplies under paragraphs (2) to (4) above, the following time and accounting schedule is prescribed, prices in the contract of 4 August 1951 being taken as a basis:

(All sums in thousands of Austrian schillings)

<i>Year</i>	<i>Base supply</i>	<i>Dravograd III</i>	<i>Vuzenica</i>	<i>Vuhred or Mariborski Otok</i>	<i>Total</i>
1954	4,600	1,505	—	—	6,105
1955	4,600	1,505	2,135	—	8,240
1956	4,600	1,505	2,135	2,135	10,375
1957	4,600	1,505	2,135	2,135	10,375
1958	4,600	1,505	2,135	2,135	10,375
1959	4,600	1,505	2,135	2,135	10,375
	27,600	9,030	10,675	8,540	55,845

(6) Both parties reserve the right to withdraw wholly or partly, according to their power position, their respective undertakings to supply and purchase the amounts of power indicated under "Vuhred or Mariborski Otok" in the above schedule.

(7) ELES reserves the right also to make payments in fulfilment of its obligations under this contract from funds derived from other power deliveries to VG.

(8) On the conclusion of this contract VG shall grant ELES a credit of 11.6 million schillings, free of interest, which shall be used by ELES for purchases in Austria under this contract.

As soon as the power supplied under this contract attains a value of 38.4 million schillings, the contract shall be regarded as fulfilled and VG shall waive its claim to repayment of the credit of 11.6 million schillings.

(9) The accounts of the mutual liabilities of the parties shall be kept in a "Jugodrau" clearing account to be opened by VG.

The credit granted by VG, the amounts to be credited for power supplied and the payments for equipment supplied shall be entered in this account. ELES shall so use this account that the debit balance does not exceed 6.5 million schillings. Interest on the current debit balance shall also be charged at 4 per cent above the National Bank rate, including all commissions and expenses.

(10) Both parties shall endeavour to increase the amount of equipment supplied by Austria against power supplies from Yugoslavia under this contract, beyond the minimum value stipulated in paragraph (1).

(11) This contract shall take effect as from the date of entry into force of the Convention concerning the joint settlement of questions relating to the Drava, which is to be concluded between the Government of the Austrian Republic and the Government of the Federal People's Republic of Yugoslavia.

(12) This contract is drawn up in the German and Slovene languages in two identical copies each, both texts being authentic.

Graz, 15 April 1954.

SPECIFICATION OF THE CLASSES OF GOODS TO BE COVERED BY YUGOSLAV
PURCHASES OF AUSTRIAN PRODUCTS UNDER THE POWER AND EQUIPMENT
SUPPLY CONTRACT OF 15 APRIL 1954

Electrical equipment and machinery for power station installations;
Boilers, pumps and equipment;
Cables, measuring instruments, electrical supplies for power stations;
Insulators;
Machine-tools, presses, stamps, tools;
Electrodes;
Chemical products for use in power stations;
Forgings and iron and steel castings for use in power stations;
Rolled products, iron goods, steel cylinders for use in power stations;
Magnesite, fireclay for use in power stations;
Optical instruments;
Printing supplies;
Office machinery;
Technical literature;
Trucks;
Products of the low-power electrical industry;
Constructional machinery.

The first items from this specification to be ordered in 1954 are:

1 Water-turbine for Dravograd, to the value of approximately 7.3 million schillings;

1 Tri-phase generator for Dravograd, to the value of approximately 4.6 million schillings.

145. AGREEMENT¹ BETWEEN THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA AND THE REPUBLIC OF AUSTRIA CONCERNING WATER ECONOMY QUESTIONS IN RESPECT OF THE FRONTIER SECTOR OF THE MURA AND THE FRONTIER WATERS OF THE MURA, TOGETHER WITH THE STATUTE OF THE PERMANENT YUGOSLAV-AUSTRIAN COMMISSION FOR THE MURA, SIGNED AT VIENNA ON 16 DECEMBER 1954²

The Federal People's Republic of Yugoslavia and the Republic of Austria, in order to settle water economy questions in respect of the frontier sector of the Mura and the frontier waters of the Mura, have agreed as follows:

Article 1

1. Water economy questions, measures and works on the frontier sector of the Mura, and substantial effects brought about on that frontier sector by the diversion of water from the Mura basin or by pollution, which are considered to be of interest to both Contracting States, shall be dealt with by a Permanent Yugoslav-Austrian Commission for the Mura (the Mixed Commission for the Mura). The same shall apply to all tributaries of the Mura which form or intersect the frontier between the Contracting States (frontier waters of the Mura).

2. The terms of reference of the Commission shall accordingly comprise, in particular, regulation, the erection of high-water embankments, protection against flooding and ice, the utilization of water power, changes in the regime of the river, the reclamation of riparian areas, water supply, pollution by effluents, ferries and bridges.

3. The detailed terms of reference, the composition and the procedure of this Commission shall be as laid down in the Statute which is appended as annex I to this Agreement.

Article 2

1. The two Contracting States undertake to maintain in their existing condition, and where necessary to improve the condition of, the water installations on the frontier sector of the Mura.

2. Each Contracting State shall bear the cost of such regulation and maintenance works as are carried out in its territory. Where joint works (e.g. ditching or dredging) are carried out, the Commission shall determine the appointment of expenses.

3. The same principles shall apply to the frontier waters of the Mura unless the Commission decides otherwise.

¹ Came into force on 9 February 1956 by the exchange of ratifications.

² *United Nations Treaty Series*, Vol. 396, No. 5694 (not yet published).

Article 3

1. Construction materials and fuel transferred from the territory of one Contracting State to the territory of the other Contracting State for the execution of works under this Agreement shall be unconditionally exempt from all import and export taxes. Such construction materials and fuel shall not be subject to any import or export restrictions.

2. Equipment (machinery, vehicles, tools and the like) shall be provisionally exempt from taxes pursuant to paragraph (1) provided that the articles concerned are declared to the customs for identification and are returned within the time-limit laid down by the customs. The deposit of security for the taxes due shall not be required. Taxes shall be payable in respect of any articles not returned within the prescribed time-limit. Any such article which is completely worn out and thus unusable, and which is consequently returned, shall be exempted from taxes.

3. The two Contracting States guarantee to facilitate for each other the customs procedure for the transit of construction materials, fuel and equipment which are exempt from taxes.

4. Construction materials, fuel and equipment imported and exported shall be subject to customs supervision by the Contracting State concerned.

Article 4

1. The extraction of gravel and sand from sandbanks between the regulation lines for river engineering purposes shall be permitted in the frontier sector regardless of the position of such banks in the river bed, subject to prior agreement between the two engineering administrations.

2. The consent of the Commission shall be required for extraction for other purposes.

Article 5

Topographical marks on the two banks, such as triangulation marks, permanent benchmarks, and kilometre and hectometre marks, and installed water gauges shall be retained, maintained and, where necessary, augmented or renewed. Each of the two engineering administrations may use these facilities at any time. If this entails entering the territory of the other Contracting State, the engineering administration and the customs authorities must be notified in advance.

Article 6

1. For the purpose of giving effect to the provisions of this Agreement, the frontier authorities of the Contracting States shall issue, and shall visa for each other, frontier cards with which members of the Commission, officials of the water economy agencies, and the strictly necessary number of officials and workmen employed on works in the frontier sector may cross the State frontier.

2. Frontier cards shall be issued to the persons referred to in paragraph (1) with an indication of the frontier crossing point, the area of movement and the period of validity, with due regard for the official status of the person concerned and the nature of his functions.

3. The model for this card in two languages is appended as annex II to the Agreement.

4. All other matters relating to the procedure for frontier crossing shall be governed by the provisions concerning the regulation of frontier traffic between the Contracting States which are in force at the time.

Article 7

The local authorities of the Contracting States shall advise each other, by the quickest possible means, of any danger from high water or ice and of any other impending danger which comes to their notice in connexion with the Mura. The same shall apply to the frontier waters of the Mura where such dangers come to the notice of the local authorities.

Article 8

The two Contracting States shall endeavour to facilitate the application of this Agreement and the activity of the Commission, having due regard to the interests of both sides.

Article 9

Questions on which the Commission fails to reach agreement shall be submitted to the Governments of the Contracting States.

Article 10

1. If the two Governments fail to agree on the interpretation or application of any provision of this Agreement, the question at issue shall be referred to a court of arbitration for decision.

2. Each Government shall appoint one member to the said court of arbitration. The Chairman, who must not be a national of either Contracting State, shall be appointed by agreement between the two Governments.

3. The court of arbitration shall begin work at the request of either Contracting State not later than three months after the submission of such request. If not all the members of the court of arbitration have been appointed within that time, the remainder shall, at the request of either Contracting State, be appointed by the Executive Secretary of the United Nations Economic Commission for Europe (ECE).

4. Unless otherwise agreed, the procedure followed before the court of arbitration shall be that laid down in the Convention for the Pacific Settlement of International Disputes signed at The Hague on 18 October 1907.

ANNEX I

STATUTE OF THE PERMANENT YUGOSLAV-AUSTRIAN COMMISSION FOR THE MURA (MIXED COMMISSION FOR THE MURA)

Article 1

1. The function of the Commission shall be to deal jointly with water economy questions, measures and works on the frontier sector of the Mura,

and with substantial effects brought about on that frontier sector by the diversion of water from the Mura basin or by pollution, which are considered to be of interest to both Contracting States.

2. This function shall extend to all tributaries of the Mura which form or intersect the frontier between the Contracting States (frontier waters of the Mura).

Article 2

1. The terms of reference of the Commission shall comprise, within the limits of article 1, in particular: regulation, the erection of high water embankments, protection against flooding and ice, the utilization of water power, changes in the regime of the river, the reclamation of riparian areas, water supply, pollution by effluents, ferries and bridges.

2. To this end it shall be the Commission's task, in particular:

(a) To exchange information on proposed water economy measures and works;

(b) To define and prepare for joint measures and works;

(c) To make an expert evaluation of projects proposed for this purpose and take decisions concerning their execution;

(d) To supervise and accept joint measures and works;

(e) To carry out inspections and all necessary stock-taking;

(f) To discuss measures and works which are not carried out by the engineering administrations themselves;

(g) To grant permits for the extraction of gravel and sand in the frontier sector of the Mura for purposes other than river engineering;

(h) To discuss measures and works undertaken on the frontier sector of the Mura or frontier waters of the Mura in the territory of one State only;

(i) To discuss plans to divert water from the Mura basin and to introduce effluents, for which authorization under the water laws is under serious consideration;

(j) To deal with questions concerning timber floating or navigation, having regard to the existing condition of the river, and concerning ferries and bridges, and to forward proposals which relate to such questions but which go beyond the Commission's terms of reference;

(k) To regulate the exchange of water economy experience and of hydrographical data;

(l) To settle amicably questions in dispute which relate to these subjects;

(m) To transmit to the two Governments proposals on the subject-matter of the foregoing sub-paragraphs.

3. The two Governments may also deal directly with matters within the Commission's terms of reference.

Article 3

1. The Commission shall consist of eight members. Each Contracting State shall appoint as its delegation four members of the Commission and an alternate for each member. In addition each side may use experts in the Commission's work as required.

2. Each Contracting State shall appoint one member of its delegation as Chairman.

Article 4

1. The Commission shall meet in regular session once a year, as a rule in the autumn. In addition the Chairmen of the delegations may convene special sessions by agreement.

2. Unless otherwise agreed, the Commission shall meet in each of the two States alternately.

3. Each session shall be convened by the Chairman of the delegation of the Contracting State in which the session is to be held, in agreement with the Chairman of the delegation of the other Contracting State.

Article 5

1. The Chairmen of the two delegations shall confirm the agenda by prior agreement.

2. The agenda may be supplemented by agreement during the meetings.

Article 6

1. The meetings shall be presided over by the Chairman of the delegation of the Contracting State in whose territory the session is held.

2. The working languages of the Commission shall be Slovene or Serbo-Croat and German.

Article 7

1. The adoption of a conclusion by the Commission shall require the assent of at least three members of each delegation.

2. A record of the meetings shall be drawn up in two copies and signed by both Chairmen. The record shall be submitted to the Governments for approval.

Article 8

The conclusions of the Commission shall not affect the right of the Governments to take decisions. No conclusion of the Commission may be put into effect if either Government raises an objection. If no objection to a conclusion is raised by either Government within three months after its adoption by the Commission, the conclusion shall be regarded as approved by both Governments.

Article 9

The Chairmen of the delegations may also communicate with each other directly.

Article 10

Each Contracting State shall defray the expenses of its own delegation. Unless otherwise agreed, each Contracting State shall bear one-half of all other expenses.

Article 11

The Commission shall adopt its own rules of procedure in conformity with this Statute.

Notice

1. The holder of a frontier card may cross the State frontier and return only at the frontier crossing points specified in the pass.
2. The holder of a frontier card may remain in the neighbouring frontier zone only within the area specified in the frontier card.
3. The holder of a frontier card must declare without delay to the authority which issued the card any change in the particulars shown in the frontier card.
4. All other matters shall be governed by the frontier traffic regulations in force between the Federal People's Republic and the Republic of Austria.

Belgium-France

146. ARRANGEMENT ENTRE LA BELGIQUE ET LA FRANCE
CONCERNANT LE RÈGLEMENT DE LA VIDANGE DANS
LE BIEF DE PARTAGE DU CANAL DE POMMEROEUL À
ANTOING, SIGNÉ À PARIS, LE 31 MAI 1882¹

Le gouvernement de Sa Majesté le Roi des Belges et le gouvernement de la République française, désirant régler les questions relatives à la vidange du bief de partage du canal de Pommeroeul à Antoing et considérant que la vidange de ce bief de partage intéresse le territoire français, en tant qu'elle se fait par les trois déversoirs situés, le premier sur le ruisseau de Macon à l'aval de l'écluse No 5; le deuxième sur le ruisseau de la Verne de Bury, à l'aval du pont-levis de Roncourt; le troisième sur le ruisseau de la Calonne, à l'aval du pont-levis de la Wiers,

Sont convenus des dispositions suivantes:

ARTICLE 1^{er}. L'administration belge ne procédera à aucune vidange par les trois ruisseaux de Macon, de la Verne de Bury et de la Calonne sans en avoir averti le service hydraulique français, au moins trois mois à l'avance, sauf en cas de force majeure.

ARTICLE 2. Le déversement des eaux devra être effectué de manière à ne pas jeter dans ces ruisseaux un volume supérieur à celui qu'ils peuvent débiter, sans débordement, à l'égard de leurs dimensions légales.

En foi de quoi, les soussignés, Envoyé Extraordinaire et Ministre plénipotentiaire de Sa Majesté le Roi des Belges à Paris et Président du Conseil, Ministre des affaires étrangères de la République française, dûment autorisés à cet effet, ont signé le présent arrangement et l'ont revêtu de leurs cachets.

¹ De Martens, *Nouveau Recueil Général des Traités*, 2^e série, tome VIII, p. 446.

147. CONVENTION ENTRE LA BELGIQUE ET LA FRANCE
POUR ASSURER LE RÉTABLISSEMENT DANS LEUR ÉTAT
NORMAL ET L'ENTRETIEN ULTÉRIEUR DES COURS
D'EAU NON NAVIGABLES NI FLOTTABLES MITOYENS
ENTRE LES DEUX PAYS, SIGNÉE À PARIS LE 22 JUIN
1882¹

Le Président de la République française et Sa Majesté le Roi des Belges, désirant, d'une part, assurer le rétablissement dans leur état normal des cours d'eau non navigables ni flottables qui sont mitoyens entre la France et la Belgique, et pourvoir, d'autre part, à l'entretien ultérieur de ces mêmes cours d'eau, ont résolu de conclure à cet effet une convention spéciale² . . .

ARTICLE 1. Les autorités compétentes de France et de Belgique feront dresser, d'un commun accord, pour les cours d'eau non navigables ni flottables mitoyens entre les deux pays, des plans et des tableaux descriptifs qui indiqueront, notamment, la direction actuelle de chaque cours d'eau, la largeur et la profondeur normales qu'il doit présenter en différents points, ses dépendances et les ouvrages qui modifient son état naturel, avec leurs dimensions principales.

Les plans seront constitués par des extraits du cadastre rectifiés et réduits, au besoin; ils renseigneront le parcellaire sur une zone de cent mètres à partir de chaque rive.

Les tableaux descriptifs seront dressés conformément au modèle annexé à la présente Convention.

Les plans et les tableaux descriptifs feront, dans chacun des deux Pays, l'objet d'une enquête administrative, selon les formes prescrites par leur législation particulière, et seront ensuite approuvés par les autorités désignées à cet effet.

Ils serviront de base pour les travaux de curage, d'entretien et de réparation.

2. Chaque fois qu'un cours d'eau mitoyen nécessitera des travaux de l'espèce, le projet en sera dressé, d'un commun accord, par les fonctionnaires compétents des deux Pays, à la diligence de l'administration française ou de l'administration belge.

Ces travaux seront exécutés par voie d'adjudication publique.

Le cahier des charges, clauses et conditions de chaque entreprise sera dressé d'après une formule imprimée dont la rédaction aura été préalablement concertée.

3. Les frais que ces travaux occasionneront seront payés par moitié par chacun des deux Pays, qui restera libre de se rembourser des dépenses ainsi faites, selon le mode qu'il jugera le plus convenable, eu égard à sa législation particulière et aux circonstances locales.

¹ De Martens, *Nouveau Recueil Général des Traités*, 2^{ème} série, Tome IX, p. 55.

² La convention entre la Belgique et le Luxembourg pour assurer le rétablissement dans leur état normal et l'entretien ultérieur des cours d'eau non navigables ni flottables mitoyens entre les deux pays, signée à Bruxelles le 27 novembre 1886, reproduit des dispositions similaires [Voir: De Martens, *Nouveau Recueil Général des Traités*, 2^e série, tome XII, p. 534].

4. Les administrations compétentes s'entendront pour désigner les cours d'eau mitoyens dont le premier curage sera adjugé en France et ceux pour lesquels l'adjudication se fera d'abord en Belgique.

Les travaux que nécessitera l'entretien ultérieur seront adjugés alternativement au chef-lieu du département français et au chef-lieu de la province belge limitrophes du cours d'eau à entretenir, en présence des fonctionnaires des deux Pays délégués pour assister à cette opération.

L'exécution en sera surveillée par des agents français ou par des agents belges, selon que l'adjudication aura eu lieu en France ou en Belgique.

Dans tous les cas, les procès-verbaux de réception seront dressés et signés par les fonctionnaires compétents des deux Pays.

5. Les ponts, les barrages, les vannes, les prises d'eau, les gués, et, en général, tous les ouvrages permanents ou temporaires de nature à influer sur le régime des cours d'eau mitoyens, ne pourront être établis ou modifiés qu'après une entente préalable entre les administrations des deux Pays.

6. La présente Convention sera exécutoire à partir de la date dont conviendront les administrations des deux Pays; elle pourra prendre fin à toute époque, moyennant la dénonciation qui en sera faite, un an à l'avance, par l'un ou l'autre des deux Gouvernements.

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148. ARRANGEMENT ENTRE LA BELGIQUE ET LA FRANCE
POUR FACILITER LE SERVICE DE L'ALIMENTATION
DU CANAL DE L'ESPIERRE, SIGNÉ À PARIS LE 14 MAI
1884¹

Le Gouvernement de la République française et le Gouvernement de Sa Majesté le roi des Belges, désirant faciliter le service de l'alimentation du canal de l'Espierre, sont convenus d'assurer, chacun en ce qui le concerne, l'exécution des dispositions contenues dans la Convention qui est annexée au présent Arrangement, et qui a été passée à Paris, le 28 février 1884, entre le ministre des travaux publics de France, et le président du conseil d'administration de la société anonyme du canal de l'Espierre. . . .

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CONVENTION. Entre le ministre des travaux publics, agissant au nom de l'Etat, sous réserve de l'approbation des présentes et de la ratification du Gouvernement belge, d'une part, et la société anonyme du canal belge de l'Espierre, dont le siège social est à Warcoing (Belgique), ladite société représentée aux présentes par M. Charles-Henri Vergé, membre de l'Institut de France, président du conseil d'administration, délégué à cet effet par délibération de ce conseil en date du 19 décembre 1883, d'autre part,

Il a été convenu ce qui suit:

ARTICLE 1^{er}. Toutes les prises d'eau pratiquées par les industriels dans le canal de Roubaix depuis le bief de partage jusqu'à la frontière belge étant supprimées, l'Administration française s'engage à n'en jamais laisser

¹ De Martens, *Nouveau Recueil Général des Traités*, 2^e série, tome XII, p. 621.

rétablir aucune sur le versant de l'Escaut, ni pour le service de l'industrie, ni pour celui de l'agriculture, ni pour aucun autre usage, toutes les eaux en excès que la différence de chute des diverses écluses du canal de Roubaix (versant de l'Escaut) pourrait amener dans le bief de Roubaix et dans celui de Leers devant être utilisées à l'alimentation du canal belge de l'Espierre, à l'exclusion de tout autre usage.

2. Une indemnité de cent mille francs, imputable sur les fonds du trésor français, sera accordée à la société anonyme du canal de l'Espierre et il lui sera fait abandon en toute propriété, et pour en disposer comme elle l'entendra, de la machine élévatoire annexée à l'écluse de Leers.

3. L'Administration française est chargée de maintenir le plan d'eau du bief de Leers au niveau normal de flottaison.

L'Administration belge, de son côté, assurera la manœuvre de l'écluse de Leers et la maintiendra en état normal d'entretien, à l'exception du bassin d'économie y annexé, qui sera supprimé.

Il est stipulé, d'ailleurs, que cette écluse ne sera manœuvrée que pour le passage des bateaux.

Quant aux eaux disponibles pour l'alimentation des biefs du canal belge, par suite de l'engagement pris à l'article 1^{er}, elles s'écouleront soit au moyen de siphons qui seront établis aux écluses du Sartel et de Leers de manière à fonctionner automatiquement dès que les eaux s'élèveront dans les biefs du Sartel et de Leers à cinq centimètres au-dessus de la flottaison normale, et qui cesseront de fonctionner automatiquement dès que les eaux descendront dans ces mêmes biefs à la côte normale de flottaison, soit au moyen de déversoirs de superficie, soit au moyen de tout autre ouvrage fonctionnant automatiquement.

Les ouvrages seront établis conformément aux projets qui seront arrêtés d'un commun accord par l'Administration française et par l'Administration belge. Ils seront construits par la première à l'écluse du Sartel et par la seconde à l'écluse de Leers.

4. En retour de ces avantages, la société anonyme du canal de l'Espierre renonce, soit pour le passé, soit pour l'avenir, à toute réclamation en ce qui concerne l'alimentation du canal de l'Espierre, tant à la charge de la France qu'à celle de la Belgique.

Elles s'engage, en outre, à remettre à première réquisition l'écluse de Leers, ainsi que ses dépendances, et la maison éclusière entre les mains de l'Administration belge.

149. CONVENTION¹ ENTRE LA BELGIQUE ET LA FRANCE
POUR RÉGLER LES QUESTIONS RELATIVES AU DESSÈ-
CHEMENT DES MOËRES ET DES WATERINGUES FRANCO-
BELGES AINSI QU'À L'AMÉLIORATION DES CANAUX DE
FURNES À BERGUES OU BASSE-COLME ET DE DUNKER-
QUE À FURNES, SIGNÉ À BRUXELLES, LE 26 JUIN 1890²

¹ L'échange des instruments de ratification a eu lieu à Bruxelles le 8 août 1891.

² J. Basdevant, *Traité et Conventions en vigueur entre la France et les Puissances Etrangères*, tome premier, p. 408.

ARTICLE 1. . .

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6°. L'administration belge veillera aux manœuvres des éclusettes de prise d'eau des canaux de Dunkerque à Furnes et de Furnes à Bergues (ou Basse-Colme) situées en Belgique, de manière que ces canaux ne déchargent jamais leurs eaux de crue dans le Ringsloot des moères.

ARTICLE 2. . . .

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3°. Il est pris acte de la déclaration faite par le Gouvernement Belge que les manœuvres aux écluses de Nieuport et de Furnes, en temps de crue, seront faites, en vue de l'assèchement des terrains longeant le canal de Furnes à Dunkerque, aussi convenablement que les circonstances le permettront.

Belgium-Germany

150. ARRANGEMENT¹ ENTRE L'ALLEMAGNE ET LA BELGIQUE
CONCERNANT LA FRONTIÈRE COMMUNE, SIGNÉ À AIX-
LA-CHAPELLE, LE 7 NOVEMBRE 1929²

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SECTION III

*Dispositions relatives au régime des eaux et cours d'eau*³
(Distribution d'eau et Wateringues)

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CHAPITRE IV

Alimentation en eau de Kalterherberg

ARTICLE 65. Le Gouvernement belge permet que les autorités compétentes allemandes effectuent dans une zone s'étendant entre les bornes frontières 638 et 642, en territoire belge, des travaux de prospection en vue du captage, aux sources du Breitenbach, de l'eau destinée à l'alimentation de la commune de Kalterherberg. Cette zone est délimitée par la ligne 638, a), b), c), d), e), f), 642, sur le croquis h) de la collection de cartes prévue à l'article 76.

¹ L'échange des instruments de ratification a eu lieu à Bruxelles, le 16 juillet 1931.

² Société des Nations, *Recueil des Traités*, vol. 121, p. 328.

³ L'Arrangement reproduit en ce qui concerne le régime des cours d'eau successifs (article 70), l'alimentation en eau de Losheim-Hergersberg et de Krewinkel (articles 55 à 59), le régime des eaux des bassins du Dreilagerbach, de la Vesdre et de l'alimentation en eau de Lammersdorf (articles 60 à 62) et l'alimentation en eau de Eynatten et Raeren (articles 63 et 64), des dispositions similaires à celles relatives à la frontière commune du 6 novembre 1922 [Voir: *supra.*, traité n° 118, p. 411.

ARTICLE 66. La zone de prospection décrite à l'article 65 sera limitée sur le terrain par des piquets reliés à l'aide de fil de fer barbelé, aux frais de l'Allemagne. Les matériaux nécessaires à l'établissement de cette clôture, pourront être importés en franchise temporaire des droits de douane, sous réserve de réexportation dans un délai maximum de six mois.

2. Les chemins et sentiers se trouvant dans la zone de prospection seront maintenus en bon état aux frais ou par les soins de l'Allemagne. L'usage de ces chemins restera libre pendant toute la durée des travaux de prospection, pour la circulation telle qu'elle s'y fait actuellement.

Si, au cours de ces travaux, les prospecteurs étaient amenés à creuser des tranchées au travers d'une de ces voies de communication, il serait pourvu aux frais ou par les soins de l'Allemagne, à l'établissement de passerelles résistantes permettant la circulation.

Les plantations existantes ne pourront être détruites qu'aux endroits où la chose est inévitable.

3. Les fonctionnaires belges suivants: les ingénieurs attachés au service géologique ou à l'inspection centrale des travaux d'hygiène, les agents du service technique agricole, les douaniers, les gendarmes et les agents chargés de la police locale sur le territoire de la commune de Sourbrodt pourront, à tout moment, pénétrer dans la zone de prospection pour des raisons de service. Il en est de même pour les agents techniques qui voudraient se rendre compte de l'état d'avancement des travaux à cet effet, les autorités allemandes sont tenues de leur fournir tous renseignements, plans et données.

4. Le résultat des prospections et les plans d'exécution des installations projetées seront communiqués au Gouvernement belge, qui disposera d'un délai de trois mois, pour examiner si le captage des eaux dans la zone décrite à l'article 65 ne pourrait porter préjudice aux propriétés avoisinantes en territoire belge.

ARTICLE 67. 1. Si l'examen prévu dans le paragraphe 4 de l'article 66 établit qu'aucun préjudice aux propriétés avoisinantes en territoire belge n'est à craindre, la Belgique cédera à l'Allemagne, en pleine souveraineté, la zone décrite à l'article 65. Les propriétaires des terrains ainsi cédés seront indemnisés au préalable par l'Allemagne. Si des expropriations étaient nécessaires, elles seraient faites à l'intervention des autorités belges, et d'après la législation belge en la matière.

2. Au cas où les travaux de prospection donneraient des résultats négatifs, ou si le Gouvernement belge considérait que l'établissement d'une prise d'eau dans le site sourcier serait préjudiciable à des Belges, aucune cession de territoire n'aurait lieu, et la zone où les prospections auront été effectuées, serait remise en son état primitif, aussi parfaitement que possible, aux frais et par les soins de l'Allemagne.

3. Une indemnité sera accordée aux propriétaires intéressés, pour la destruction de plantations, aux lieux de prospection.

ARTICLE 68. 1. Sans préjudice aux dispositions de l'article 66, paragraphe 1 tous objets, instruments appareils et matériaux destinés aux travaux de prospection, ne pourront être introduits dans la zone provisoirement mise à la disposition de l'Allemagne, que par un point de la frontière désigné par la Douane belge, et dans les conditions à déterminer par celle-ci. Il en sera de même de tous articles et denrées destinées à l'entretien des agents, employés et ouvriers, allemands, occupés dans ladite zone.

2. Les droits de douane devront être acquittés lors de chaque importation. Toutefois, moyennant l'observation de la réglementation belge, et à la condition que la réexportation soit effectuée dans un délai maximum de six mois, le matériel de prospection pourra être importé en franchise temporaire de douane.

CHAPITRE V

Alimentation en eau de la commune belge de Bullange et de la commune allemande de Udenbreth

ARTICLE 69. Le Gouvernement belge et le Gouvernement allemand se mettront d'accord sur les mesures à prendre avant qu'une modification pouvant avoir une influence fâcheuse sur la quantité ou la qualité des eaux soit apportée à la situation actuelle des captages alimentant les distributions d'eau de la commune de Bullange, en Belgique, et de la commune Udenbreth, en Allemagne décrite dans le croquis i) de la collection de cartes prévue à l'article 76.

CHAPITRE VII

Drainages et wateringues

ARTICLE 71. 1. Sur les croquis *k), l), m), n)* de la collection de cartes prévue à l'article 76, certaines parcelles, situées en Belgique, sont indiquées par des hachures. Les propriétaires de ces parcelles sont autorisés à laisser s'écouler l'eau des collecteurs et drains souterrains placés pour l'assèchement de ces terrains, par-dessus la frontière, aux endroits où cet écoulement s'effectue actuellement. La même autorisation est accordée aux wateringues belges agissant pour le compte des propriétaires et auxquelles est confié le soin de l'assèchement.

2. Les propriétaires des terrains allemands affectés par l'apport d'eau doivent tolérer celui-ci. Il en est de même des associations allemandes qui ont le soin des fossés de décharge.

ARTICLE 72. 1. Les propriétaires des parcelles situées en Allemagne, indiquées par des hachures sur les cartes visées à l'article 71 sont autorisés à laisser s'écouler l'eau des collecteurs et des drains souterrains placés pour l'assèchement de ces terrains, par-dessus la frontière, aux endroits où cet écoulement s'effectue actuellement. La même autorisation est accordée aux associations allemandes agissant pour le compte des propriétaires et auxquelles est confié le soin de l'assèchement.

2. Les propriétaires des terrains belges affectés par l'apport d'eau doivent tolérer celui-ci. Il en est de même des wateringues belges qui ont le soin des fossés de décharge.

ARTICLE 73. Pour l'exécution des obligations déterminées dans les articles 71 et 72, les wateringues ou les intéressés belges et allemands communiqueront entre eux par l'intermédiaire des services techniques de l'«Hydraulique agricole», à Bruxelles, et du Landrat de Schleiden.

ARTICLE 74. 1. Si le soin du drainage des terrains situés dans la région de Losheim, Hergersberg et Krewinkel était confié actuellement ou dans l'avenir à des wateringues et si parmi ces terrains il s'en trouvait dont les propriétaires sont des ressortissants de l'Etat voisin, ces wateringues seront autorisées à admettre et, sur demande, obligées d'admettre comme membres et de traiter comme des nationaux les ressortissants étrangers propriétaires de ces terrains.

2. Si 10 p.c. au moins de la superficie sur laquelle s'étend la wateringue belge ou allemande sont la propriété de ressortissants du pays voisin, ceux-ci auront droit à un représentant au moins dans le bureau de la wateringue.

3. Ce ou ces représentants seront nommés, s'il s'agit de Belges, par S.M le Roi des Belges, et s'il s'agit d'Allemands, par la Preussische Staatsregierung, sur une liste comportant trois candidats par siège réservé aux nationaux de l'Etat voisin, présentée par les ressortissants de cet Etat.

4. A défaut de présentation de candidats, le représentant belge ou allemand devant faire partie du bureau d'une wateringue appartenant au pays voisin sera proposé au choix de S. M. le Roi des Belges ou de la Preussische Staatsregierung, sur une liste de deux candidats présentés par le service technique de l'«Hydraulique agricole», à Bruxelles, ou par le Landrat de Schleiden.

5. Si l'adresse d'un membre de nationalité étrangère ne peut être découverte, toutes les notifications, remises de billets d'avertissement, etc., seront opérées chez le bourgmestre de commune où la wateringue a son siège.

CHAPITRE VIII

Franchissement de la frontière par les fonctionnaires, agents et ouvriers

ARTICLE 75. Pour autant que, d'après les dispositions de la présente Section, des fonctionnaires, agents et ouvriers sont appelés à franchir la frontière, pour l'exercice de leurs fonctions, ou pour l'exécution des travaux dont ils ont été chargés, ils seront dispensés des formalités de passeports, ainsi que de tous droits de douane, frais, taxes et de dépôt d'un cautionnement. Ils pourront aussi, pour autant que ce soit nécessaire à l'exercice de leurs fonctions, ou à l'exécution des travaux dont ils ont été chargés, franchir la frontière également en dehors des endroits de passage autorisés, et séjourner dans le territoire du pays voisin.

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SECTION V

Dispositions générales

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ARTICLE 94. 1. Les divergences de vue concernant l'interprétation et l'application des clauses des sections I à IV seront, pour autant qu'elles ne puissent être résolues à l'amiable par les administrations intéressées, tranchées par une Commission administrative mixte composée de quatre membres. Cette commission comprendra un délégué du Ministère des Affaires étrangères et un représentant du Département compétent de chacun des deux pays.

Les deux gouvernements se communiqueront mutuellement les noms de leurs délégués à la commission ainsi constituée.

2. La présidence de la commission sera exercée alternativement et pour la durée d'une année civile par le délégué du Ministère des Affaires étrangères de chacun des deux pays. Le sort décidera du pays auquel reviendra la présidence pour l'année de mise en vigueur du présent arrangement.

3. Les séances de la commission se tiendront dans le pays du président en exercice, soit à Cologne, soit à Bruxelles.

4. La commission se réunira à l'invitation de la Partie qui se croit lésée, dans le délai d'un mois, à partir du jour où la Partie adverse aura été avisée par la voie diplomatique.

5. Les décisions de la commission seront prises à la majorité des voix. En cas de parité de voix, le différend sera tranché par arbitre appartenant à un Etat tiers et qui sera désigné par le Gouvernement royal néerlandais.

6. Chaque Partie supportera les frais résultant de la participation de ses délégués aux séances de la commission. Les frais de l'arbitre seront partagés par moitié.

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Belgium-Germany (Federal Republic of)

151. TRAITÉ¹ ENTRE LE ROYAUME DE BELGIQUE ET LA RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE RELATIF À LA RECTIFICATION DE LA FRONTIÈRE BELGO-ALLEMANDE ET AU RÈGLEMENT DE DIVERS PROBLÈMES CONCERNANT LES DEUX PAYS, SIGNÉ À BRUXELLES, LE 24 SEPTEMBRE 1956²

Préambule

Sa Majesté le Roi des Belges d'une part et

Le président de la République fédérale d'Allemagne d'autre part sont convenus d'adapter aux conditions actuelles les accords du 6 novembre 1922, du 7 novembre 1929 et du 10 mai 1935 relatifs à la frontière belgo-allemande, de modifier le tracé de la frontière existant actuellement en tenant compte des besoins des deux pays, et de régler tous les problèmes litigieux existant entre les deux Etats dans l'esprit des Traités de Paris conclus en 1954 et en vue de développer la collaboration amicale entre eux,

. . . .

CHAPITRE III

Cours de la Vesdre

ARTICLE 7. 1) Etant donné l'importance que présente pour la Belgique la question de la pureté des eaux de la Vesdre, le Gouvernement fédéral

¹ Entré en vigueur le 28 août 1958, l'échange des instruments de ratification ayant eu lieu à Bonn le 13 août 1958.

² Nations Unies, *Recueil des Traités*, vol. 314, p. 196.

prendra les mesures nécessaires pour prévenir la pollution des eaux de la Vesdre dans la région de Roetgen-Schwerzfeld.

2) A cet effet, le lit de la Vesdre sera détourné, suivant un cours nouveau qui ne traversera plus le territoire allemand. L'eau non drainée par ce détournement du lit de la Vesdre sera déversée dans le bassin du Grolisbach.

3) Le Gouvernement fédéral prendra à sa charge les frais des travaux à effectuer en territoire allemand; de son côté le Gouvernement belge supportera les frais des travaux à effectuer en territoire belge.

ARTICLE 8. Les experts des deux pays prendront, de commun accord, les dispositions nécessaires pour l'exécution des travaux. Les directives relatives à ces travaux sont définies à l'annexe n° 2 du présent Traité.

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Annexe 2 (à l'article 8)

Directives relatives à l'exécution du projet visant à empêcher la pollution du cours supérieur de la Vesdre:

(1) Chaque Etat prendra, dans le cadre du projet commun, les mesures dont l'exécution doit avoir lieu sur son territoire national.

Les projets de travaux seront communiqués aussitôt que possible en vue d'assurer l'adaptation et la coordination des plans respectifs.

(2) Les caractéristiques principales du projet commun sont les suivantes:

a) Détournement de la Vesdre avant son entrée en territoire allemand et adduction des eaux affluentes vers le bassin du Steinbach. Ce détournement sera établi sur base d'un débit spécifique de $4 \text{ m}^3/\text{km}^2/\text{sec.}$;

b) L'eau non drainée par ce détournement du lit de la Vesdre sera transvasée dans le bassin du Grolisbach;

c) Détournement des eaux affluentes venant de b) et contenant les eaux usées du territoire habité allemand avant leur arrivée à la frontière belge. Le détournement de ces eaux affluentes sera réalisé à l'aide d'un tunnel vers le Grolisbach près de la station d'épuration de Roetgen;

d) L'administration belge procédera au captage des eaux usées du hameau de Petergensfeld (partie belge) et les déversera — dans un état d'épuration suffisant — dans le tunnel mentionné sous c);

e) l'ouvrage pour le détournement à la Mühlenstrasse nécessité par les travaux décrits en c) est situé en territoire allemand et sera conçu de façon que seules les eaux affluentes d'un débit de $4 \text{ m}^3/\text{km}^2/\text{sec.}$ ou plus, venant du territoire drainé, pourront s'écouler dans le cours inférieur de la Vesdre. Le tunnel de détournement vers le Grolisbach sera par conséquent calculé pour un débit spécifique de $4 \text{ m}^3/\text{km}^2/\text{sec.}$;

f) les eaux affluentes provenant du territoire allemand situé au nord de la Mühlenstrasse et de son prolongement seront amenées dans le détournement mentionné sous c) au moyen d'un fossé de captage;

g) les eaux usées des fermes allemandes de Schwerzfeld seront amenées dans le lit abandonné de la Vesdre;

h) un fossé de captage sera établi en amont du détournement de la Vesdre indiqué en a).

(3) Il est prévu que les travaux nécessités par le maintien de la pureté

des eaux affluentes au barrage de la Vesdre seront terminés pour le 31 décembre 1962.

(4) Après l'exécution de ces mesures, l'interdiction de bâtir sera levée dans la partie allemande du bassin versant supérieur de la Vesdre, à l'exception des endroits indiqués par A et B sur la carte ci-jointe.

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Belgium-Luxembourg

152. CONVENTION¹ FIXANT LES LIMITES ENTRE LA BELGIQUE ET LE GRAND-DUCHÉ DE LUXEMBOURG, SIGNÉE À MAESTRICHT, LE 7 AOÛT 1843²

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STIPULATIONS PARTICULIÈRES

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ARTICLE 15. L'accès au ruisseau de Pull, depuis la frontière jusqu'au moulin dit *Grüber Mühl*, reste libre aux habitants d'Oberpallen et de Dieggel, pour abreuver leurs bestiaux.

ARTICLE 16. La circulation sur le chemin du moulin de Honville à Harlange reste libre, sur le territoire grand-ducal, pour l'usage du dit moulin.

ARTICLE 18. La circulation sur le chemin de Livarchamps à Harlange reste libre aux habitants de Harlange, pour arriver au ruisseau dont l'usage leur reste assuré.

ARTICLE 19. Les habitants des deux pays pourront continuer à faire usage des lavoirs pour le minéral de fer, qui sont établis le long du ruisseau dit *Munsbach*. (Territoire de Clémency).

ARTICLE 20. L'usage de la fontaine située sur un pré de meunier d'Oberpallen, reste libre pour les habitants de Guirsch.

ARTICLE 21. Le déversoir établi sur la Sierbach, entre les prés de Fuhrman Jacques, ne pourra être changé, sans le consentement mutuel des administrations des deux pays. Le même consentement sera nécessaire pour en établir de nouveaux.

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DISPOSITIONS GÉNÉRALES

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ARTICLE 28. A l'avenir, et pour l'intérêt des deux Etats, aucune construction de bâtiment ou habitation quelconque ne pourra être élevée qu'étant établie à dix mètres (aunes) de la ligne frontière ou à cinq mètres

¹ L'échange des instruments de ratification a eu lieu, à La Haye, le 3 octobre 1843.

² Garcia de la Véga, *Recueil des Traités et Conventions concernant le Royaume de la Belgique*, vol. I, 1850, p. 339.

(aunes) seulement de distance d'une route ou chemin, lorsque cette route ou ce chemin est mitoyen et que son axe forme limite.

Sont exceptées de cette mesure, les usines dont la construction pourrait être autorisée sur les cours d'eau, formant limite.

ARTICLE 29. Partout où des rivières ou autres cours d'eau forment limite, la souveraineté en est commune aux deux Etats, sauf les cas où le contraire est formellement stipulé. Chaque Etat veillera, de son côté, à leur conservation et à leur entretien.

ARTICLE 30. Les prises d'eau qui existent en ce moment sur les rivières ou sur d'autres cours d'eau servant de frontière, seront conservées dans leur état actuel.

Aucune prise d'eau nouvelle, aucune concession ou innovation quelconque, entraînant quelque modification aux rivières et autres cours d'eau formant limite, ou à l'état actuel des rives, ne peuvent être accordées sans le consentement des deux gouvernements.

Belgium-Netherlands

153. TRAITÉ DE PAIX¹ ENTRE LA BELGIQUE ET LES PAYS-BAS, SIGNÉ À LONDRES LE 19 AVRIL 1839²

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ARTICLE 8. L'écoulement des eaux des Flandres sera réglé entre la Hollande et la Belgique d'après les stipulations arrêtées à cet égard dans l'article 6 du Traité définitif, conclu entre S.M. l'Empereur d'Allemagne et les Etats Généraux, le 8 novembre 1785³; et, conformément au dit article, des commissaires, nommés de part et d'autre, s'entendront sur l'application des dispositions qu'il consacre⁴.

¹ L'échange des instruments de ratification a eu lieu à Londres le 8 juin 1839.

² Garcia de la Véga, *Recueil des Traités et Conventions concernant le Royaume de Belgique*, Vol. I, 1850, p. 99.

³ L'article 6 du Traité d'accord définitif entre S.M. Impériale et Royale Apostolique et L.H.P. les Seigneurs Etats Généraux des Provinces Unies, signé à Fontainebleau, le 8 novembre 1785 est ainsi libellé:

« Leurs Hautes Puissances feront régler, de la manière la plus convenable à la satisfaction de l'Empereur, l'écoulement des Eaux du Pays de Sa Majesté en Flandre, et du côté de la Meuse, afin de prévenir, autant que possible, les inondations. Leurs Hautes Puissances consentent même qu'à cette fin il soit fait usage, sur un pied raisonnable, du terrain nécessaire sous leur domination. Les Ecluses qui seront construites à cet effet sur le Territoire des Etats Généraux resteront sous leur souveraineté; et il n'en sera construit dans aucun endroit de leur Territoire, qui pourrait nuire à la défense de leurs Frontières. Il sera nommé respectivement, dans le terme d'un mois après l'échange des Ratifications, des Commissaires, qui seront chargés de déterminer les emplacements les plus convenables pour les dites Ecluses. Ils conviendront ensemble de celles qui devront être soumises à une Régie commune. » [De Martens, *Recueil des Traités*, tome IV, p. 55].

⁴ Des dispositions similaires sont contenues dans les articles 8 et 9, paragraphe 4, du Traité entre S.M. le Roi des Belges, d'une part, LL. MM. l'Empereur d'Autriche, le Roi des Français, le Roi du Royaume-Uni de Grande-Bretagne et

ARTICLE 9. . . .

6. Des commissaires se réuniront de part et d'autre à Anvers, dans le délai d'un mois tant pour, afin de convenir d'un règlement général pour l'exécution des dispositions du présent article, et d'y comprendre l'exercice du droit de pêche et du commerce de pêcherie dans toute l'étendue de l'Escaut, sur le pied d'une parfaite réciprocité et égalité en faveur des sujets des deux pays⁴.

154. RÈGLEMENTS¹ ARRÊTÉS ENTRE LA BELGIQUE ET LES PAYS-BAS POUR L'EXÉCUTION DES DISPOSITIONS DES ARTICLES 9 ET 10 DU TRAITÉ DU 19 AVRIL 1839, ET DU CHAPITRE II, SECTIONS I, II, III ET IV DU TRAITÉ DU 5 NOVEMBRE 1842. ANVERS, LE 20 MAI 1843²

IV. *Règlement pour l'exécution de l'article 9 du traité du 19 avril 1839, relativement à la pêche et au commerce de pêcherie*

ARTICLE 1^{er}. Les habitants des deux pays sont admis à l'exercice de la pêche, et se conformeront aux stipulations du présent règlement, dans toutes les eaux, anses, criques, bancs et dépendances du fleuve, compris dans les limites ci-après désignées et renseignées à la carte annexée en double expédition au procès-verbal de la séance de la commission mixte de navigation du 25 octobre 1841, savoir :

Sur l'Escaut en aval d'Anvers, à partir de la ligne censée tracée d'une rive à l'autre du fleuve, aux endroits où se trouvent situés les deux embarcadères pour le passage d'eau d'Anvers à la tête de Flandre ;

Sur la continuation de ce fleuve, jusqu'au fort de Bath, d'où la ligne de délimitation correspondra directement à la pointe la plus septentrionale de la digue de mer du poldre de Hoogewerf, commune d'Ossendrecht ;

Sur l'Escaut occidental, jusqu'à la mer ;

Sur les eaux du Hellegat, jusqu'au passage d'eau entre Zaamslag et Stoppeldyk ;

Sur le Braakman, jusqu'à la limite à tracer en ligne directe, de Philippine au ci-devant fort Maurice ;

Sur le Zwin, jusqu'à la ville de l'Écluse ;

Et sur le Sloe, jusqu'à la ligne censée tracée du fort de Rammekens à la Tour de 's Heerenhoek.

S'il est reconnu plus tard, que dans les eaux du Hellegat, du Braakman ou du Zwin, la pêche est exercée par les pêcheurs néerlandais, au-delà des limites sus-désignées pour ces eaux, ces limites seront reculées jusqu'aux

d'Irlande, le Roi de Prusse et l'Empereur de toutes les Russies, d'autre part, concernant la reconnaissance de la Belgique, conclu à Londres, le 15 novembre 1831. [Garcia de la Véga, *op. cit.*, p. 1].

¹ L'échange des instruments de ratification a eu lieu, à Anvers, le 4 août 1843.

² Garcia de la Véga, *Recueil des Traités et Conventions concernant le Royaume de Belgique*, vol. I, 1850, p. 259.

endroits où la pêche sera trouvée praticable, de manière que toujours elles soient les mêmes pour les pêcheurs des deux pays.

ARTICLE 2. La pêche sera exercée sur le pied d'une parfaite réciprocité et égalité, de telle manière qu'aucune faveur ou immunité, en fait de pêche, ne pourra directement ou indirectement être accordée aux pêcheurs nationaux, dont ne jouiront en même temps les pêcheurs sujets de l'autre pays.

En conséquence, les deux gouvernements s'engagent à ne pas affermer la pêche dans les limites désignées à l'art. 1.

ARTICLE 3. Celui qui voudra exercer la pêche sera tenu de justifier de sa qualité de sujet de l'un des deux pays, au moyen d'un certificat de l'autorité communale du lieu de son domicile.

ARTICLE 4. Muni de ce certificat, le pêcheur se présentera une fois par an à l'agent que chaque gouvernement désignera sur son territoire, savoir : pour la pêche dans la partie belge de l'Escaut, à Anvers, et pour la pêche dans la partie néerlandaise du fleuve, à Bath, et fera la déclaration du bâtiment et de l'équipage avec lesquels il est habitué ou se propose d'exercer sa profession.

Cette formalité devra être remplie pendant la première quinzaine des mois de décembre, mars, juin ou septembre de chaque année. Si elle a eu lieu plus tard, le pêcheur sera censé, relativement au paiement de la rétribution fixée par les règlements particuliers de chaque pays, avoir fait la déclaration dans la première quinzaine de l'un de ces quatre mois, le dernier échu.

ARTICLE 5. Par suite de cette déclaration et moyennant paiement de la rétribution fixée par le règlement particulier du pays que cela concerne, il sera délivré au pêcheur par l'agent et à l'endroit susmentionné, un permis pour la pêche de toutes sortes de poissons, qui sera valable pour une année entière, à compter du 1^{er} du mois qui suivra celui dans lequel il a fait ou est censé avoir fait sa déclaration.

En aucun cas, la rétribution, pour les permis de pêche sur l'Escaut occidentale, ne pourra être plus élevée que celle pour les permis sur l'Escaut oriental. De même, la rétribution pour les permis de pêches, belges sur l'Escaut en aval d'Anvers, ne pourra être plus élevée que celle pour les permis sur l'Escaut en amont.

ARTICLE 6. Ce permis énoncera le nom du pêcheur et un numéro, que celui-ci sera tenu de faire peindre distinctement, à l'huile et en chiffres noirs de la longueur de 15 centimètres, au milieu d'un fond circulaire blanc de 25 centimètres de diamètre sur la poupe de son bâtiment, aux deux côtés du gouvernail, de manière à ne pouvoir être détaché ni enlevé, et à pouvoir être reconnu à quelque distance.

Si le bâtiment sert en même temps à l'exercice de la pêche dans les eaux des deux pays, le numéro du permis belge sera peint à la gauche et le numéro du permis néerlandais à la droite du gouvernail.

ARTICLE 7. Tout pêcheur sera tenu d'avoir à bord de son bâtiment ses permis de pêche, et d'en faire exhibition aux surveillants de la pêche, à leur demande. Les surveillants, dans ces cas, seront tenus de se faire reconnaître en arborant un pavillon, dont les deux gouvernements se communiqueront réciproquement la description.

Nul pêcheur ne pourra se soustraire ni tenter de se soustraire à la visite des surveillants, lorsqu'ils se présenteront à lui à cet effet.

ARTICLE 8. La disposition de l'art. 2 ne portera pas atteinte au droit que se réservent respectivement les deux gouvernements, d'accorder des concessions de bancs artificiels de moules; bien entendu que l'établissement de ces bancs ne pourra être accordé qu'aux endroits où les bancs de moules ne se forment pas naturellement. Elle n'empêchera également pas les concessions pour l'exercice de la pêche au moyen de gords.

Cependant, dans l'un et l'autre cas, les sujets des deux pays concourront sur un pied de parfaite égalité, et le sort décidera, au besoin, entre ceux qui se seront présentés dans le délai utile pour être admis aux dites concessions.

Les annonces relatives à ces concessions seront transmises par l'administration de la pêche d'un pays à l'administration de la pêche de l'autre pays, au moins un mois avant l'expiration du délai fixé pour faire la demande en obtention de ces concessions.

ARTICLE 9. Dans tous les cas, le gouvernement qui accordera ces concessions, s'assurera préalablement qu'elles ne pourront préjudicier à la navigation du fleuve ou produire des atterrissements nuisibles. Si plus tard de semblables inconvénients se faisaient remarquer, les commissaires permanents les signaleront, et le gouvernement qui aura accordé la concession sera tenu de la retirer et de faire immédiatement cesser les obstacles.

ARTICLE 10. Tout individu qui, pendant la durée d'une des concessions mentionnées à l'art. 8, aura détruit ou endommagé les bancs artificiels de moules, ou les gords d'un autre pêcheur, ou qui aura pêché ou tenté de pêcher des moules sur les dits bancs, ou enlevé ou tenté d'enlever le poisson des filets des gords, sera puni d'après les lois du pays où ce délit aura été commis.

ARTICLE 11. La pêche se fera aux conditions prescrites par les règlements particuliers en vigueur dans le pays où elles s'exercera, et les deux gouvernements s'engagent à se communiquer réciproquement les dispositions réglementaires arrêtées ou à intervenir, au moins 15 jours avant leur mise à exécution, pour être portées à la connaissance de ceux que la chose concerne.

ARTICLE 12. Les avertissements que les administrations respectives de la pêche jugeront nécessaire de porter à la connaissance des pêcheurs, seront envoyés immédiatement, de la part de l'administration dont ils émanent, à l'agent désigné pour la pêche dans l'autre pays, pour, par les soins de celui-ci, être affichés dans les lieux de domicile ordinaire des pêcheurs.

ARTICLE 13. Les pêcheurs des deux nations pourront respectivement, pendant le terme de deux ans, à dater du jour de la mise à exécution du présent règlement, employer les filets dont ils sont en possession, quoique non conformes à ce qui pourrait être prescrit, à cet égard, par les lois et règlements de l'autre pays.

ARTICLE 14. Toute contravention au présent règlement sera poursuivie et punie conformément aux lois du pays où elle aura été commise.

ARTICLE 15. Chaque fois que, dans l'un des deux pays, une contravention en matière de pêche aura été constatée à la charge d'un sujet de l'autre

pays, et que l'administration de la pêche du pays où cette contravention aura été commise trouvera qu'il y a lieu de poursuivre, elle enverra, à l'administration de la pêche du pays auquel appartient le prévenu, une copie du procès-verbal et de la citation en justice. Elle donnera également connaissance à cette administration du jugement qui sera intervenu.

ARTICLE 16. Les produits à désigner ci-après, provenant de la pêche exercée par les habitants des deux pays, dans les limites indiquées à l'art. 1^{er} du présent règlement, jouiront indistinctement de toutes les faveurs de la pêche nationale dans les ports et lieux situés dans les mêmes limites, pourvu que l'importation en soit faite sous pavillon national.

Ne seront considérés comme poissons provenant de la pêche précitée que les espèces suivantes :

Eperlan.	Spiering.
Anchois.	Ansjovis.
Sardines.	Sardynen.
Anguilles.	Paling.
Carrelet.	Bot.
Huîtres dites huîtres de Zélande.	Oesters genaemd Zeeuwsche oesters.
Moules.	Mosselen.
Chevrettes.	Steurkrabben.
Salicoques.	Garnalen.
Limaçons.	Kreukels.
Petits crabes.	Kleine krabben.

ARTICLE 17. Celui qui exercera la pêche conformément au présent règlement, sera tenu, s'il en est requis, de justifier aux employés des douanes des États respectifs qui se présenteront à lui, de sa qualité de pêcheur, par l'exhibition du permis qui lui aura été délivré en vertu de l'art. 5. A défaut de cette exhibition, il ne pourra, en aucune manière, jouir des faveurs accordées par l'article suivant, à moins qu'il ne justifie, endéans la quinzaine, qu'il avait obtenu un permis antérieurement à la contravention; il ne sera passible, dans ce dernier cas, que des frais du procès-verbal de contravention.

ARTICLE 18. Les bateaux, marqués de la manière prescrite et servant uniquement à l'exercice de la pêche, pourront passer librement, de nuit comme de jour, les bureaux des douanes établis par les gouvernements respectifs, sans y être assujettis à aucune déclaration.

ARTICLE 19. Tout bateau servant à la pêche ne pourra avoir à bord d'autres objets que ceux destinés à la consommation journalière de l'équipage, ainsi que les agrès et ustensiles nécessaires à la pêche et les produits de la pêche même.

Toute autre denrée ou marchandise sera saisie et confisquée, et le patron sera, en outre, puni d'une amende égale au décuple des droits et accises, auxquels les objets saisis sont soumis, sauf l'application des peines prononcées par les lois des États respectifs, si une importation ou exportation frauduleuse avait été commise ou tentée sur les côtes ou rives du fleuve.

ARTICLE 20. Les bateaux pêcheurs se trouvant sur le fleuve ou à son embouchure, y seront assujettis à la visite et à la surveillance des employés

du service actif des douanes, toutes les fois que ceux-ci se présenteront à eux à cet effet.

Les patrons ou conducteurs seront tenus de faciliter cette visite et d'arrêter ou de ralentir, à cet effet, la course de leur bateau, à la réquisition des employés.

Celui qui se soustrairait ou tenterait de se soustraire à cette visite, sera puni suivant la loi en vigueur dans le pays où cette contravention aura été commise.

ARTICLE 21. Il est défendu aux patrons ou conducteurs des bateaux pêcheurs, hors le cas de force majeure dûment constaté, de prendre terre ou d'amarrer sur les côtes ou rives du fleuve, ailleurs qu'aux lieux ou ports désignés par les gouvernements respectifs, sous peine d'une amende de vingt francs (20 fr.).

ARTICLE 22. Les patrons sont responsables des amendes encourues pour contraventions au présent règlement, et les embarcations pourront être retenues en garantie des dites amendes, à moins qu'il ne soit fourni caution valable avec élection de domicile dans le pays où la contravention aura été commise.

V. Article additionnel arrêté et signé à La Haye, le 7 août 1843¹

Les lieux ou ports d'amarrage et de décharge seront les mêmes pour les pêcheurs des deux pays.

Les moules, salicoques et limaçons pêchés dans le Braakman et déchargés aux endroits d'amarrage désignés par le gouvernement néerlandais, pourront de là être transportés par la route la plus directe jusqu'en Belgique, par le bureau de Bouchaute, ou tout autre qui sera désigné par le gouvernement belge, sans être assujettis à aucuns droits ou formalités dans leur parcours sur le territoire néerlandais.

Les produits susmentionnés de la pêche dans le Braakman seront sous tous les rapports, traités dans les deux pays comme les produits de la pêche nationale.

Le présent article additionnel aura la même force et valeur que s'il était ou avait été inséré mot à mot dans le susdit règlement, et il aura la même durée.

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155. CONVENTION² CONCLUE ENTRE LA BELGIQUE ET LES PAYS-BAS POUR RÉGLER L'ÉCOULEMENT DES EAUX DES FLANDRES, SIGNÉE À GAND, LE 20 MAI 1843³

S. M. le roi des Belges et S. M. le roi des Pays-Bas, grand-duc de Luxembourg, en exécution de l'art. 8 du traité du 19 avril 1839, concernant l'écoulement des eaux des Flandres, ont nommé leurs commissaires: . . . sont convenus des dispositions suivantes:

. . .

¹ *Ibid.*, p. 322.

² L'échange des instruments de ratification a eu lieu à Gand, le 29 juin 1843.

³ Garcia de la Véga, *Recueil des Traités et Conventions concernant le Royaume de Belgique*, vol. I, 1850, pa. 323.

Section I. — Canal de Terneuzen

ARTICLE 1^{er}. Conformément aux dispositions de l'art. 20 du traité du 5 novembre 1842, le canal de Terneuzen ne servira plus, à partir du 5 novembre 1844, que de voie de navigation et de voie d'écoulement pour les eaux qui y sont amenées par la partie supérieure du dit canal et par le canal de la Langelcede.

ARTICLE 2. Lorsque, suivant les indications des agents du gouvernement belge, à ce préposés en vertu du dernier § de l'art. 20 du traité du 5 novembre 1842, le canal ne devra pas être baissé, il sera constamment tenu à sa jauge ordinaire de navigation, fixée comme suit :

Entre Gand et le Sas-de-Gand, à 4m,40 au-dessus du busc amont de l'écluse précitée du Sas-de-Gand, ce niveau pourra être baissé à concurrence de 45 centimètres au maximum lorsque l'administration belge le jugera nécessaire.¹ Entre le Sas-de-Gand et Terneuzen, à 3m,95 au-dessus du même busc.¹

ARTICLE 3. Dans les cas où la baisse du canal serait jugée nécessaire pour l'exécution des travaux d'entretien ou de restauration sur le territoire des Pays-Bas, l'époque et la durée des baisses seront réglées de commun accord par les ingénieurs en chef dans la Flandre orientale et la Zélande.

Si, par des circonstances de force majeure, il y avait nécessité de baisser le canal sans qu'il fût possible de se concerter à ce sujet, le fonctionnaire néerlandais qui aura ordonné cette manœuvre, en fera connaître immédiatement les motifs à l'ingénieur en chef dans la Flandre orientale.

ARTICLE 4. Les agents du gouvernement belge mentionnés à l'art. 2 ci-dessus, l'ingénieur en chef dans la province de Zélande, l'ingénieur de l'arrondissement et le fonctionnaire résidant au Sas-de-Gand ou à Terneuzen chargé de faire exécuter les manœuvres des écluses, correspondront directement entre eux.

Section II. — Terrains situés à la droite du canal de Terneuzen

ARTICLE 5. Les eaux des terres et polders des communes de Zelzaete, Wynckel, Wachtebeke, Moerbeke, Kemseke, Stekene et la Clinge, continueront à s'écouler sans entraves, vers les canaux et criques du territoire néerlandais. De là, elles seront conduites en temps utile à la mer, au moyen des travaux à construire en vertu du traité du 5 novembre dernier.

Les canaux, écluses, aqueducs et autres ouvrages d'art situés dans les Pays-Bas, et destinés à mettre les eaux belges en communication avec la nouvelle voie d'écoulement, seront entretenus en bon état à la diligence du gouvernement des Pays-Bas.

ARTICLE 6. Il est néanmoins entendu que les polders du pays de Waes dont les eaux s'écoulaient autrefois par le chenal aboutissant au Boeren-Magazyn pourront, s'ils le jugent utile, recourir de nouveau à ce mode

¹ Texte modifié, conformément à l'article 4 de la Convention entre la Belgique et les Pays-Bas, pour l'amélioration du régime navigable du canal de Gand à Terneuzen et pour le rachat du chemin de fer d'Anvers à Moerdijk et de Rosendaal à Breda, conclue à Bruxelles le 31 octobre 1879 [« A. de Bunchere, *Code de Traités et Arrangements Internationaux* intéressant la Belgique, vol. 2, 1897, p. 376].

d'écoulement, à leurs frais et en se conformant aux lois et règlements des Pays-Bas.

ARTICLE 7. Dans le cas où l'on ferait de nouveaux endiguements en avant des polders de Saeftingen et du Nouvel-Aremberg, l'écoulement des anciens et des nouveaux polders, sera dirigé, aux frais des intéressés, vers la mer par les schorres.

En attendant, l'écoulement en sens inverse, provisoirement accordé en 1805 pour le polder de Saeftingen à travers celui de Keildrecht, est maintenu.

Section III. — Terrains situés à la gauche du canal de Terneuzen, jusqu'à la wateringue Isabelle

ARTICLE 8. Les eaux des terrains compris dans la wateringue connue, avant 1830, sous la dénomination de wateringue d'Assenede ou de Saint-Albert, et qui s'écoulaient par l'écluse d'Amélie et par l'écluse Noire, située dans la digue séparative des polders Smalle-Gelande et Saint-Pierre, seront conduites en temps utile à la mer au moyen des travaux nécessaires, que le gouvernement des Pays-Bas fera exécuter en vertu du traité du 5 novembre dernier.

Les canaux, écluses, aqueducs et autres ouvrages d'art, situés sur le territoire néerlandais, destinés à mettre les eaux belges en communication avec la nouvelle voie d'écoulement, seront entretenus en bon état à la diligence du gouvernement des Pays-Bas.

ARTICLE 9. Les eaux des polders et terrains situés à la gauche du canal de Terneuzen, tant en Belgique que dans les Pays-Bas, et qui s'écoulent actuellement par les écluses en aval du Sas-de-Gand, pourront être conduites ensemble dans les voies d'écoulement à créer par le gouvernement des Pays-Bas, en exécution du traité du 5 novembre 1842.

ARTICLE 10. L'association de la wateringue de l'écluse Noire, instituée par arrêté de S. M. le roi des Belges, du 15 décembre 1833, aura la faculté, outre les moyens d'écoulement stipulés ci-dessus, de continuer à se servir, à ses frais, de ceux dont elle est en possession aujourd'hui.

A cet effet, elle conservera l'usage et l'administration de l'écluse de mer construite à côté de l'écluse Isabelle dans le hâvre de Bouchaute, et des canaux et autres ouvrages qui en dépendent.

Les eaux de cette wateringue continueront à traverser le polder Grand-Isabelle.

ARTICLE 11. La direction actuelle de la dite wateringue est maintenue. A l'avenir, les personnes nommées pour en faire partie ne pourront exercer leurs fonctions sur le territoire néerlandais qu'après l'homologation de leur nomination par le gouvernement des Pays-Bas.

Cette homologation sera considérée comme accordée, si, dans le délai de deux mois à partir du jour où la notification des nominations aura été faite au gouvernement des Pays-Bas, celui-ci n'a pas fait connaître au gouvernement belge ses motifs de refus.

ARTICLE 12. Les polders ou fractions de polders néerlandais que la chose intéresse, pourront faire partie de la wateringue aux mêmes conditions que les terrains belges.

Section IV. — Wateringue d'Isabelle

ARTICLE 13. L'association de la wateringue d'Isabelle conserve l'usage et l'administration de l'écluse de mer dite écluse Isabelle, et des ouvrages qui en dépendent.

ARTICLE 14. La direction actuelle de la dite wateringue est maintenue.

A l'avenir, les personnes nommées pour en faire partie ne pourront exercer leurs fonctions sur le territoire néerlandais qu'après l'homologation de leur nomination par le gouvernement des Pays-Bas.

Cette homologation sera considérée comme accordée, si, dans le délai de deux mois, à partir du jour où la notification des nominations aura été faite au gouvernement des Pays-Bas, celui-ci n'a pas fait connaître au gouvernement belge ses motifs de refus.

Section V. — Wateringue du Capitalen-Dam

ARTICLE 15. L'association de la wateringue du Capitalen-Dam sera divisée en deux sections; l'une comprendra les terres situées en Belgique, l'autre celles situées dans les Pays-Bas.

ARTICLE 16. Chaque section, organisée, séparément par les soins des gouvernements respectifs, aura sa direction spéciale et sera régie par un règlement arrêté par elle et approuvé par le gouvernement.

Il sera donné communication de ces règlements ainsi que des changements qui pourraient y être apportés dans la suite, à la direction centrale instituée par l'art. 18.

ARTICLE 17. L'administration de chacune de deux sections sera entièrement indépendante de l'autre, en ce qui se rapporte aux travaux nécessaires pour conduire les eaux au bassin commun de la Ligne ou Passegueule, et, en général, en ce qui concerne les intérêts qui se rattachent à l'état intérieur du territoire.

Il est néanmoins entendu qu'il ne pourra être mis aucun obstacle au passage des eaux de la section belge par les polders néerlandais de Grootte-Jonckvrouw et Passegueule; la dite section pourra en tout temps effectuer aux canaux qui traversent à cet effet ces polders tous les travaux d'entretien nécessaires dans l'intérêt de l'écoulement.

Les ponts, pontceaux, buses et canaux dans les deux polders susdits ne pourront être élargis sans le consentement de la direction centrale.

ARTICLE 18. Il est institué une direction centrale composée du directeur et de deux jurés de chaque section; elle sera présidée par le directeur de la section néerlandaise, et s'adjoindra un agent comptable qui remplira les fonctions de greffier.

La direction centrale informera la députation permanente du conseil provincial de la Flandre orientale, et la députation des États de Zélande de l'entrée en fonctions de ses membres.

ARTICLE 19. La direction centrale est chargée exclusivement de l'administration des écluses du Capitalen-Dam, de la Madelaine, du Verlaet et de leurs dépendances, du canal dit la Ligne ou Passegueule, depuis l'aval de l'écluse de Sainte-Marguerite jusqu'aux écluses de mer désignées ci-dessus, ainsi que de tous les ponts et pontceaux situés sur le canal.

ARTICLE 20. Elle fera en sorte que les eaux des deux sections soient déchargées avec toute la promptitude possible.

A cet effet, elle déterminera et fera exécuter tous les travaux nécessaires au canal et aux ouvrages susmentionnés.

ARTICLE 21. La direction centrale arrêtera, le plus tôt possible, un règlement d'administration, après avoir pris l'avis de l'assemblée générale de chaque section.

Ce règlement sera soumis, avec les délibérations de ces assemblées, à l'approbation du gouvernement des Pays-Bas.

Ces mêmes pièces seront communiquées pour information à la députation permanente du conseil provincial de la Flandre orientale.

ARTICLE 22. Chaque section payera une part proportionnelle à sa surface dans les dépenses à faire du chef des ouvrages dont l'administration est confiée à la direction centrale.

Cette part contributive sera portée d'office au budget des sections et versée dans la caisse de l'agent comptable, sur simple mandat de la direction centrale.

Copie du budget et du compte détaillé des dépenses faites par la direction centrale sera annuellement envoyée à la direction de chaque section pour être communiquée à l'assemblée générale.

Section VI. — Wateringue de Slippendamme (Eecloo et Lembeke)

ARTICLE 23. L'écoulement des eaux de la wateringue Slippendamme (Eecloo et Lembeke) continuera à avoir lieu, par l'écluse placée à côté de la ville d'Aardenbourg et par celle dite Oostsluis sur le Zwin.

ARTICLE 24. L'association de la wateringue restera chargée de l'entretien du canal dit Eecloosche-Watergang, de l'écluse d'Aardenbourg et des ponts situés dans la commune de Sainte-Croix, connus sous les noms de: 1^o Latersbrugge dans le Keursteen-weg; 2^o Hoogebrug à l'extrémité du Groenen-weg; 3^o celui dans le Kruis-weg ou Cocx-weg.

Les bourrelets de ce canal, en amont d'Aardenbourg, seront rétablis et maintenus par la dite wateringue à une hauteur correspondante à la face supérieure des longerons du pont en maçonnerie placé sur le canal à sa rencontre avec la route d'Aardenbourg à Maldeghem.

Ces bourrelets auront soixante-quinze centimètres (0,75) de largeur en crête, et des talus de deux pour un, du côté de l'eau, et de un et demi pour un, du côté des terres.

ARTICLE 25. L'écluse d'Aardenbourg sera fermée quand les eaux dans le polder de Bewestereede-Benoorden auront atteint le peil de souffrance fixé à un mètre soixante-quinze centimètres (1,75) au-dessus du radier de l'écluse dite Oostsluis, sans toutefois avoir dépassé celui de l'Eecloosche Watergang, fixé à un mètre dix-huit centimètres (1,18) au-dessus du radier de l'écluse placée au port d'Aardenbourg, à la droite de celle du Watergang d'Eecloo.

ARTICLE 26. Dans le cas où ces deux peils seraient dépassés, l'écluse d'Aardenbourg sera manœuvrée de manière que les eaux du polder et du watergang puissent alternativement s'écouler.

ARTICLE 27. L'écluse dite Oostsluis et les ouvrages à la Mer qui en dépendent, seront entretenus aux frais de la wateringue et des polders qui s'en serviront pour l'écoulement de leurs eaux, chacun en raison de sa surface.

ARTICLE 28. L'administration de l'écluse dite Oostsluis sera confiée à une direction composée de quatre membres, dont deux seront nommés par les directions des polders néerlandais traversés par les eaux de la dite wateringue et qui ont leur écoulement par cette écluse, et deux par la direction de la wateringue Slippendamme (Eecloo et Lembeke).

Elle sera présidée par un des membres néerlandais et s'adjoindra un agent comptable qui remplira les fonctions de greffier.

La direction informera la députation permanente du conseil provincial de la Flandre orientale et la députation des États de Zélande de l'entrée en fonctions de ses membres.

ARTICLE 29. La direction arrêtera le plus tôt possible, un règlement d'administration, après avoir pris l'avis des directions des polders et de la wateringue désignée à l'article précédent.

Ce règlement sera soumis, avec les délibérations de ces directions, à l'approbation du gouvernement des Pays-Bas.

Les mêmes pièces seront communiquées pour information à la députation permanente du conseil provincial de la Flandre orientale.

Section VI. — Wateringue de Slippendamme (Maldeghem)

ARTICLE 30. L'écoulement des eaux de la wateringue de Slippendamme (Maldeghem), et de toutes celles qui se jettent actuellement dans l'Eede, continuera à avoir lieu conformément à la convention du 2 octobre 1828.

ARTICLE 31. La wateringue de Slippendamme (Maldeghem) est autorisée à augmenter, à ses frais, le débouché de l'écluse située à l'extrémité du canal d'Aardenbourg, après s'être entendue, à ce sujet, avec l'administration de la ville de l'Écluse.

ARTICLE 32. Les bourrelets bordant l'Eede depuis la limite des deux pays jusqu'à la ville d'Aardenbourg, seront rétablis et maintenus par la dite wateringue à une hauteur correspondante à cinquante centimètres (0,50) au-dessus de culées du pont en maçonnerie situé en face de l'église de la commune d'Eede.

Ces bourrelets auront soixante-quinze centimètres (0,75) de largeur en crête et des talus de deux pour un, du côté de l'eau, et de un et demi pour un, du côté des terres.

Section VIII. — Wateringue du Pas-Sluis

ARTICLE 33. L'écoulement des eaux de la wateringue du Pas-Sluis vers le Zwin continuera par les moyens existants:

ARTICLE 34. La direction actuelle est maintenue.

Les nouvelles nominations seront portées à la connaissance de la députation permanente du conseil provincial de la Flandre occidentale et de la députation des États de Zélande.

Le membre de la direction appelé à représenter les polders situés sur le territoire des Pays-Bas, mentionnés à l'art. 3 du règlement en date du 25 mars 1817, sera choisi parmi les propriétaires néerlandais.

ARTICLE 35. La direction et l'assemblée générale se réuniront là où elles le jugeront convenable.

Elles seront présidées par le membre néerlandais.

ARTICLE 36. Le règlement en vigueur est maintenu, dans toutes ses dispositions, auxquelles il n'est pas dérogé par les articles précédents.

Section IX. — Dispositions générales

ARTICLE 37. Les administrations des wateringues ou écluses mentionnées dans la présente convention seront tenues de se conformer aux règlements et arrêtés existants ou à établir dans le royaume des Pays-Bas, relatifs aux polders et wateringues en général, pour tous les travaux à exécuter sur le territoire néerlandais, ainsi que pour les rôles d'impositions, en tant qu'ils concernent la partie néerlandaise des wateringues.

ARTICLE 38. Les dimensions des canaux et le débouché des ouvrages d'art servant, en Belgique, à l'écoulement des eaux des Flandres vers le territoire néerlandais, ne pourront être augmentés sans le consentement du gouvernement des Pays-Bas.

Il est également interdit de diminuer les dimensions ou débouchés des ouvrages servant, sur le territoire néerlandais, à l'écoulement des mêmes eaux, sans le consentement du gouvernement belge.

Les ouvrages d'art mentionnés dans cet article, avec l'indication de leurs dimensions, sont cotés en rouge sur la carte en trois feuilles ci-jointe, savoir :

Des ouvrages du territoire belge sous les n^{os} 5, 6, 10, 11, 14, 15, 16, 17, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 36, 37, 38, 41, 42, 43, 44, 45, 47, 51, 52, 55 et 56.

Les ouvrages du territoire néerlandais sous les n^{os} 1, 2, 3, 4, 7, 8, 9, 12, 13, 18, 22, 34, 35, 39, 40, 46, 48, 49, 50, 53 et 54.

ARTICLE 39. Il est toutefois entendu que des changements ayant seulement pour but de faciliter ou modifier l'écoulement des eaux, sans nuire aux propriétés intéressées, pourront se faire avec le consentement de l'administration des provinces belges et néerlandaises que la chose concerne.

ARTICLE 40. Les administrations belges des polders ou wateringues, qui ont des ouvrages à entretenir sur le territoire néerlandais, sont autorisées à nommer des agents chargés d'exercer la police de conservation sur ces ouvrages.

Il sera accordé à ces agents, par le gouvernement des Pays-Bas, la qualité publique nécessaire pour que leurs procès-verbaux fassent foi en justice.

ARTICLE 41. Les propriétés pour lesquelles on cessera, avec l'autorisation de l'autorité compétente du pays où elles sont situées, de faire usage des moyens d'évacuation mentionnés dans la présente convention, ne seront plus imposables de ce chef, à partir de l'exercice qui suit celui dans lequel la résolution en aura été notifiée à la direction de la wateringue que la chose concerne.

On ne pourra plus recourir à ces moyens d'écoulement pour les mêmes propriétés, sans le consentement de l'assemblée générale de la dite wateringue, approuvé par l'autorité compétente.

ARTICLE 42. Les autorités provinciales des deux Flandres et de la Zélande, les ingénieurs en chef dans ces provinces, et les directions des polders compris dans une même wateringue, correspondront directement entre eux, pour toutes les affaires qui concernent l'écoulement des eaux.

ARTICLE 43. S'il s'élève des difficultés entre des wateringues, des polders ou entre les membres d'une régie commune, relativement à l'exécution ou à l'application de la présente convention, la question sera soumise à une commission chargée de concilier les parties, si faire se peut, ou de décider à la pluralité des voix.

En cas de partage, il en sera référé aux deux gouvernements.

ARTICLE 44. Cette commission sera composée d'un nombre égal de membres de part et d'autre, savoir : de deux membres nommés par chacune des députations permanentes des provinces intéressées à l'objet en litige, et des ingénieurs en chef dans les dites provinces.

ARTICLE 45. Il n'est porté aucun préjudice ni donné aucune valeur nouvelle aux droits ou prétentions que les associations des polders ou wateringues auraient à faire valoir les unes à charge des autres, en tant que les dits droits ou prétentions ne soient pas contraires aux stipulations de la présente convention.

ARTICLE 46. Si, par la suite, il est reconnu nécessaire de modifier la présente convention, les changements à y apporter feront l'objet d'arrangements ultérieurs entre les deux gouvernements.

Section X. — Dispositions transitoires

ARTICLE 47. Conformément aux stipulations du § C de l'art. 20 du traité du 5 novembre dernier, pendant les deux années qu'exigera l'exécution des nouveaux écoulements, les ouvrages d'art établis sur le canal de Gand à Terneuzen seront manœuvrés, dans l'intérêt des deux pays et de la même manière que la chose avait lieu avant 1830.

A cet effet, il sera immédiatement établi une correspondance journalière entre les agents du gouvernement belge, chargés de la direction du canal sur le territoire belge, et les agents chargés des fonctions analogues sur le territoire néerlandais, et résidant, soit au Sas-de-Gand, soit à Terneuzen.

ARTICLE 48. Jusqu'à ce que le règlement à faire pour la wateringue du Capitalen-Dam, conformément à l'art. 21 de la présente convention, soit rendu exécutoire, les règlements approuvés par arrêtés du préfet du département de l'Escaut, en date du 13 septembre 1808 et du 21 avril 1809, et par celui de la députation des États de la Zélande, du 18 janvier 1828, sont maintenus, en tant qu'ils concernent les ouvrages dont l'administration appartient à la direction centrale.

156. CONVENTION¹ ENTRE LA BELGIQUE ET LES PAYS-BAS
FIXANT LES LIMITES ENTRE LES DEUX ROYAUMES,
SIGNÉE À MAESTRICHT, LE 8 AOÛT 1843²

. . .

Section I: Limite depuis la Prusse jusqu'à la Meuse. Limite formée par le cours de ce fleuve ainsi que par le rayon de Maestricht

. . .

Stipulations particulières

. . .

ARTICLE 10, § 1^{er}. Partout où la Meuse forme limite entre les deux Etats, on ne peut établir, pour la conservation de ses rives, que des travaux de simple défense, tels que des perrés (*overbekleedingen in drooge of gemetselde steenen*) des recouvrements (*sprei- of beslagwerken*), des bermes (*pakbermen*), des ouvrages à barbes (*bleswerken*), etc., parallèles à la rive et dont la largeur de la surface supérieure (*kruin*), saillante dans la rivière, ne dépassera pas quatre mètres (aunes).

Il ne sera même permis de construire ces travaux que dans les endroits attaqués par le courant et nullement là où la situation de la rive indique une tendance à la formation de quelque alluvion.

§ 2. Tout ouvrage de nature offensive, qui pourrait modifier le courant, et, par là, nuire à la rive opposée, tels que des épis (*kribben*), des bâtardeaux (*dammen*), des têtes (*bollen of koppen*), des triangles (*triangles*), des barrages quelconques (*dammen of andere opstuwingen*) et autres ouvrages saillants dans la rivière, autres que ceux autorisés au paragraphe précédent, ne pourront, en aucun cas, être construits que d'un commun accord entre les deux puissances.

§ 3. Sont exceptés des restrictions mentionnées dans le paragraphe précédent, les cas où la rivière aurait pris, par suite de quelque catastrophe, un cours tout nouveau, et où il s'agirait de lui faire reprendre son ancien lit, cas prévu par l'art. 11 ci-après.

§ 4. Aucune digue nouvelle, barrage ou bâtardeau, aucune oseraie ou plantation quelconque, soit sur la berge ou les alluvions qui font encore partie du lit de la rivière, soit sur îles ou îlots, soit à travers les branches du fleuve qui séparent les îles de la rive, ne pourront être établis que du consentement des deux gouvernements.

§ 5. Dans la catégorie des travaux susmentionnés est également compris tout exhaussement de la rive, même aux abords des passages d'eau.

§ 6. Aucune des deux puissances ne peut établir, ni laisser établir des pêcheries par des parquetages ou d'autres moyens qui puissent causer le moindre retard dans le courant ou faciliter, tant soit peu, des atterrissements propres à former alluvion.

¹ L'échange des instruments de ratification a eu lieu à La Haye, le 3 octobre 1843.

² Garcia de la Véga, *Recueil des Traités et Conventions concernant le Royaume de Belgique*, vol. I., 1850, p. 350.

§ 7. Lors des travaux hydrauliques pour la conservation des rives et du thalweg de la Meuse, et dont l'exécution serait autorisée, les administrations des deux États seront tenues, en cas de besoin, de faciliter l'extraction de sable ou de gravier de la rive opposée, pour autant que cette rive ne soit pas elle-même en souffrance. . .

ARTICLE 12, § 1^{er}. La pêche dans la Meuse, là où ce fleuve forme limite, sera commune et adjugée publiquement pour le compte des deux États. Le poisson qui en provient est exempt de tout droit de douane, dans les deux pays. Le produit des fermages sera partagé chaque année. Les adjudications se feront alternativement dans l'un ou dans l'autre pays, d'après un cahier des charges, à arrêter et pour un terme à fixer, de commun accord, entre les deux administrations.

§ 2. Tout en maintenant les dispositions du paragraphe 6 de l'art. 10, il est néanmoins entendu que les administrations des deux États pourront, de commun accord, permettre l'établissement de pêcheries au moyen de parquetage, là où elles ne peuvent occasionner de déviation au thalweg ni de dommages aux rives.

§ 3. Les administrations des deux pays s'entendront pour l'exécution des dispositions du présent article.

. . .

157. TRAITÉ¹ ENTRE LA BELGIQUE ET LES PAYS-BAS POUR RÉGLER LE RÉGIME DES PRISES D'EAU À LA MEUSE, SUIVI D'UNE NOTE EXPLICATIVE, SIGNÉ À LA HAYE, LE 12 MAI 1863²

. . .

Sa Majesté le Roi des Pays-Bas, Grand-Duc de Luxembourg et Sa Majesté le Roi des Belges, désirant régler d'une manière stable et définitive le régime des prises d'eau à la Meuse pour l'alimentation des canaux de navigation et d'irrigation, ont résolu de conclure un traité dans ce but.

. . .

Article 1. Il sera construit sous Maestricht au pied du glacis de la forteresse une nouvelle prise d'eau à la Meuse, qui constituera la rigole d'alimentation pour tous les canaux situés en aval de cette ville, ainsi que pour les irrigations de la Campine et des Pays-Bas.

Article 2. L'écluse n^o. 19 à Hocht sera supprimée et remplacée par une nouvelle écluse, à établir dans le Zuidwillemsvaart en amont de la rigole stipulée à l'article 1.

La partie du canal comprise entre l'écluse de Hocht et la nouvelle écluse, sera élargie et approfondie, de manière à offrir la même capacité et le même tirant d'eau que la partie du bief comprise entre l'écluse n^o. 19 à Hocht et l'écluse n^o. 18 à Bocholt.

Article 3. Le niveau de flottaison de la partie du canal entre Maestricht et l'écluse n^o. 18 à Bocholt sera élevé, de manière à ce que l'écoulement

¹ Les instruments de ratification ont été échangés le 14 juillet 1863.

² De Martens, *Nouveau Recueil Général des Traités*, 2^e série, tome I, 117.

des quantités d'eau désignées dans les arts. 4 et 5 du présent traité, puisse avoir lieu sans que la vitesse moyenne du courant, mesurée dans l'axe du canal, dépasse un maximum de 25 à 27 centimètres par seconde.

Article 4. La quantité d'eau à puiser à la Meuse, est fixée comme suit :

a. lorsque la hauteur des eaux de la Meuse se trouve au dessus de l'étiage de cette rivière, dix (10) mètres cubes par seconde;

b. lorsque ces eaux sont à l'étiage ou au dessous, sept et demi (7^{1/2}) mètres cubes par seconde du quinze (15) Octobre au vingt (20) Juin, et six (6) mètres cubes du vingt et un (21) Juin au quatorze (14) Octobre.

La hauteur de l'étiage variant actuellement entre les cotes de 30 et 40 centimètres au dessus du zéro de l'échelle du pont de Maestricht, correspond à un minimum de tirant d'eau entre Maestricht et Venlo de soixante dix (70) centimètres.

Dans le courant de l'année, après la ratification du présent traité, il sera placé à l'embouchure de la nouvelle prise d'eau, à construire près de Maestricht du côté de la Meuse, une échelle où sera marquée, de commun accord, une cote correspondant à la hauteur de l'eau à l'échelle du dit pont, indiquant alors l'étiage.

En conséquence de ce qui précède, il ne sera pas fait usage de la prise d'eau à la Meuse à Hocht à partir de l'achèvement de la rigole mentionnée à l'art. 1.

Article 5. Sur le volume de dix (10) mètres cubes d'eau puisé à la Meuse à Maestricht, il sera attribué aux canaux et aux irrigations des Pays-Bas, deux (2) mètres cubes par seconde à déverser par l'écluse n^o. 17 à Loozen. Cette quantité de deux (2) mètres cubes sera réduite à un et demi (1,50) mètre cube aussitôt que le volume d'eau puisé à Maestricht sera diminué conformément à ce qui est stipulé à l'article précédent.

Il sera loisible au Gouvernement des Pays-Bas d'augmenter le volume d'eau à puiser à la Meuse à Maestricht, sans que toutefois par là la vitesse du courant dans le canal puisse excéder les limites fixées à l'art. 3. Ce surplus sera également déversé par l'écluse n^o. 17 à Loozen.

. . .

Article 7. Le Gouvernement Belge laissera ou rendra à leur cours naturel les ruisseaux et courants d'eau qui, ayant leur source en Belgique, se dirigent vers le territoire Néerlandais.

Article 8. Les Hautes Parties contractantes prendront les mesures nécessaires pour prévenir, autant que possible, les chômages des canaux de Liège à l'écluse n^o. 17 à Loozen.

Aucun abaissement des niveaux de flottaison ordinaires de ces canaux ne pourra avoir lieu qu'après entente préalable entre les deux Gouvernements.

Article 9. Dans le but d'améliorer la navigabilité de la Meuse entre Maestricht et Venlo, les Hautes Parties contractantes feront exécuter dans cette partie de la rivière, pendant neuf années consécutives, commençant en 1864, les travaux indiqués dans le tableau et la note explicative joints au présent traité, jusqu'à concurrence d'une somme de 100,000 florins par an.

¹ Voir *infra*, traité n^o. 158, p. 552.

Un tiers de cette somme sera payé par les Pays-Bas, et deux tiers par la Belgique.

Les projets définitifs de ces travaux à exécuter annuellement seront dressés, de commun accord, par les fonctionnaires désignés à cet effet, et soumis à l'approbation des deux Gouvernements.

Les travaux projetés et arrêtés conformément à ce qui précède, seront exécutés par les soins des agents du Gouvernement sur le territoire duquel ils seront situés.

L'entretien de ces travaux après leur achèvement, sera à la charge du Gouvernement sur le territoire duquel ils sont établis.

Article 10. La construction de la nouvelle prise d'eau à Maestricht, mentionnée dans l'art. 1, ainsi que l'exécution des travaux nécessaires pour satisfaire aux stipulations de l'art. 2, auront lieu à frais communs.

Les projets de ces travaux seront arrêtés et exécutés de la manière indiquée dans l'art. 9 pour les travaux de la Meuse.

Toutefois il est entendu que le total des dépenses à la charge du Gouvernement Belge, d'après les stipulations des arts. 9 et 10, n'excédera pas la somme de 900,000 florins.

Article 11. Si dans la suite le Gouvernement des Pays-Bas jugeait utile d'exécuter ou de laisser exécuter des travaux rendant nécessaire l'augmentation du volume d'eau à puiser à la Meuse à Maestricht, tel qu'il est fixé dans le présent traité, le concours du Gouvernement Belge aux mesures nécessaires pour assurer l'écoulement des eaux par le Zuidwillemsvaart sera réglé entre les deux Gouvernements.

Article 12. Par extension des dispositions de l'art. 10 de la convention du 8 Août 1843¹, aucun ouvrage, qui serait de nature à modifier le courant et par là à nuire à la rive opposée, ne pourra être construit à une distance de moins de 150 mètres du thalweg de la Meuse, là où elle forme limite, que de commun accord entre les deux Hautes Parties contractantes.

Article 13. Les Hautes Parties contractantes s'engagent à faire exécuter les ouvrages indiqués aux arts. 1, 2 et 6 avant le premier Janvier 1866, ou plus tôt, si faire se peut.

Immédiatement après l'achèvement de ces ouvrages, il sera donné suite aux stipulations des arts. 3, 4, 5, 6 et 7.

Jusqu'à cet achèvement, l'alimentation des canaux et des irrigations aura lieu conformément à ce qui s'est fait pendant les deux dernières années.

158. CONVENTION² ENTRE LA BELGIQUE ET LES PAYS-BAS
POUR MODIFIER L'ARTICLE 6 DU TRAITÉ DU 12 MAI
1863, RÉGLANT LE RÉGIME DES PRISES D'EAU À LA
MEUSE, SUIVIE D'UNE DÉCLARATION, SIGNÉE À
BRUXELLES, LE 11 JANVIER 1873³

Sa Majesté le roi des Belges et Sa Majesté le roi des Pays-Bas, grand-duc de Luxembourg, ayant jugé utile de substituer aux stipulations de l'article 6

¹ Voir *supra*, traité n^o. 156, p. 549.

² L'échange des instruments de ratification a eu lieu à Bruxelles, le 14 février 1874.

³ De Martens, *Nouveau Recueil Général des Traités*, 2^e série, tome I, p. 123.

du traité du 12 mai 1863, réglant le régime des prises d'eau à la Meuse, des dispositions qui concilient mieux les intérêts de la Belgique et des Pays-Bas,

néerlandais, officier de l'ordre de Léopold, grand' croix de l'ordre de François-Joseph, etc. etc., son envoyé extraordinaire et ministre plénipotentiaire près Sa Majesté le roi des Belges;

Lesquels, après avoir échangé leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des articles suivants :

Article 1^{er}. Est et demeure abrogé l'article 6 du traité du 12 mai 1863, aux termes duquel le gouvernement belge est tenu de rejeter dans les canaux de navigation, du 15 mai au 15 juillet au moins, les eaux provenant des irrigations effectuées en Belgique.

Article 2. Le gouvernement belge s'engage à intervenir pour une somme de deux cent cinquante mille francs (fr. 250,000) dans la dépense qu'entraîneront les travaux d'amélioration à exécuter à la rivière le Dommel et à ses affluents ou autres cours d'eau situés sur le territoire néerlandais et destinés à recevoir les eaux des irrigations belges qui doivent, en tout temps, être évacuées par le territoire néerlandais, sans que la Belgique ait, de ce chef, aucune responsabilité envers les riverains néerlandais, propriétaires ou usiniers.

Article 3. Le subside de la Belgique sera mis à la disposition des Pays-Bas par à compte successifs, dont les imports respectifs et les époques de versement seront réglés en raison du degré d'avancement des travaux mentionnés ci-dessus et des dépenses occasionnées par leur exécution.

Déclaration

Les gouvernements belge et néerlandais, ayant jugé utile de régler différentes questions que la mise à exécution du traité du 12 mai 1863 a fait surgir, les soussignés, à ce dûment autorisés, ont fait, au nom de leurs gouvernements, la déclaration suivante :

Article 1^{er}. La quantité d'eau puisée à la Meuse par la prise d'eau de Maestricht sera calculée par la formule :

$$M = n \times b \times h \sqrt{2 g H}$$

dans laquelle, le mètre étant l'unité de longueur,

M est le volume d'eau puisé par seconde,

b la largeur de l'ouverture des vannes,

h la hauteur de cette ouverture,

g = 9,812, la vitesse imprimée par la gravité dans l'unité de temps,

H la chute ou la différence de hauteur des niveaux de l'eau en amont et en aval de la prise d'eau,

n le coefficient de contraction fixé, de commun accord, au chiffre de soixante-six (0.66).

Article 2. Le gouvernement belge fera construire à l'écluse n° 17, à Loozen, sur le canal de Maestricht à Bois le Duc, un aqueduc semblable à celui établi à l'écluse n° 16, à Weert, destiné à assurer la continuité et la

régularité de l'écoulement du volume d'eau déterminé à l'article 5 du traité susmentionné et à faciliter le contrôle du débit.

Le mode de détermination du débit par cet ouvrage d'art et le coefficient y relatif seront réglés ultérieurement et de commun accord par les ingénieurs en chef des ponts et chaussées et du waterstaat dans la province et le duché de Limbourg.

Article 3. Le bief du canal de Maestricht à Bois le Duc situé en aval de l'écluse n° 17, à Loozen, continuera à être maintenu à hauteur de flottaison normale; le débit, tant directement par cette écluse que par l'aqueduc mentionné à l'article 2, ne pourra pas toutefois dépasser les quantités indiquées à l'article 5 du traité du 12 mai 1863.

Dans le cas où, tout en fournissant le maximum d'eau, le niveau du bief d'aval baisserait au-dessous du niveau normal, l'agent préposé à la manœuvre de l'écluse de Loozen en donnerait immédiatement avis à l'administration du waterstaat.

Article 4. Afin que la vitesse moyenne du courant ne dépasse pas le maximum fixé à l'article 3 du traité, les niveaux de flottaison dans le canal de Maestricht à Bois le Duc seront fixés ainsi qu'il suit:

1°. Est adoptée, pour les débits de 6 m³,00 et 7 m³,50, immédiatement à l'amont de l'écluse n° 18, à Bocholt, la cote de trente-neuf mètres quatre-vingt-trois centimètres (39 m,83) + A P, correspondant à la cote de quarante et un mètres cinquante centimètres (41 m,50) au dessus du plan de comparaison du nivellement général de la Belgique.

Cette cote de 39 m,83 + A P sera considérée comme la hauteur normale; il est accordé, pour les nécessités des manœuvres, une tolérance de huit centimètres (0 m,08) en contre-bas de ladite cote;

2°. Est adoptée pour le débit de 10 m³,00 la même cote de 39 m,83 + A P, comme minimum de la hauteur en dessous de laquelle les eaux ne pourront pas, en aucun cas, descendre;

3°. Pour le débit de 10 m³,00, la hauteur normale des eaux, en aval de l'écluse n° 19, à Maestricht, est fixée à la cote de quarante mètres soixante centimètres (40 m,60) + A P, avec une tolérance, en contre-bas, de dix centimètres (0 m,10) et, en contre-haut, de dix centimètres (0 m,10) tant que les eaux de la Meuse ne sont pas à deux mètres (2 m,00) au-dessus de l'étiage, et de vingt centimètres (0 m,20) lorsqu'elles dépassent cette hauteur.

Lorsque la flottaison atteindra, dans le canal, les limites susindiquées, en contre-haut de la cote de quarante mètres soixante centimètres (40 m,60) + A P, le débit de la prise d'eau sera, au besoin, suffisamment réduit pour empêcher les eaux de s'élever d'avantage.

Si, tout en observant exactement les prescriptions qui précèdent, le but, indiqué à l'art. 3 du traité n'était pas atteint complètement, les administrations respectives prendront, de commun accord, les mesures nécessaires pour assurer, dans tous les cas, l'entière exécution des stipulations de cet article.

Article 5. Il sera placé des repères indiquant, d'une manière apparente, les différentes hauteurs mentionnées à l'art. 3.

Article 6. A chaque changement de débit de la prise d'eau de Maestricht, l'administration du waterstaat en informera immédiatement l'administration belge des ponts et chaussées.

159. TRAITÉ¹ ENTRE LE ROYAUME DES PAYS-BAS ET LE ROYAUME DE BELGIQUE PORTANT FIXATION D'UNE LIMITE D'EXPLOITATION POUR LES CHARBONNAGES SITUÉS LE LONG DE LA MEUSE DE PART ET D'AUTRE DE LA FRONTIÈRE, SIGNÉ À BRUXELLES LE 23 OCTOBRE 1950²

. . .

ARTICLE 2. . . .

3. Pour prévenir qu'il ne s'établisse par suite de l'exploitation dans la vallée de la Meuse, des situations hydrauliques, qui de l'avis commun des Services des Ponts et Chaussées des deux Etats sont inadmissibles, des mesures relatives à l'exploitation seront fixées d'un commun accord entre les directions des Charbonnages et les Services d'Inspection des Mines des deux Etats et les travaux, jugés nécessaires après un accord commun des Services des Ponts et Chaussées des deux Etats seront exécutés

. . .

4. Le coût des travaux à la surface visés au précédent alinéa sera supporté par les deux mines ensemble, chacune supportant la moitié. Cependant, le coût des travaux visés au deuxième alinéa et le coût des indemnités de dégâts miniers aux propriétés privées ainsi que des expropriations entre les lignes visées au premier alinéa seront supportées par chaque mine pour le territoire de l'Etat où elle est située.

. . .

160. TRAITÉ³ ENTRE LE ROYAUME DE BELGIQUE ET LE ROYAUME DES PAYS-BAS AU SUJET DE L'AMÉLIORATION DU CANAL DE TERNEUZEN À GAND ET DU RÈGLEMENT DE QUELQUES QUESTIONS CONNEXES, SIGNÉ À BRUXELLES, LE 20 JUIN 1960⁴

. . .

Titre VI. Pollution des eaux du canal

ARTICLE 27. Sans préjudice des obligations résultant de conventions multilatérales, les Hautes Parties Contractantes veilleront à ce que les eaux du canal à proximité de la frontière belgo-néerlandaise répondent aux normes qualitatives énoncées à l'annexe III du présent Traité.

ARTICLE 28. En exécution des dispositions du paragraphe I, d), de l'annexe III du présent Traité, les Ministres belge et néerlandais susdits

¹ Entré en vigueur le 11 juillet 1952, par l'échange des instruments de ratification à La Haye conformément à l'article 7.

² Nations Unies, *Recueil des Traités*, vol. 136, p. 33.

³ Entré en vigueur le 21 décembre 1961.

⁴ Nations Unies, *Recueil des Traités* n° 6084 (pas encore publié).

détermineront la concentration admissible de matières chimiques. Ces Ministres pourront modifier de commun accord les normes qualitatives énoncées à la dite annexe.

ARTICLE 29. Les deux Gouvernements se communiqueront tous les renseignements permettant de déterminer le degré de radio-activité des eaux du canal à la suite du déversement, soit dans la partie belge du canal, soit dans la partie néerlandaise, de déchets radio-actifs liquides et/ou solides par les installations existantes ou les installations encore à créer. Ces renseignements comprendront notamment l'indication détaillée de la nature et de la quantité des matières radio-actives déversées ou à déverser, ainsi que le lieu et les conditions du déversement.

ARTICLE 30. Si les normes fixées pour les cours d'eau internationaux, sur la base du Traité instituant la Communauté Européenne de l'Energie Atomique (Euratom), conclu à Rome le 25 mars 1957, ou de toute autre convention liant les deux Gouvernements, ou les résultats des analyses le requièrent, les Ministres susdits procéderont de commun accord à la révision des normes qualitatives imposées en matière de radio-activité.

ARTICLE 31. Les services techniques belge et néerlandais procéderont régulièrement et au moins quatre fois l'an, à des observations communes en vue de déterminer l'état des eaux du canal à la frontière belgo-néerlandaise; à la suite de ces observations, ils adresseront un rapport commun aux Gouvernements belge et néerlandais.

Titre VII. Salinité et prises d'eau

ARTICLE 32. Les deux Gouvernements prendront, sur leurs territoires respectifs, les mesures voulues pour que la quantité d'eau douce que la section belge du canal fournit pour alimenter la section néerlandaise et la quantité d'eau salée entrant par les écluses de Terneuzen, soient réglées l'une en fonction de l'autre de telle façon qu'à Terneuzen, à 2.200 m au sud de l'écluse ouest (Westsluis), la teneur en ions chlore ne dépasse pas 3,5 g/litre, moyenne pour toute la profondeur du canal. A cet effet, les services techniques des deux pays entretiendront des contacts réguliers et ne prendront des mesures spéciales qu'après s'être consultés.

ARTICLE 33. Les mesures dont il est question à l'article 32 viseront également à maintenir, autant que possible, le niveau des eaux du canal à 2,13 m + N.A.P. ou (+ 4,45) E.M., et à éviter des écarts supérieurs à 0,25 m. Dès que les eaux du canal auront atteint le niveau 2,38 m + N.A.P. ou (+ 4,70) E.M., le service belge, à la première requête du service néerlandais, arrêtera complètement et jusqu'à nouvel ordre tout apport d'eau au canal.

ARTICLE 34. Les tiers ne seront autorisés à pratiquer des prises d'eau sur la section néerlandaise du canal qu'à condition de restituer au canal les quantités prélevées.

ARTICLE 35. La stipulation de l'article 34 ne s'appliquera pas aux prises d'eau autorisées au moment de l'entrée en vigueur du présent Traité. Toutefois, la quantité prélevée ne pourra dépasser 1,4 m³/sec.

ANNEXE III. NORMES QUALITATIVES VISÉES AUX ARTICLES 27 ET 28

I. Le déversement direct ou indirect de matières dans le canal ne peut avoir pour effet:

- a) de porter la température de l'eau à plus de 30° C;
- b) de porter à plus de 8,7 ou de ramener à moins de 6,5 le pH de l'eau;
- c) 1) de ramener à moins de 3 mg/l la teneur de l'eau en oxygène dissous, déterminée suivant la méthode Winckler;
- 2) de porter à plus de 7 mg/l la moyenne annuelle de la demande biochimique de l'eau en oxygène, déterminée en 5 jours à 20° C, étant entendu que la valeur maximum ne peut être supérieure à 15 mg/l;
- 3) de porter à plus de 10 mg/l la moyenne annuelle de la teneur de l'eau en azote ammoniacal, étant entendu que la valeur maximum ne peut être supérieure à 15 mg/l;
- 4) de porter à plus de 200 microgrammes au litre la moyenne annuelle de la teneur en phénols et autres composés aromatiques comprenant des groupes hydroxyles, étant entendu que la valeur maximum ne peut être supérieure à 500 microgrammes au litre;

d) d'augmenter la concentration de n'importe quelle substance chimique, pour autant que rien n'est prévu à cet égard au c., dans des proportions telles que l'eau devienne impropre à l'usage qu'en font l'industrie et la navigation;

e) de porter à plus de 5×10^{-6} microcurie par millilitre la moyenne trimestrielle de la concentration des substances radio-actives contenues dans l'eau ni à plus de 10^{-5} microcurie par millilitre la concentration limite momentanée de ces substances, étant entendu que, dans les deux cas, le pourcentage de rayons bêta et/ou gamma ne peut être supérieur à 10%.

II. Si la « Commission internationale de protection contre les radiations » venait à augmenter ou à diminuer la concentration limite de la radio-activité, — au moment de la conclusion du présent Traité, la concentration limite fixée par ladite commission est de 10^{-7} microcurie par millilitre pour tout mélange de substances contenues dans l'eau et émettant des rayons alpha, bêta et gamma (le Ra 226 excepté) — les concentrations fixées au paragraphe I, e), seraient augmentées ou diminuées dans la même proportion.

III. Si la « Commission internationale de protection contre les radiations » venait à augmenter ou à diminuer la concentration limite de la radio-activité du radium 226, — au moment de la conclusion du présent Traité, cette concentration limite est de 4×10^{-8} microcurie par millilitre — le coefficient fixé au paragraphe IV, a), serait augmenté ou diminué dans la même proportion.

IV. Pour l'application du paragraphe I, e), et du paragraphe II, la concentration des substances radio-actives se calcule comme suit:

On additionne, exprimées en microcuries par millilitre d'eau:

- a) la concentration du radium, multipliée par 2500;
- b) la concentration, multipliée par 420, des substances, autres que le radium, qui émettent des rayons alpha;

- c) la concentration du strontium radio-actif, multipliée par 50;
- d) la concentration, multipliée par 1, des substances, autres que le strontium radio-actif, qui émettent des rayons bêta et/ou gamma.

Bulgaria-Yugoslavia

161. AGREEMENT¹ CONCERNING WATER-ECONOMY QUESTIONS BETWEEN THE GOVERNMENT OF THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BULGARIA. SIGNED AT SOFIA, ON 4 APRIL 1958²

The Government of the Federal People's Republic of Yugoslavia and the Government of the People's Republic of Bulgaria, in order to settle questions of water economy on rivers and tributaries followed or intersected by the State frontier, have decided to conclude an Agreement . . .

ARTICLE 1. 1. The Contracting Parties undertake, pursuant to the provisions of this Agreement, to examine and resolve all questions of water economy, including measures and works which may affect the quantity and quality of the waters and which are of interest to both or either of the Contracting Parties.

2. The provisions of this Agreement shall, in so far as the Contracting Parties are interested in accordance with paragraph 1 of this article, apply to all water-economy questions, measures and works on rivers, tributaries and river basins followed or intersected by the State frontier, and in particular to:

- (a) The regulation and canalization of rivers and tributaries and the maintenance of river beds;
- (b) Drainage;
- (c) Storage and retention works;
- (d) Water supply and pipe-laying;
- (e) Protection of the waters against pollution;
- (f) The study and utilization of ground-water;
- (g) The utilization of water power;
- (h) Protection against soil erosion in forested and agricultural areas (afforestation, soil conservation, the erection of retaining-walls and silting control);
- (i) The utilization of waters for irrigation;
- (j) Hydrological, geological and other surveys and the planning, execution and use of water-economy installations and works;
- (k) The apportionment of the cost of survey, planning and construction operations and of the maintenance of installations;

¹ Came into force on 29 December 1959, the date of the exchange of the instruments of ratification which took place at Belgrade, in accordance with Article 11.

² United Nations, *Treaty Series*, vol. 367, p. 104.

(l) The exchange of data and plans and of information on the above questions.

ARTICLE 2. The Contracting Parties undertake:

(1) Each in its own territory and jointly in the case of rivers and tributaries followed or intersected by the State frontier, to maintain in good condition the beds of rivers and of tributaries and all installations;

2. By agreement, to modify existing installations or to erect and maintain new installations and to initiate new works and measures in the territory of either Contracting Party for the purpose of changing the regime of rivers and tributaries followed or intersected by the State frontier.

ARTICLE 3. 1. The two Contracting Parties shall participate, each in proportion to the benefit accruing to it, in the maintenance of existing structures and installations on rivers and tributaries and in the erection and maintenance of new structures and installations of interest to both Parties. The apportionment of expenses and the method of payment shall be determined by agreement between the Contracting Parties.

2. The entire cost of erecting and maintaining structures and installations situated in the territory of one Contracting Party, and of works carried out in the territory of one Contracting Party, for the sole benefit of the other Contracting Party, shall be borne by the interested Party.

ARTICLE 4. 1. Questions arising out of the provisions of this Agreement, and measures and works undertaken pursuant thereto, shall fall within the competence of the Yugoslav-Bulgarian Water-Economy Commission (hereinafter referred to as the Commission) which shall be established for this purpose. The composition, terms of reference and procedure of the Commission shall be as laid down in the Statute, which shall constitute an integral part of this Agreement.

2. The Commission shall draw up joint regulations as necessary. The regulations so adopted shall enter into force after they have been approved by the Governments of the Contracting Parties.

ARTICLE 5. 1. The necessary construction materials and gear for the execution of works under this Agreement, which are transferred from the territory of one Contracting Party to the territory of the other Contracting Party in accordance with the approved project estimates, shall be exempt from all taxes, customs duties and other charges and all import or export restrictions.

2. Pursuant to paragraph 1 of this article, the necessary equipment (machinery, vehicles, tools and the like) specified in the project estimates shall be provisionally exempt from taxes, customs duties and other charges provided that the articles concerned are declared to the customs authorities for identification and are returned within the time-limit laid down by the Agreement and in accordance with the legal provisions of the Contracting Parties. The deposit of security for this purpose shall not be required. The appropriate charges shall be payable in respect of any equipment and articles not returned within the prescribed time-limit. Any such equipment or articles which is completely written off or scrapped and thus rendered unusable, and which consequently cannot be returned, shall be exempted from taxes, customs duties and other charges on production of the relevant documents.

3. The two Contracting Parties guarantee to facilitate for each other the customs procedure for the transport and transit of construction materials and of gear which is exempt from taxes, customs duties and other charges.

4. Construction materials, gear, equipment and articles shall be subject to customs supervision.

5. The Commission shall determine in each individual case the extent, and the conditions for the enjoyment, of the privileges provided for in this article of the Agreement.

ARTICLE 6. The Contracting Parties undertake, each in its own territory, to preserve and maintain and, where necessary, to augment or adjust, such permanent benchmarks and other datum marks along the State frontier as are necessary for the purpose of regulation and other water-economy works. Each Contracting Party may use the other's datum marks. If it is necessary to cross the State frontier in order to use the said marks, the provisions of article 7 of this Agreement shall apply.

ARTICLE 7. For the purpose of applying and giving effect to the provisions of this Agreement, the members of the Commission and experts shall be supplied with appropriate travel documents (passports).

For the purpose of deciding upon joint measures or of carrying out joint works, such persons as either Contracting Party may designate shall meet at the State frontier at a place and time to be determined in each specific case by agreement between the competent local authorities of the Contracting Parties.

For the purpose of crossing the State frontier, the persons referred to in the preceding paragraph shall be supplied with special passes issued by the competent authorities of the Contracting Party concerned and endorsed for passage across the State frontier by the competent local authorities of the Party into whose territory the crossing is made.

Detailed provisions for the issue of special passes for crossing the State frontier shall be drawn up by the Commission and submitted to the competent authorities for approval.

ARTICLE 8. The frontier and local authorities of the Contracting Parties shall advise each other, by the most rapid possible means, of any danger from high water or drifting ice and of any other danger which may arise on rivers and tributaries followed or intersected by the State frontier.

ARTICLE 9. Questions on which the Commission fails to reach agreement shall be submitted by the Commission to the Governments of the Contracting Parties for decision.

ARTICLE 10. Any dispute between the Contracting Parties relating to the application and interpretation of this Agreement shall, unless the two Parties agree upon some other mode of settlement, be submitted at the request of either Contracting Party to a commission composed of two representatives of each Party. If this commission fails to reach agreement, the dispute shall be submitted to the Governments of the two Contracting Parties for decision.

. . .

STATUTE OF THE YUGOSLAV-BULGARIAN WATER-ECONOMY COMMISSION

ARTICLE 1. The functions and terms of reference of the Commission shall comprise all matters placed within its competence by the Agreement concerning water-economy questions between the Government of the Federal People's Republic of Yugoslavia and the Government of the People's Republic of Bulgaria.

Under its terms of reference, it shall be the Commission's task, in particular:

(1) To submit proposals concerning measures and works of interest to the Contracting Parties and their study from the technical and economic standpoints;

(2) To submit proposals for the investigation of problems *in situ*, the conduct of topographical surveys, studies and research operations, and the preparation of projects;

(3) To make a technical evaluation of projects submitted and to submit to the Governments of the Contracting Parties proposals for the execution of joint works or works of joint interest.

(4) To examine and submit proposals concerning the execution of joint water-economy works, structures and installations, the conditions for and method of executing the same, and the apportionment of expenses; to organize control over the completion and acceptance of jointly executed works;

(5) To ensure compliance with decisions; to organize technical supervision, the execution of measures and works of joint interest and the method of using structures and installations of joint interest;

(6) To study questions relating to joint protection against flooding and drifting ice and to the averting of other dangers, and the drafting of joint regulations in this connexion;

(7) To submit proposals for the exchange of practical experience in the field of water economy, for the exchange of hydrological, geological and meteorological data, and for the operation of the information service established to transmit particulars of water levels, drifting ice and so forth;

(8) To ensure co-operation between the water-economy authorities in the territory of the two Contracting Parties in the spirit of the Agreement concerning water-economy questions between the Government of the Federal People's Republic of Yugoslavia and the Government of the People's Republic of Bulgaria.

ARTICLE 2. The Commission shall consist of ten members. Each Contracting Party shall appoint five members of the Commission and each member may have an alternate. The Contracting Parties may likewise designate experts to take part in the Commission's work. Each Contracting Party shall appoint one of the members as Chairman of its own section of the Commission. The Commission may if necessary set up sub-commissions composed of its members, their alternates and experts.

ARTICLE 3. The Commission shall meet in regular session twice a year. In addition the Chairman may convene special sessions by agreement. Regular sessions shall be held alternately in the territory of each Contracting Party. Each session shall be convened by the Chairman of the section of

the Commission belonging to the Contracting Party in whose territory the Commission meets, in agreement with the Chairman belonging to the other Party.

ARTICLE 4. The Contracting Parties shall propose and confirm the agenda through the Chairmen of their respective sections of the Commission.

While the Commission is in session, the Chairman shall preside alternately.

The official languages of the Commission shall be Serbo-Croat and Bulgarian.

The Commission may decide to examine individual questions in another language.

ARTICLE 5. The Commission shall record the conclusions of its sessions in a protocol which shall be signed by the Chairmen of both sections of the Commission.

The protocol shall cover both questions on which agreement has been reached and questions on which agreement has not been reached.

The protocol shall be drawn up in two copies, each in the two official languages, both texts being authentic. Each Party shall submit the protocol to its Government for approval.

ARTICLE 6. No decision of the Commission may be put into effect if either Government raises an objection. If no objection to a decision is raised by either Government within forty-five days after the date of signature of the protocol, the decision shall be regarded as approved by both Governments.

ARTICLE 7. Each Contracting Party shall defray the expenses of its own section of the Commission.

. . .

162. PROTOCOL OF THE DELEGATIONS OF THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA AND THE PEOPLE'S REPUBLIC OF BULGARIA FOR WATERECONOMY QUESTIONS, CONCERNING THE BEGINNING OF WORK FOR THE REGULATIONS OF THE FRONTIER SECTOR OF THE TIMOK RIVER, SIGNED AT SOFIA ON 4 APRIL 1958¹

For the purpose of beginning work for the regulation of the frontier sector of the Timok River . . .

. . .

Two projects for the Timok River have been prepared, which propose the following technical solutions:

(a) The maintenance of the existing river bed in its present position i.e., the strengthening of the banks at those points on the river where the banks are threatened;

(b) The systematic regulation of the river whereby sound, straight stretches will be retained and cuts will be made through winding stretches.

The project under (b) hereabove — designated as project 2 (b) — was

¹ *Federative Narodne Republike Jugoslavije, Medunarodni Ugovori*, 1958, No. 11, p. 59 (Translated from the Serbo-Croat by the Secretariat of the United Nations).

drawn up in such a way that the change from the existing bed to the new course will involve the use of an equal area of the territory of both Parties;

(c) The two Parties accepted project 2 (b) for the regulation of the Timok River.

2

In accordance with the adopted project the two delegations agreed on the following:

(a) Work on the adopted project shall be carried out from 1959 to 1961 inclusive; the first stage, from km 0 + 00 to km 2 + 557, shall be carried out in 1959, the Yugoslav side assuming responsibility for the first cut from the mouth of the Timok River and the Bulgarian side for the second cut;

(b) Each Party shall carry out fifty per cent of the work provided for in the adopted project, using its own funds and its own organization.

(c) All preparatory and preliminary operations shall be carried out in 1958 in order to permit the execution of the work to begin as scheduled.

3

A sub-Commission, consisting of four experts from each Party appointed by the Chairman of the two sections of the Commission, shall be set up for the organization of the preliminary work, preparations for constructing and supervision to ensure proper execution of the work, in accordance with the adopted project.

The Chairman of the two sections of the Commission shall issue appropriate instructions for the work of the Sub-Commission.

The work of the Sub-Commission shall specifically include the following functions:

(a) Plotting the course, taking cross-section data and carrying out other similar operations;

(c) Preparation of a detailed yearly plan for the execution of work in terms of its nature and volume, in such a way as to ensure that the tasks and operations are shared equally, in nature and quantity, by the two Contracting Parties;

(d) An inspection of the site with a view to discovering and removing any obstacles to the scheduled beginning of the construction work;

(e) Constant technical control and supervision of the execution of the work provided for in the project and the acceptance of the completed work;

(f) The Sub-Commission of experts shall hold meetings as required, with the prior agreement of the Chairmen of the two parts of the Yugoslav-Bulgarian Water Economy Commission.

4

The Sub-Commission shall be represented at the site by permanent agents for the execution of the operations enumerated under 3.

5

Inasmuch as the execution of the adopted project will alter the existing situation on the frontier sector of the Timok River, established by the Convention of 16 June 1956 between the Federal People's Republic of Yugoslavia and the People's Republic of Bulgaria, the delegations propose

that the competent authorities of their countries should hold separate negotiations to consider questions relating to the frontier line and all other boundary matters and economic questions arising from the regulation of the course provided for in the adopted project.

Execution of the works for the regulation of the Timok River provided for in the adopted project may not begin until the boundary questions have been settled.

6

All the functions set out in the record of the meeting of the Yugoslav-Bulgarian delegation held at Zaječar on 18 December 1955¹ shall be transferred to the Yugoslav-Bulgarian Water Economy Commission.

Czechoslovakia-Hungary

163. ACCORD² ENTRE LA RÉPUBLIQUE POPULAIRE HONGROISE ET LA RÉPUBLIQUE TCHÉCOSLOVAQUE SUR LA RÉGLEMENTATION DE QUESTIONS TECHNIQUES ET ÉCONOMIQUES CONCERNANT LES COURS D'EAU LIMITROPHES, SIGNÉ À PRAGUE, LE 16 AVRIL 1954³

Le Conseil des Ministres de la République Populaire Hongroise et le Gouvernement de la République Tchécoslovaque, désireux de renforcer par la collaboration entre leurs Administrations des Eaux également, l'étroite et éternelle amitié entre les deux pays de démocratie populaire luttant pour la sauvegarde de la paix dans le monde entier et la construction du socialisme, ont décidé de régler par un accord les travaux d'établissement et d'exécution des projets, effectués par les deux Etats sur le Danube et la Tisza ainsi que sur d'autres cours d'eau formant frontière ou étant traversés par la frontière . . .

CHAPITRE I

DÉTERMINATION DES TRAVAUX AUXQUELS S'APPLIQUE L'ACCORD

Article 1. Travaux auxquels s'applique l'Accord en général

Le présent Accord s'applique aux travaux hydrotechniques exécutés sur les secteurs limitrophes du Danube et de la Tisza ainsi que sur les secteurs des cours d'eau formant frontière d'Etat ou traversés par la frontière (désignés ci-après « cours d'eau limitrophes »).

Article 2. Travaux de protection contre les inondations et de régularisation pour hautes eaux

1. La protection contre les inondations comprend tous les travaux ayant pour but de protéger le lit majeur contre les grandes crues.

¹ *Federativne Narodne Republike Jugoslavije, Medunarodni Ugovori 1957*, N° 59, p.1.

² Entré en vigueur le trentième jour à dater de sa signature conformément à l'article 34.

³ Texte fourni par le Gouvernement tchécoslovaque.

2. La régularisation pour hautes eaux comprend non seulement les travaux ayant pour but d'empêcher le débordement des eaux hautes mais aussi ceux visant la régularisation pour eaux moyennes et basses et l'écoulement sans entrave des glaces et des débits solides.

Article 3. Travaux de régularisation pour eaux moyennes

La régularisation pour eaux moyennes englobe tous les travaux de concentration des eaux moyennes en un lit unique, de protection des lits moyen et majeur, ainsi que ceux dont le but est d'assurer l'écoulement sans entrave des glaces et de débits solides.

Article 4. Travaux de régularisation pour basses eaux

La régularisation pour basses eaux comprend les travaux visant la concentration des basses eaux en un lit unique, facilitant l'écoulement des glaces et des débits solides et contribuant à la stabilisation et à l'amélioration du chenal des basses eaux.

Article 5. Travaux de dragage

1. Les travaux de dragage pour régularisation ont pour but d'appuyer les travaux de régularisation pour eaux moyennes et basses par l'approfondissement, éventuellement l'élargissement du lit.

2. Les travaux de dragage pour garantir la navigation visant à dégager et à améliorer le chenal par l'approfondissement, éventuellement par l'élargissement du lit.

3. Les travaux de dragage pour l'extraction de gravier et de sable ne sont pas considérés comme travaux effectués dans le but de la régularisation du lit ou de la garantie de la navigation.

Article 6. Entretien du chenal

Les travaux d'entretien du chenal comprennent le balisage de jour et de nuit du chenal, indiquant la direction et la profondeur minima ainsi que le balisage, respectivement l'éloignement, des obstacles situés sur le chenal et le service d'annonce.

Article 7. Autres travaux hydrotechniques

Par autres travaux hydrotechniques on entend ceux non visés aux articles 2-6 (irrigation, production d'énergie hydraulique, approvisionnement en eau potable, drainage, évacuation des eauxvannes, établissement de digues, etc.) à exécuter sur les cours d'eau limitrophes et influençant le régime des eaux (débits, conditions d'écoulement des eaux, etc.) de ces cours d'eau.

CHAPITRE II

TRAVAUX DE RECHERCHES, DE MESURAGE ET ÉTABLISSEMENT DE PROJETS

Article 8. Travaux de recherches et de mesurage

Les Parties Contractantes exécutent en commun ou à tour de rôle, d'après un accord préalable, les travaux de recherches et de mesurage liés à la

régularisation pour niveaux moyens et bas; les autres travaux de recherches et de mesurage sont effectués par les Parties Contractantes sur leur propre territoire.

Article 9. Etablissement de projets

1. Les Parties Contractantes établissent en commun les principes directeurs des projets d'ensemble de tous les travaux hydrotechniques visés au Chapitre I^{er} à exécuter sur les cours d'eau limitrophes. Les projets seront élaborés d'un commun accord, sur la base des principes directeurs établis. Chaque Partie Contractante établit à ses frais les projets des travaux à exécuter sur son territoire. Les projets d'ensemble à réaliser sur les territoires des deux Etats sont établis aux frais des Parties Contractantes sur la base d'un accord séparé.

2. Les projets, et toutes les modifications essentielles qui y seront apportées, doivent être approuvés par les Parties Contractantes. Le déplacement des digues de défense en direction de la rive ou leur construction à un niveau plus bas, qui s'écartent du projet approuvé, ne sont pas considérés comme modifications essentielles des projets.

3. Les organismes compétents d'administration des eaux peuvent, dans le cadre du budget et avant le commencement des travaux ou au cours de ceux-ci, apporter dans les projets les modifications reconnues nécessaires par les deux Parties, si ceci ne change pas l'essence du projet. La Commission Technique Mixte sera informée sur les modifications apportées aux projets.

CHAPITRE III

EXÉCUTION DES TRAVAUX HYDROTECHNIQUES

Article 10. Travaux de régularisation

1. Comme règle générale, chaque Partie Contractante exécute elle-même les travaux de régularisation à effectuer sur son propre territoire.

2. L'exécution sur les territoires des deux Parties Contractantes des travaux qui, pour des raisons d'ordre technique ou économique, ne peuvent être répartis, est soumise à un accord distinct à intervenir entre les Parties Contractantes.

Article 11. Livraison des matériaux de construction

1. Les matériaux de construction (pierres naturelles et artificielles, etc.) nécessaires aux travaux exécutés d'après un budget commun seront livrés aux lieux de construction par les deux Etats en quantités égales, sauf accord contraire. Dans l'intérêt de l'économie et du règlement du solde, chaque Partie Contractante peut fournir les pierres au lieu de construction le plus proche de sa carrière, indépendamment du territoire sur lequel les travaux sont exécutés. Il convient de porter les efforts à ce que les quantités de pierres livrées d'après un graphique des travaux déterminé soient annuellement soldées. Si ceci n'est pas applicable, la différence sera reportée au compte de l'année suivante.

2. La quantité des pierres est déterminée d'après le poids. Les organismes de régularisation du fleuve des deux Parties Contractantes devront convenir préalablement du mode de la conversion du poids en volume.

3. La quantité des pierres est vérifiée d'après les lettres de voiture.

Article 12. Entretien du chenal et éloignement des obstacles

1. Le balisage et l'éclairage de la voie navigable ainsi que le service d'annonce seront effectués sur la base d'un accord distinct entre les Parties Contractantes.

2. Sauf accord contraire, chaque Partie Contractante éloigne à ses frais les obstacles se trouvant sur son territoire.

Article 13. Travaux de dragage visant la régularisation du fleuve et la garantie de la navigation

1. La nécessité, le volume et les lieux d'exécution des travaux de dragage pour la régularisation du fleuve et la garantie de la navigation, ainsi que le mode de la mise en place des matériaux dragués qui ne figurent pas dans les projets adoptés seront établis en commun par les organismes de régularisation du fleuve des deux Parties Contractantes.

2. Les travaux de dragage seront exécutés de manière que chaque Partie Contractante effectue pour autant que possible alternativement les dragages pouvant, du point de vue technique, être exécutés indépendamment.

3. Sauf accord contraire, chaque Partie dispose des matériaux dragués sur son territoire.

Article 14. Dragage de gravier et de sable à d'autres fins

Les organismes compétents d'administration des eaux des Parties Contractantes établissent en commun, pour chaque secteur d'un cours d'eau limitrophe, jusqu'à quelle profondeur et dans quelle quantité le gravier et le sable peuvent être extraits à des fins autres que la régularisation du fleuve ou la garantie de la navigation. L'autorisation de draguer dans les limites ainsi établies est délivrée par les organismes compétents de la Partie Contractante sur le territoire de laquelle les matériaux seront extraits.

Article 15. Autres travaux hydrotechniques

1. Chaque Partie Contractante exécute sur son territoire et à ses frais les travaux hydrotechniques visés à l'article 7 du présent Accord.

2. Pour les travaux hydrotechniques qui, compte tenu des frontières d'Etat, ne peuvent pour des raisons techniques et économiques être rationnellement répartis, les Parties Contractantes concluent séparément pour chaque cas un accord au sujet de leur exécution, de la charge de leurs frais, de l'exploitation et de l'entretien des ouvrages d'art construits et du règlement des questions qui y affèrent.

CHAPITRE IV

TRAVAUX D'ENTRETIEN

Article 16. Détermination des travaux d'entretien

Les travaux d'entretien visent la tenue en bon état des ouvrages de régularisation et d'autres constructions hydrotechniques existants ainsi que du chenal.

Article 17. Exécution des travaux d'entretien

1. Les Parties Contractantes veilleront à l'entretien adéquat des cours d'eau limitrophes et des ouvrages de régularisation et autres constructions hydrotechniques qui s'y trouvent.

2. Les Parties Contractantes doivent régulièrement entretenir les sections non régularisées des cours d'eau limitrophes afin que leurs lits ne subissent pas de modifications subites.

3. Chaque Partie Contractante veille à l'entretien des ouvrages d'art et des canaux construits sur son territoire conformément à une autorisation sur l'usage des eaux ou sur la base d'un accord distinct, et servant les intérêts de l'autre Partie Contractante. Les frais sont à la charge de la Partie Contractante dans l'intérêt de laquelle fonctionnent les ouvrages d'art ou canaux.

4. Chaque Partie Contractante exécute sur son territoire le nettoyage du lit et des rives. En cas de nécessité, ces travaux seront exécutés d'après un accord séparé conclu entre les organismes d'administration des eaux.

CHAPITRE V

CHARGE DES FRAIS

Article 18. Frais des travaux de régularisation

1. Les frais des travaux de protection contre les inondations, y compris les levés et l'établissement des plans, seront à la charge de la Partie Contractante sur le territoire de laquelle ces travaux sont exécutés.

2. Les frais des travaux de régularisation pour eaux hautes, moyennes et basses, de balisage du chenal et de dragage pour régularisation du lit et la garantie de la navigation ainsi que les frais de transport et de déchargement de ces matériaux seront couverts par les Parties Contractantes à parts égales. Sauf accord contraire, chaque Partie contractante assume les frais des travaux de mesurage et d'établissement de projets afférents aux travaux à effectuer ainsi que de la conduite des travaux de construction.

3. Avant le commencement des travaux de dragage, les organismes compétents des Parties Contractantes s'occupant de la régularisation du fleuve conclueront un accord au sujet du règlement des frais d'expédition des installations de dragage aux lieux des travaux et de réexpédition à leurs lieux de stationnement.

Article 19. Frais des travaux d'entretien

1. Les frais d'entretien des ouvrages de défense contre les inondations seront à la charge de la Partie Contractante sur le territoire de laquelle ils sont exécutés.

2. Les frais d'entretien des ouvrages de régularisation construits en commun seront couverts à parts égales par les Parties Contractantes.

Article 20. Règlement des comptes et révision des travaux communs

1. Le décompte des travaux communs ne comprendra pas les frais de livraison, de transport et d'emploi des matériaux de construction (pierres

naturelles et artificielles, ciment, etc.) fournis par chaque Partie Contractante dans la même quantité.

2. La moitié des frais des travaux accomplis en sus sera, après approbation par la commission de révision, couverte selon les dispositions de l'article 21.

3. La Commission Technique Mixte décide du mode de révision commune applicable.

Article 21. Obligations de remboursement des frais

1. Les Parties Contractantes s'engagent à s'acquitter des dettes découlant du règlement commun des comptes. Les dettes doivent être acquittées dans un délai d'un an après l'approbation des comptes, soit en matériaux de construction employables dans les travaux de régularisation (pierres naturelles et artificielles, etc.), soit en main-d'œuvre (transport, dragage etc.). Si ce procédé n'est pas applicable ou n'est pas économique, ou si pour d'autres raisons cela s'avère nécessaire, la dette sera exceptionnellement acquittée au moyen de transfert au compte-clearing. Le mode de règlement de la dette en nature sera établi par la Partie Contractante en faveur de laquelle le règlement aura lieu en tenant compte des possibilités de l'autre Partie Contractante.

2. La valeur du surplus de travail, par catégorie de travail, sera déterminée d'après les indices que les Parties Contractantes auront établis au préalable.

3. La différence résultant des travaux de dragage sera réglée lors de l'exécution des travaux de dragage suivants ou selon les dispositions du point 1.

Article 22. Contrôle technique et financier

Les Parties Contractantes assurent la possibilité d'exécuter en tout temps le contrôle technique et financier des travaux communs effectués d'après un budget commun.

CHAPITRE VI

QUESTIONS RELEVANT DU DROIT D'USAGE DES EAUX

Article 23. Questions générales

1. Sur les secteurs limitrophes des cours d'eau, les Parties Contractantes disposent, sans préjudice des droits acquis, de la moitié du débit d'eau naturel qui n'a pas été augmenté artificiellement.

2. Les parties Contractantes ne délivreront pas d'autorisation d'usage des eaux pour la construction, sur les cours d'eau limitrophes, d'ouvrages d'art pouvant avoir une influence défavorable sur le régime des eaux ou sur le lit.

3. Chaque Partie Contractante veillera à ce que les ouvrages d'art installés sur les cours d'eau limitrophes soient construits, exploités et entretenus selon la législation en vigueur sur son territoire.

4. Chaque Partie Contractante exerce elle-même la surveillance fluviale sur son propre territoire.

5. Les organismes compétents de l'administration des eaux des Parties Contractantes s'aideront mutuellement.

Article 24. Autorités et procédures

1. Les questions relevant du droit d'usage des eaux concernant les cours d'eau limitrophes seront traités selon la législation de la Partie Contractante sur le territoire de laquelle les ouvrages sont ou seront construits.

2. Si les travaux à exécuter sur les cours d'eau limitrophes s'étendent sur le territoire des deux Parties Contractantes l'autorisation doit être demandée aux organismes compétents d'administration des eaux des deux Etats, notamment auprès de l'Etat respectif pour la partie de l'ouvrage d'art à construire sur son territoire. Dans un tel cas les autorités prendront soin à ce que les procédures soient effectuées simultanément ou qu'il y ait au moins une liaison entre elles. Afin d'éviter les contradictions, les autorités doivent convenir du texte de l'autorisation.

Article 25. Liaison entre les organismes compétents

Les Parties Contractantes se communiqueront réciproquement, par organismes compétents d'administration des eaux, les noms des personnes chargées:

- a) de veiller à la réalisation de la collaboration requise dans l'intérêt de l'exécution des travaux
- b) de convenir des mesures administratives et techniques nécessaires en vue d'éviter les dangers que peuvent occasionner les inondations et les glaces.

CHAPITRE VII

COMMISSION TECHNIQUE MIXTE

Article 26. Tâches et compétence de la Commission

1. Les Parties Contractantes créent la Commission Technique Mixte afin d'établir un point de vue uniforme sur les questions faisant l'objet du présent Accord.

2. Dans la compétence de la Commission Technique Mixte il entre en particulier:

- a) d'approuver les indices (art. 21, point 2) proposés en commun par les organismes compétents, s'occupant de la régularisation du fleuve
- b) d'établir le mode de revision commune à effectuer sur la base du décompte des travaux communs (art. 20, point 3)
- c) de donner avis sur les projets des travaux de régularisation nécessaires sur les cours d'eau et sur leur budget, notamment sur les projets pour l'année suivante
- d) de donner avis sur les décomptes et les révisions des travaux communs
- e) de donner avis sur les propositions au sujet de l'entretien du chenal (art. 6 et 12)
- f) de donner avis sur les projets des ouvrages d'art à construire sur les cours d'eau limitrophes (ponts, barrages, canaux, etc.)
- g) de donner avis si un accord n'a pas été atteint dans les cas visés à l'art. 24, point 2

- h) de donner avis sur les autres travaux hydrotechniques (art. 7 et 15)
- i) de présenter des propositions au sujet des travaux de mesurage, de recherches et d'établissement de projets conformes aux buts du présent Accord
- j) de présenter des propositions au sujet de la conclusion d'accords sur l'entretien du chenal
- k) de présenter des propositions concernant la modification du présent Accord ou la conclusion d'un nouvel Accord
- l) de tenir des descentes sur les lieux.

Article 27. Composition de la Commission

Chaque Partie Contractante enverra à la Commission Technique Mixte un représentant plénipotentiaire et nommera en même temps son suppléant. Le représentant plénipotentiaire, ou son suppléant, a le droit de faire participer des experts aux discussions.

Article 28. Sessions, procès-verbaux, décisions et charge des frais de personnel

1. La Commission Technique Mixte se réunit, sauf autre accord intervenu entre les représentants plénipotentiaires, alternativement sur le territoire des Parties Contractantes.

2. La session est convoquée et présidée par le représentant plénipotentiaire de la Partie Contractante sur le territoire de laquelle elle aura lieu.

3. Les sessions sont convoquées selon les besoins, toutefois, au moins une fois par an. Si un des représentants plénipotentiaires en fait la demande, la session doit être convoquée dans un délai d'un mois.

4. Les propositions présentées sont considérées adoptées si elles sont approuvées par les deux représentants plénipotentiaires.

5. Le procès-verbal de chaque session est dressé en deux exemplaires, dans les langues des Parties Contractantes. Les procès-verbaux sont signés par les deux représentants plénipotentiaires et soumis à l'approbation des autorités compétentes supérieures. Les décisions incluses dans le procès-verbal sont exécutoires après son approbation.

Les représentants plénipotentiaires s'informent réciproquement sur l'approbation des décisions.

6. Chaque Partie Contractante assume la charge des dépenses de personnel liées à l'activité de la Commission Technique Mixte.

CHAPITRE VIII

CLAUSES GÉNÉRALES ET FINALES

Article 29. Informations réciproques

1. Les Parties Contractantes se fournissent réciproquement les informations indispensables sur l'influence exercée sur le débit d'eau maximum et minimum des cours d'eau limitrophes par les ouvrages d'art situés en dehors des sections limitrophes.

2. Les Parties Contractantes s'informent réciproquement sur les expériences acquises dans le domaine des mesures adoptées afin de prévenir la pollution des eaux des cours d'eau limitrophes.

Article 30. Rapports de service

Les Parties Contractantes se communiquent réciproquement les noms des autorités d'administration des eaux et des organes compétents en matière d'exécution du présent Accord. Ces autorités et organes ainsi que les représentants plénipotentiaires peuvent, se servant soit des langues des Parties Contractantes, soit de la langue russe, prendre directement contact dans les questions relevant du présent Accord.

Article 31. Passage de la frontière

Le passage de la frontière aux fins d'exécution de travaux ou dans d'autres buts requis par l'exécution du présent Accord se fera conformément à un accord conclu entre les autorités compétentes des deux Parties Contractantes.

Article 32. Formalités douanières

Les matériaux de construction qui, conformément au présent Accord, sont livrés par l'une des Parties Contractantes à l'autre Partie Contractante sont exempts de tout droit de douane, impôts et taxes publiques. Cette disposition est également valable pour le matériel et les combustibles envoyés au-delà de la frontière pour l'exécution de travaux à accomplir conformément au présent Accord. Après la fin des travaux, le matériel de même que les combustibles n'ayant pas été utilisés seront renvoyés dans leur pays. Les Parties Contractantes s'accorderont réciproquement toutes les facilités possibles pour les transports au-delà de la frontière.

Article 33. Diverses dispositions

1. Le présent Accord ne porte pas atteinte à la validité de l'Accord conclu le 9 octobre 1948 à Bratislava sur la base de l'article 1, point 4, sous-point c) du Traité de Paix de Paris, concernant certaines questions relatives aux eaux en connection avec la cession de territoires, annexé ultérieurement au Protocole de clôture sur les travaux de la Commission de démarcation signé à Bratislava le 22 décembre 1947.

2. Les dispositions du présent Accord ne s'appliquent pas au secteur limitrophe tchécoslovaque-hongrois du Danube du km 1850 au km 1791 tant que fonctionne l'administration Fluviale du secteur Rajka Gonyu.

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164. TREATY¹ BETWEEN THE CZECHOSLOVAK REPUBLIC AND THE HUNGARIAN PEOPLE'S REPUBLIC CONCERNING THE RÉGIME OF STATE FRONTIERS, SIGNED AT PRAGUE, ON 13 OCTOBER 1956²

. . .

¹ Came into force on 10 February 1958, as from the date of the exchange of the instruments of ratification at Budapest, in accordance with article 27.

² United Nations, *Treaty Series*, vol. 300, p. 150.

CHAPTER II

FRONTIER WATERS AND HIGHWAYS

Article 9

(1) Rivers, streams or canals along which the frontier line runs shall be deemed to be frontier waters.

(2) The Parties shall take appropriate steps to ensure that when frontier waters are used by persons residing in their territories the provisions of this Convention are observed and the rights and interests of the other Party are respected.

Article 13

(1) The Parties shall ensure that the banks of frontier waters are kept in proper order. They shall also take all steps to prevent deliberate damage to the banks of frontier waters.

(2) The position of the beds of frontier watercourses shall as far as possible be maintained unchanged. To this end the competent authorities of the Parties shall take the necessary steps to remove such obstacles as may cause displacement of the bed of frontier rivers or obstruct the natural flow of water, ice or alluvia.

(3) In order to prevent displacement of the beds of frontier rivers, their banks shall be strengthened wherever the competent authorities of the Parties jointly consider it necessary.

(4) Should the bed of a frontier watercourse be displaced as a result of the action of water, the Parties shall correct the bed if they consider such action necessary.

(5) Joint operations under this article shall be carried out in conformity with the Agreement of 16 April 1954 between the Czechoslovak Republic and the Hungarian People's Republic concerning the settlement of technical and economic questions pertaining to frontier watercourses.

(6) A Party which fails to comply with any obligations laid down in this article shall compensate the other Party for the damage resulting therefrom.

Article 14

The natural flow of frontier waters in inundated areas may not be altered or obstructed by the erection of installations or structures in the water or on the banks, or by any other works, unless the Parties so agree.

Article 15

(1) The beds of frontier watercourses shall be cleaned out on sectors to be determined jointly by the competent authorities of the Parties.

(2) In cleaning out the beds of frontier watercourses, the substances removed shall be placed at such a distance as to prevent any subsidence of the banks, any obstruction of the beds or any reduction in the flow of water.

Article 16

(1) The two Parties may freely engage in the floating of timber over the whole length of the frontier water, including those places where both banks belong to the territory of the other Party.

(2) The dates and order of priority for the launching and floating of timber shall be determined by the competent authorities of the Parties, which shall notify each other thereof not less than two months in advance; the commencement of floating operations shall be notified not less than five days in advance.

Article 17

(1) In order to ensure the normal floating of timber the competent authorities of the two Parties may by common agreement permit workmen to land on the bank of the other Party and construct temporary installations for timber launching and floating or for clearing the bank of floating timber.

(2) Details concerning the time and place of landing workmen on the bank of the other State for the purpose of carrying out the work referred to in paragraph 1 shall be agreed upon by the competent authorities of the Parties not less than five days in advance.

(3) Any person who floats timber on frontier waters and the floating timber itself shall be subject to customs control.

Article 18

(1) All floating timber shall be provided with a special marking. For this purpose the competent authorities of the two Parties shall, by mutual agreement, establish specimen markings and communicate them to each other.

(2) In cases where the floating timber is stripped of its bark, the bark must not be deposited in the beds of frontier watercourses.

Article 19

(1) The two Parties shall maintain the existing structures and installations in frontier waters (dams, dykes and the like). No removal or reconstruction of any such structure or installation which is liable to entail a change in the bed or in the level of the water in the territory of the other Party may be carried out except with the consent of both Parties.

(2) New bridges, ferries, dams, dykes, sluices, bank supports and other hydraulic installations shall not be erected in frontier waters except by agreement between the two Parties.

CHAPTER III

FISHING, HUNTING AND FORESTRY

Article 22

(1) Fishing in frontier waters shall be permitted up to the frontier line, unless the Parties agree otherwise.

- (2) Persons fishing in frontier waters shall not be permitted:
- (a) To use explosive, poisonous or narcotic substances entailing the mass destruction of or damage to the fish population;
 - (b) To fish at night, except in the river Danube.
- (3) The competent frontier authorities of the two Parties shall notify each other in advance of the time and place of night fishing on the Danube.
- (4) Arrangements for the protection and breeding of fish in frontier waters, the prohibition of fishing for certain species of fish, the dates of the fishing season and other matters relating to fishing shall be determined by special agreement between the Parties.
- (5) Persons who engage in fishing shall be subject to customs control. The fish caught by fishermen in frontier waters shall be exempt from customs duties and charges.

FINAL PROTOCOL

. . . .

IV

Ad Articles 10, 11, 12 and 13 of the Treaty

The regulations concerning the Danube as an international waterway are contained in the Convention on the régime of navigation on the Danube, signed at Belgrade on 18 August 1948¹

V

Ad Articles 13, 15, 19 and 20 of the Treaty

Should it become necessary, in carrying out joint work, to bring technical equipment and materials into the territory of the other Party, such equipment and materials shall, when passing the State frontier, be subject to customs control but exempt from customs duties and taxes. Machinery for the work (tractors, scrapers, etc.) crossing the State frontiers shall be registered without being required to deposit a customs bond.

VI

Ad Article 17 of the Treaty

Workmen who cross into the territory of the other Party shall not be permitted to take with them anything other than the tools, means of transport, food, beverages and tobacco required for the period of work. The temporary customs exemption on vehicles shall be governed by the provisions and agreements in force.

. . . .

¹ See *supra*, Treaty No. 121, p. 420

Czechoslovakia-Union of Soviet Socialist Republics

165. AGREEMENT¹ BETWEEN THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE CZECHOSLOVAK REPUBLIC CONCERNING THE RÉGIME OF THE SOVIET-CZECHOSLOVAK FRONTIER AND THE PROCEDURE FOR THE SETTLEMENT OF FRONTIER INCIDENTS. SIGNED AT MOSCOW, ON 30 NOVEMBER 1956²

CHAPTER II

Regulations governing the use of frontier waters and of railways and main roads intersecting the frontier line

ARTICLE 10. 1. The term frontier waters in this Agreement means the river Uzh from frontier mark No. 317 to frontier mark No. 321.

2. Each Contracting Party shall take appropriate measures to ensure that in the use of frontier waters the provisions of this Agreement are observed and the relevant rights and interests of the other Contracting Party are respected.

ARTICLE 13. Nationals of the two Contracting Parties may fish in frontier waters up to the frontier line.

ARTICLE 14. 1. The Contracting Parties shall ensure that the frontier waters are kept clean and are not artificially polluted or fouled in any way. They shall also take measures to prevent damage to the banks of the frontier river Uzh.

2. In order to prevent displacement of the bed of the frontier river Uzh, its banks must be strengthened wherever the competent authorities of the Contracting Parties jointly consider it necessary. These operations shall be executed and the relevant expenditure defrayed by the Contracting Party to which the bank belongs.

ARTICLE 15. The natural flow of water in frontier watercourses and in the adjacent areas inundated in time of flood may not be altered or obstructed to the detriment of the other Party by the erection or reconstruction of buildings either in the water or on the banks.

ARTICLE 16. 1. Frontier watercourses shall be cleaned out on the sectors where such work is jointly considered essential by the competent authorities of the two Contracting Parties. The cost of cleaning in such cases shall be equally divided between the two Contracting Parties.

¹ Came into force on 30 March 1957, upon the exchange of the instruments of ratification at Prague, in accordance with article 44.

² United Nations, *Treaty Series*, vol. 266, p. 302.

2. The cleaning of those sectors of frontier waters which are situated wholly in the territory of one of the Contracting Parties shall be carried out by that Party at its own expense as the need arises.

3. In cleaning out frontier waters, the earth and stones removed shall be thrown out to such a distance from the bank and levelled down in such a way as to avoid any danger of the banks, falling in or of the river bed being polluted and so as to prevent the flow of water in time of flood being obstructed.

ARTICLE 17. Existing dams and other installations on frontier water-courses shall be preserved. New dams and other installations may not be erected except by agreement between the Contracting Parties.

ARTICLE 19. The competent authorities of the Contracting Parties shall exchange as regularly as possible such information concerning the level and volume of, and ice on, frontier waters as might avert damage or danger from flooding or from drifting ice.

Denmark-Germany

166. AGREEMENT¹ BETWEEN DENMARK AND GERMANY RELATING TO WATERCOURSES AND DIKES ON THE GERMAN-DANISH FRONTIER, TOGETHER WITH A FINAL PROTOCOL AND INSTRUCTIONS FOR THE FRONTIER WATER COMMISSION AND THE SUPREME FRONTIER WATER COMMISSION, ATTACHED AS ANNEX TO THE TREATY² BETWEEN BOTH COUNTRIES CONCERNING THE SETTLEMENT OF QUESTIONS ARISING OUT OF THE TRANSFER TO DENMARK OF THE SOVEREIGNTY OVER NORTH SLESVIG, SIGNED AT COPENHAGEN, APRIL 10, 1922³

A. GENERAL PROVISIONS

Article I

LIST OF FRONTIER WATERCOURSES

The provisions of this Agreement shall apply to the following watercourses, lakes and streams, portions of which constitute the boundary between Germany and Denmark, *i.e.*

¹ The exchange of ratifications took place at Berlin on 7 June, 1922.

² See article 1 (3) of the Treaty [League of Nations, *Treaty Series*, vol. 10, p. 187].

³ *Ibid.*, p. 201.

(1) The stretch of the Krusaa between Nyhus Lake (frontier post No. 43) and the Flensburg Fiord;

(2) The channel between the Jardelund and the Frøesle meadows (from frontier post No. 93 to its junction with the Skelbæk at frontier stone No. 124);

(3) The Skelbæk from frontier stone No. 124 to frontier stone No. 155;

(4) The Gammelaa from frontier stone No. 157 to its junction with the Sönderaa at frontier stone No. 191;

(5) The Sönderaa from frontier stone No. 191 to its junction with the Vidaa including the connecting canals to and from the Haasberg Lake;

(6) The Ruderbøl Lake, subject, however, to the provisions of Article 55.

The provisions shall also apply to the channel and canal systems connected up with watercourses Nos. 1 to 5.

Article 2

FRONTIER WATER COMMISSION

A Frontier Water Commission shall be established for the purpose of examining and deciding all matters connected with the watercourses mentioned in Article 1. The Commission shall be appointed for a period of six years and shall, whenever the matter relates to a watercourse within the district (Kreis) of Flensburg or South Tondern, consist of a member chosen by the district committee of the district of Flensburg or South Tondern, and whenever the matter relates to a watercourse in the Danish Country (Amt) of Tönder or Aabenraa, of a member chosen by the District Council of Tönder or Aabenraa; it shall further consist of two judges or senior administrative officials appointed by the German and Danish Governments respectively, whose judicial or administrative departments do not lie in any of the above districts (Kreise) or counties (Amter).

One of the last mentioned persons will act as president during the first three years and the other during the remaining three years. The first president shall be chosen by lot. Subsequently the change of president will be so arranged that a president appointed by one Government will always be succeeded by a president appointed by the other Government.

The judge or administrative official who does not act as president shall be entitled to be present at the sittings of the Commission and to express his opinion with regard to the matter in hand. He shall, however, have no vote. The place and time of the sittings shall be communicated to him in due course.

A deputy shall be appointed for each member and he shall sit on the Commission if the member should be prevented from attending.

If the question at issue should concern landed property, which lies within both German districts or within both Danish counties, the two German district committees or the two Danish county councils shall come to an agreement as to which of the two elected German or Danish members shall sit on the Commission.

Article 3

SUPREME FRONTIER WATER COMMISSION

Appeal may be made from the decision of the Frontier Water Commission—subject to the exception mentioned in Article 6—to a Supreme Frontier

Water Commission as a court of final appeal. The Supreme Frontier Water Commission shall be set up in each special case as occasion may require. It shall consist of two members appointed by the German Government and two by the Danish Government, together with a president appointed by the Netherlands Government, who must be a man of legal training and thoroughly conversant with the matters in question.

Notice of appeal must be given to the president of the Frontier Water Commission within eight weeks after that Commission has given judgment. The president shall then arrange for the Supreme Frontier Water Commission to be set up by applying for that purpose to the German and Danish Governments (to the German and to the Danish Ministries for Foreign Affairs).

The person giving notice of appeal shall, if called upon to do so by the president of the Frontier Water Commission, give security for the costs of the appeal proceedings.

The appeal may be withdrawn at any time. Any costs which have already been incurred shall be borne by the person who has given notice of appeal.

Article 4

COSTS ARISING OUT OF THE WORK OF THE COMMISSIONS

The Frontier Water Commission and the Supreme Frontier Water Commission shall determine in each individual case who must bear the costs arising out of the work of the Commission, including the technical preparatory work and other investigations.

If the Parties concerned are not directly liable for the costs in accordance with the following provisions, such costs shall be paid in the form of advances by the district or country concerned. This payment shall be effected, as far as possible, according to the proportion in which the German and Danish properties respectively will have to bear the costs as a whole. If the costs which have been incurred are not chargeable to the district or county, the parties shall pay the costs with or without interest at a date or dates fixed in accordance with the decision of the district committee or county council concerned. If payment should not be made voluntarily, legal measures may be taken to recover the costs.

Statutes of the Commissions

The procedure of the Frontier Water Commission and of the Supreme Frontier Water Commission shall in other respects be governed by the annexed Statutes, which may be modified only by agreement between the two Contracting Governments.

B. UPKEEP OF FRONTIER WATERCOURSES

Article 5

CONTENTS OF REGULATIONS

Regulations shall be drawn up as soon as possible, in cases in which this has not already been done, with regard to the watercourses mentioned in

Article 1. They shall contain, in addition to an exact description of the watercourse, detailed provisions regarding the configuration, course and gradient of the watercourse, regarding the condition of underground conduits, dams, locks and bridges, regarding the level of water for the mills or any other water installations and dams on the watercourse, and regarding the upkeep of the watercourse. It shall, in particular, be stated who is liable for the upkeep of the watercourse and, further, how the work of upkeep is to be executed, at what dates the customary cleaning is to be effected, when inspection is to be made and also whether and in what manner special supervision of the watercourse is to be carried out.

Mention shall be made in each set of regulations of the decisions, agreements or customs upon which they are based.

Existing regulations shall be re-examined and additions to them made if necessary.

WATER LEVELS

In the case of each dam which already exists, in accordance with the law, or which may subsequently be authorized, water levels shall be established for the purpose of indicating the height of water which is permissible. Different water levels may be established for different seasons of the year, including if necessary a fixed minimum level. All water levels shall be indicated by reference to fixed points by means of clear and durable marks. They must be accessible to those persons responsible for their supervision.

The cost of establishing or altering a water level shall be borne by persons possessing damming rights. Costs arising out of unjustified objections or claims are, however, chargeable to the person making the objection or claim.

The cost of the upkeep and renewal of water level marks shall be borne by the persons possessing damming rights.

Article 6

FRAMING OF REGULATIONS

The regulations shall be framed or re-examined jointly by the head district official (Landrat) of the German Kreis concerned and by the head county official (Amtmann) of the Danish county concerned, with the necessary technical assistance.

Before the beginning of these proceedings all persons who claim to have special rights shall be called upon by means of a notification in the local German and Danish newspapers to submit their claims within a time limit of three weeks. As soon as the head district official and the head county official have jointly prepared the draft regulations these shall — after notification in the local newspapers — be exhibited for inspection during a period of four weeks. After consideration of any objections which may then be made, the form of the regulations will be finally settled.

If an objection is not recognized as being well founded, notice against such decision may be made to the Frontier Water Commission.

If the head district official and the head county official are unable to agree to a joint draft, both drafts shall be exhibited for inspection as already provided. After the time limit already mentioned has elapsed, the matter shall be decided by the Frontier Water Commission.

If a unanimous decision is arrived at by the three members of the Commission, it shall be final.

If the decision is not unanimous, appeal may be made to the Supreme Frontier Water Commission, on condition that the party appealing gives security for all costs in connection with the appeal.

All other costs in connection with the drawing up of the regulations shall be borne in equal parts by the district and county concerned.

The final regulations shall be printed, together with a list of the names of the persons responsible for the upkeep and particulars of their landed property as given in the cadastral and land registers. Copies shall be sent to the Councils of all communes in which there are estates under the obligations of taking part in the upkeep of the watercourse.

If alterations are subsequently made in the apportionment of the liability for upkeep (allocations) the Councils of the communes shall be informed accordingly.

Article 7

AMENDMENT OF REGULATIONS

Amendments may be introduced into the regulations, according to the above-mentioned procedure, by the authorities which drew up the regulations under the terms of Article 6.

If changes occur in the actual conditions with which the regulations deal, the latter shall be amended accordingly, without delay.

Article 8

LIABILITY FOR GENERAL UPKEEP

The liability for the upkeep of the watercourses mentioned in Article 1. falls, in accordance with the regulations heretofore in force, either upon the riparian proprietors alone or upon them together with other proprietors to whom the existence and the good condition of the watercourses is of use or advantage.

Article 9

COMPENSATION IN CONNECTION WITH GENERAL UPKEEP

In connection with the general upkeep, the riparian proprietors must give permission for the deposit without compensation of earth, stones, gravel, sand, wood, etc., on the banks, and they must provide for the removal thereof in so far as such removal is essential for the maintenance of a free flow of water and is possible without imposing an excessive burden on the proprietors.

The person liable for the upkeep, together with his duly authorized agents, shall be entitled, in connection with the preparation and execution of the work of upkeep, to enter and move freely over the riparian land and to deposit materials there for the time being. Compensation shall be given for any damage resulting from such action.

If the matter cannot be settled by agreement, the amount of the compensation shall be determined by the Frontier Water Commission.

Article 10

COSTS OF UPKEEP

The sums to be paid as compensation in connection with the upkeep, together with the cost of the work undertaken for the maintenance of the watercourses, shall, in so far as the work is not carried out by the persons themselves who are liable therefor, be paid for in the form of advances by the district or county concerned, as far as possible according to the proportion in which the expenditure as a whole is chargeable to the German or Danish estates. These advances will be repaid with or without interest at a date or dates fixed in accordance with the decision of the district committee or county council concerned.

If the money is not paid voluntarily, legal measures may be taken to recover the advances.

Article 11

LIABILITY FOR UPKEEP IN CONNECTION WITH DIVISIONS OF LAND

If a landed property which must contribute towards the upkeep is divided up, the burden falling upon such property shall be apportioned by the competent district committee or county council at the cost of the owners of the component parts of the property, among such parts as continue to benefit by the watercourse.

The proprietors of the divided landed property are under the obligation themselves to cause such apportionment to be made. Until such action has been taken, each of them shall be responsible for the whole of the contribution payable in respect of the property which is divided up. Each part-owner may, within four weeks after receiving notification of the apportionment, give notice of objection to the Frontier Water Commission.

Article 12

LIABILITY TO CONTRIBUTE IN THE CASE OF USUFRUCTUARIES

The liability for the ordinary upkeep of the watercourse falls primarily upon the person possessing the usufruct of the land in question; the owner may, however, also be called upon to fulfil such liability if the contribution cannot be recovered from the person in question.

Article 13

DECISIONS REGARDING LIABILITY FOR GENERAL UPKEEP

If any person concerned desires to obtain the decision of the Frontier Water Commission with regard to questions which relate exclusively to liability for general upkeep, he must make an application to the Commission himself. The costs shall in this case be borne, not by the district or county, but by the person concerned; the amount shall be determined by the Commission.

Article 14

SUPERVISION OF FRONTIER WATERCOURSES

The supervision of the frontier watercourses shall be carried out on the

German side by the Chairman of the competent Supervisory Board (Schauamt), or by the Dike-grave as the case may be and on the Danish side by the District Water Inspector, appointed for the county concerned. These persons shall jointly carry out inspections at regular intervals, as laid down in the regulations, and they shall inform the head district official on the German side and the head county official on the Danish side of any defects which they may discover. The latter shall cause any work which has been left undone to be carried out at the cost of the negligent party, and in certain circumstances and more particularly in the case of a repetition of the offence, they may take steps to secure the punishment of the offender.

The money required to pay the cost of the work carried out at the expense of the negligent party, together with the cost of any inspection rendered necessary by such neglect, may, if not paid voluntarily, be recovered as a result of legal proceedings.

C. REGULARISATION OF FRONTIER WATERCOURSES

Article 15

PROPOSALS FOR REGULARISATION IN CONNECTION WITH THE PREPARATION OF THE REGULATIONS

If the head district official (Landrat) or head county official (Amtmann) is of opinion, in drawing up a set of regulations, that there is good reason for making alterations in any matters concerning the watercourse, or if detailed proposals cause him, in accordance with Paragraphs 2 and 3 of Article 6, to adopt suggestions of such a nature with the result that the question of a legal regularisation of the watercourse arises, the matter shall be laid by him before the Frontier Water Commission, together with a plan for regularisation and the necessary technical preparatory work.

Article 16

DECISIONS REGARDING REGULARISATION

When the Frontier Water Commission assembles to consider a proposal for the regularisation of one of the watercourses in question, in accordance with Article 15, it will first of all investigate all the circumstances of the case and will give an opportunity to all persons concerned to express their opinion and to put forward objections or suggestions regarding the proposed regularisation in accordance with the provisions of Article 31. It will then be decided whether and to what extent the proposed regularisation shall be carried out, and, if it is decided to proceed with the matter, what plan shall be adopted.

In such investigations the general advantages which the proposed regularisation would confer must be weighed against the expenditure entailed, and also incidental disturbance or damage.

The proposed regularisation may consist in :

1. The establishment of a new bed and the carrying out of high water regularisation, or
2. Other improvements of a more extensive character than those constituting ordinary upkeep.

The artificial creation of new land adjacent to riparian land shall be

regarded as an improvement of the same nature as those mentioned in this paragraph under No. 2.

Article 17

DETAILED PROVISIONS REGARDING REGULARISATION

Detailed and exhaustive provisions shall be issued regarding the carrying out of the regularisation, including the scope and conditions thereof, and the time limits to be observed. All the objections or proposals put forward in connection with the regularisation, shall, in the absence of agreement, be dealt with by means of an official decision.

The fact that matters concerning a watercourse have already been regulated at an earlier date by means of agreements or decisions shall not necessarily prevent the issue of new and different regulations regarding the same matter if either the facts upon which the former arrangement was based have subsequently undergone modification, or experience has shown that the earlier arrangement does not in essential particulars fulfil its purpose. Care must, however, be taken in this connection to see that no lawfully obtained right is impaired without full compensation.

Article 18

CHANGE OF OWNERSHIP OF LANDS SEPARATED FROM AN ESTATE

If in the future a watercourse in consequence of regularisation, traverses an estate in such a manner that part of the estate is situated on one bank and part on the other, the Frontier Water Commission shall endeavour to effect an appropriate change of ownership, either by means of a transfer subject to compensation in money or by means of an exchange. If a friendly agreement cannot be reached, the Frontier Water Commission may, in cases in which local conditions render such a course necessary, by means of a decision, order and enforce the exchange of plots of land of the same value or the addition of plots belonging to one owner to a plot belonging to another owner subject to the payment of compensation in money.

Action of the last-mentioned character may, however, only be taken in cases in which not more than one hectare of land is actually added to any single plot of land.

Any person who takes over in this way, subject to compensation, a plot of land which has been separated from another estate, may choose whether he will pay for it in a single sum or in annual instalments.

After any measure of regularisation has been carried out, the head district official (Landrat) or head county official (Amtmann) shall, without delay, cause the plots of land which have changed hands to be measured and the necessary alterations to be made in the survey records and in the land register. The change of ownership shall be effected by the entry in the land register.

If an exchange is made of plots of land of equal value, the new plot of land shall exactly replace the former from a legal point of view.

The tenant of the estate from which a portion has been separated subject to compensation in money, has the right to give notice up to the end of the current economic year, unless he has suffered no serious damage in consequence of the division of land.

If the lease remains in force, the tenant has the right during the period

of the lease to receive payment to the extent of 4% per annum of the money compensation, or, if the compensation is paid in instalments, of the capitalized value of such instalments.

Article 19

ALTERATIONS OF THE FRONTIER

In drawing up the regularisation plans for the watercourses mentioned in Article 1, the following rules adopted by the International Boundary Commission in its statement of September 3, 1921, with regard to the frontier, shall also be observed:

“ Les projets de régularisation des cours d'eau-frontières pourront être mis à exécution après accord entre les deux Etats, à condition que les changements envisagés par ces projets soient de peu d'importance et n'atteignent pas au total une superficie de plus de 4 hectares par kilomètre en moyenne. La ligne frontière suivra alors en général la ligne médiane du cours d'eau-frontière régularisé.”

Stretches of watercourses on the frontier, which have been artificially altered, shall be measured by surveyors belonging to both Parties on the basis of the frontier survey work. Supplementary official records in regard to this matter shall be drawn up in duplicate in the German and Danish languages by the head district officials (Landräte) or head county officials (Amtmänner). All relevant documents shall be forwarded by the head of the Government in Sleswig to the Boundary Office in Berlin or by the head county officials to the Danish Government in Copenhagen.

Article 20

COSTS OF REGULARISATION

All proprietors of land which may be expected to benefit from the regularisation, no matter whether their land is bounded by the watercourse or not, are under the obligation to pay a share of the cost of the regularisation work or to undertake a part of any work imposed in accordance with Article 22.

The share of each owner shall be determined according to the advantage which accrues to him from the regularisation. In the practical application of this principle of apportionment due regard shall, however, be paid to local conditions in deciding each individual case.

The sums to be paid as compensation in connection with regularisation together with the cost of the work of regularisation shall, in so far as the work is not carried out by the person himself who is liable therefor, be paid in the form of advances by the district (Kreis) or county (Amt) concerned, as far as possible according to the proportion in which the expenditure as a whole is chargeable to the German or Danish estates. These advances will be repaid with or without interest, at a date or dates fixed in accordance with the decision of the proper district committee or county council concerned.

If the money is not paid voluntarily, legal measures may be taken to recover it.

Article 21

LIABILITY TO CONTRIBUTE IN THE CASE OF USUFRUCTUARIES

The proprietor shall pay the contribution due from land in respect of the regularisation of the watercourse, even if the land is in the possession of a usufructuary.

Agreements to the contrary between the owner and the usufructuary will not be recognized by the authorities.

Article 22

EXECUTION OF REGULARISATION WORK

Notice of the work necessitated by the regularisation of the watercourses shall be published in both countries, and the work shall be entrusted to the person submitting the lowest tender, subject to the giving of satisfactory security for the execution of the work. If no tender is obtained which appears to the Frontier Water Commission to be acceptable, the contract may be given without tender. If it should appear desirable, the Frontier Water Commission may, however, direct that certain regularisation work on a small scale should be carried out by the parties concerned on their own account.

Article 23

SUPERVISION OF REGULARISATION WORK

The supervision of regularisation work shall be carried out in common by the chairman of the Supervisory Board (Schauamt) or by the Dike-grave (Deichgraf) on the German side and the District Water Inspector (Amtswasserinspektor) on the Danish side. Differences of opinion which may arise shall be submitted to the Frontier Water Commission for its decision.

Article 24

FAILURE TO CARRY OUT WORK

If an owner who is under the obligation to carry out certain work does not execute it properly, the chairman of the Supervisory Board or the Dike-grave or the District Water Inspector shall report the matter to the head district official or head county official. The latter shall arrange for the work to be carried out at the cost of the defaulting party.

All expenses connected with such work may, if not paid voluntarily, be recovered by means of legal proceedings.

Article 25

INSTALLATIONS RENDERED NECESSARY BY THE REGULARISATION

Any person undertaking the regularisation of one of the watercourses mentioned in Article 1 shall erect the installations which are required for the protection of land and the works necessary to guard against danger and damage, if such installations are closely related to the undertaking and economically justifiable. He must also take such measures as the public

interest may require. These will include such alterations in public and private roads and in the bridges situated on these roads as are rendered necessary by the regularisation. The person responsible for the upkeep of the roads and bridges shall, without prejudice to any special liabilities, contribute to the cost a sum equivalent to the amount which he saves in consequence of the alterations, and which he would otherwise have had to spend in order to discharge his liability for upkeep. If, however, the reconstruction or alteration renders the work of upkeep more expensive in the future without benefiting the person responsible for the upkeep of the bridges and roads, suitable compensation shall be paid to him.

Article 26

COMPENSATION FOR DAMAGE CAUSED BY REGULARISATION

Any person who suffers loss or damage in consequence of the regularisation or of the alteration in the condition of the watercourse occasioned by such regularisation has the right to claim full compensation from the person who benefits by the work in question. The matter shall be decided by the Frontier Water Commission.

The riparian proprietors must permit, subject to compensation, the erection at or in the watercourse of subsidiary works necessary to carry out the regularisation of a river bed, the deposit of earth, stones, gravel, sand wood, etc., on the land on the banks, the transport to and fro of such materials and the storing and transport to and fro of building materials, and must also grant regular right of access to the workmen and inspectors.

These provisions are also applicable to land situated behind the riparian land and to the proprietors thereof.

In the absence of agreement, the Frontier Water Commission shall determine the amount of compensation.

Article 27

LIABILITY FOR UPKEEP AFTER REGULARISATION

If the cost of upkeep is increased by the regularisation of a watercourse, the increase shall be apportioned among all the proprietors to whom the regularisation is of use or advantage, regardless of the fact whether they previously shared in the cost of upkeep or not.

Article 28

SUBSEQUENT PROPOSALS FOR REGULARISATION

Proposals for regularisation or for the alteration of previous measures of regularisation may also be laid before the competent head district or head county official at a later date by any person concerned. The head district or head county official shall submit such proposal to the Frontier Water Commission. The person making the proposal shall, if called upon to do so, provide adequate security for all costs which the proceedings may entail.

D. ESTABLISHMENT OF NEW AND ALTERATION OF EXISTING WORKS

Article 29

GENERAL PRINCIPLES

The establishment of new, or the extensive alteration of existing works on any of the watercourses mentioned in Article 1, requires the authorization of the Frontier Water Commission.

This provision shall apply in particular to the right:

(1) Of using and consuming water, especially the right of diverting it directly or indirectly and above or beneath the land surface;

(2) Of conveying water or other liquids directly or indirectly and over or under the land surface;

(3) Of lowering or raising the level of the water, especially the right of causing a permanent accumulation of water, by checking the flow of the stream.

The watercourse may not be used in such a manner that:

(1) The height of the tidal water would be altered or the water polluted to the detriment of other persons;

(2) The height of the water would be so altered that prejudice would be caused to others in the exercise of their rights or that harm would be done to the land of others;

(3) Additional burdens would be placed on any other party for the upkeep of watercourses or their banks, unless the advantages which may be obtained by means of the works are greatly in excess of the loss or damage anticipated. If the proposed use of the watercourse is likely to prove highly detrimental to the public interest, authorization should be refused or granted only upon conditions which would take the public interest fully into account.

An application relating to drainage should in general be given precedence over applications dealing with other improvements.

The works should, as a rule, be so constructed that the water which is not employed in the works themselves should be conveyed back into the original watercourse in such a way that the water is not caused to flow round a property abutting on the watercourse unless the owners and usufructuaries of the property have given their consent.

In the case of works on a large scale, the Frontier Water Commission may, however, direct that the water should be caused to flow round one or more properties adjacent to the watercourse, or that the water shall be discharged into another watercourse without regard to the opposition of the parties concerned. In such cases, compensation shall be granted to persons suffering prejudice for any loss and damage caused.

Protective measures taken in cases of necessity when danger is threatening require no authorization. If, however, they become permanent, authorization shall be obtained when the immediate danger has been averted.

Article 30

PROCEDURE TO BE FOLLOWED IN MAKING APPLICATIONS

The necessary drawings and explanations shall be attached to all appli-

cations for the erection of new works or the alteration of existing works in accordance with Article 29. Applications shall be laid before the head district official or head county official concerned whose duty it is to submit them to the Frontier Water Commission, subject, if necessary, to the provision of suitable security for the costs.

If the Frontier Water Commission is definitely of opinion that a proposal should not be adopted, it may at once reject such proposal by means of a decision in which the reasons for the rejection are given.

In other cases, the proposed use of the watercourse shall be brought to the notice of the public in the manner which is customary in the locality in all Communes or manorial districts (*Gutsbezirke*), the land of which might be affected by the operation of the works in the event of their being authorized.

Further, the attention of all persons who will clearly suffer damage from the authorization of the works shall be drawn to the public notification by means of registered letters.

Article 31

CONTENTS OF NOTIFICATIONS

Notifications shall state where the drawings and explanations which have been submitted may be inspected, and shall mention the authorities to which objections to the authorization and also applications for the erection and upkeep of installations for the prevention of damage, or applications for compensation shall be addressed in writing or be made orally in official form. A time limit shall also be fixed for lodging objections or making applications. The period allowed shall be not less than two, and not more than six weeks. It shall begin to run from the day following that upon which the gazette containing the final notification is published.

It shall be stated in the notification that all persons who have not lodged any objection or made any application within the time limit fixed shall lose their rights in that connection, but that applications for the erection and upkeep of installations or for compensation may be made at a later date if they are based upon damage which could not be foreseen during the period covered by the time limit.

Even after the expiration of the appointed time a person who has suffered damage shall not be debarred from submitting a claim provided he can show that he was prevented by circumstances over which he had no control from submitting such claim within the time limit.

The right of establishing claims after the expiration of the appointed time is subject to prescription three years after the date on which the person who suffered damage learned of the existence of such damage.

The same time limit shall also be fixed in the notification for other applications for the authorization of a particular use of the watercourse by which the use proposed by the first applicant would be restricted. It shall also be made clear that applications of this kind made after the expiration of the appointed time in connection with the same matter will not be taken into consideration.

A suitable additional period may be allowed for the production of evidence.

Article 32

CONTENTS OF DECISIONS

The decision of the Frontier Water Commission shall contain an exact description of the rights conferred and of the undertakings in respect of which they are conferred, and, if the rights are bound up with the ownership of landed property, an exact description of such property.

In the case of a grant of damming rights the decision shall further contain provisions:

- (1) Regarding the construction of works which affect the volume of water flowing or the height of the tide;
- (2) Regarding the times of damming which are to be observed;
- (3) Regarding the height of the water which has been fixed and, if the water must be kept at a fixed minimum, regarding that height also;
- (4) Regarding the quantity of water to be used if its restriction is necessary;
- (5) Regarding measures necessary for protection against damage from tides.

Article 33

MEASURES FOR THE PREVENTION OF ILLEGAL INSTALLATIONS

Should any person without proper authorization establish installations, as mentioned in Article 29, on a watercourse, or should he be responsible for damage to a watercourse caused by cattle breaking loose, by earth or rubbish being thrown into the stream, by fences, hedges or the sloping banks of the watercourse being broken down, etc., the competent head district official or head county official may cause the damage to be repaired at the cost of the person concerned, or may cause the installations which occasioned the damage to be removed if the person concerned does not remove them himself when called upon to do so. The guilty party may also be punished.

If such installations already exist on the watercourse, the head district or head county official may insist upon their removal if he obtains a decision of the Frontier Water Commission to the effect that the installations cannot be maintained without doing harm to the watercourse. If the person concerned asserts that he has obtained on special grounds the right to maintain such installations, and if this claim is not allowed by the head district or official or the head county official, the latter shall lay the matter before the ordinary Courts for their decision.

If the water is dammed by means of a work up to a height which exceeds the specified water-level, the owner of the work or the person using it may be fined if he is responsible for the infringement of the regulations. He shall also make good all damage due to the illegal damming.

The money required to pay the cost of the work to be carried out in this connection, at the expense of the person concerned and the cost of the necessary inspection, including the charges in respect of compensation which may be imposed on him may, if not paid voluntarily, be recovered as a result of legal proceedings.

Article 34

IRRIGATION WORKS

In general, the water which is taken for purposes of irrigation from one of the watercourses mentioned in Article 1 may only be used for the irrigation of land abutting on the watercourse. If, however, the quantity of water available is sufficient, the Frontier Water Commission may, as regards larger irrigation works erected by associations (see Article 40), allow the owners of land situated in the neighbourhood of the watercourse in question but not directly bordering on the watercourse, to take part in the irrigation. Special regard shall be had in this connection to the land across which the canals and conduit pipes required for the irrigation works must be constructed. (See Article 38.)

In deciding whether the use of the water may be granted to persons other than the riparian proprietors, care shall also be taken to ensure that no noticeable diminution in the quantity of water is occasioned to the detriment of land adjacent to the watercourse below the irrigation works.

Article 35

DISTRIBUTION OF WATER IN CONNECTION WITH IRRIGATION WORKS

The proprietors on both banks of any one of the watercourses mentioned in Article 1 have equal rights as regards the use of the water, so that, if irrigation works are erected upon one bank, only half of the water of the watercourses may be assigned to these works. The Frontier Water Commission shall establish detailed regulations for the apportionment of the water in connection with the erection of irrigation works.

If, however, all the proprietors and usufructuaries of the land on the opposite bank of the watercourse between the point at which the water is diverted and the point at which it re-enters the watercourse give their assent, more than half the water may be applied to irrigation works on one bank.

Article 36

COMPENSATION FOR DAMAGE CAUSED BY IRRIGATION WORKS

If irrigation works on one bank of any of the watercourses mentioned in Article 1 cause loss or damage to proprietors on the other bank by making the land too dry or in any other way, and if such loss or damage is not counterbalanced by the advantages derived from the works by the parties concerned, e.g., by improved drainage, or if the Frontier Water Commission has not been able to prevent such loss or damage by suitable measures, the Frontier Water Commission shall grant compensation to the parties prejudiced, to be paid by those persons who have interests in the irrigation works.

Such compensation is to be fixed, in the absence of agreements to the contrary, on an annual basis, and it may subsequently be reduced or increased by the Commission, according as to whether the damage sustained is reduced or increased as a result of altered circumstances.

Article 37

OBLIGATIONS OF RIPARIAN AND OTHER PROPRIETORS

The riparian proprietors and the owners of land which is not directly situated on the watercourse must, subject to compensation, grant the use of the necessary ground for the erection of the works mentioned in Article 29, including places for working and for storage. The works may also be connected with land belonging to third parties on the other bank.

A dam may, if considered desirable by the Frontier Water Commission, be erected at a point on the watercourse situated higher up than any part of the land to be irrigated, in such a manner that on both banks the installation rests on land belonging to third parties. Full compensation must be given to the persons concerned in this case, in the same manner as for the temporary use of land belonging to third parties in connection with the erection, working and upkeep of the installation.

*Article 38*CONSTRUCTION OF CANALS AND CONDUITS ACROSS LAND OWNED BY
THIRD PARTIES

The main canal required for the installation of drainage or irrigation works, together with other canals and conduits connected with the installation, may be constructed compulsorily across land belonging to the third parties, if the Frontier Water Commission considers it to be necessary for the successful establishment of the works. The Commission shall determine the compensation which the person concerned may claim for loss and damage sustained in connection with the works themselves and with their subsequent upkeep. The conditions for the regular use of the works by other persons shall likewise be established.

Article 39

SUBSEQUENT PART-USE OF DRAINAGE OR IRRIGATION WORKS

A proprietor who has not taken part in the construction of drainage or irrigation works, and has, therefore, not contributed to the costs of such works, may subsequently obtain permission to share in the use of the machinery or other installations erected in connection with such works, for the purpose of the drainage or irrigation of his land (e.g., a dam which primarily belongs to drainage or irrigation works erected on the other bank, or the water from a canal which forms part of an already existing drainage or irrigation work, and which bounds or traverses his land). Permission shall, however, only be granted if no serious prejudice can be caused by such part-use to the persons who were associated in the original drainage or irrigation works. The party concerned must pay a reasonable share of the cost of the original works and of their future upkeep.

In the absence of a voluntary agreement, the Frontier Water Commission shall decide whether, and if necessary, under what conditions such part-use may be allowed.

Article 40

FORMATION OF DRAINAGE AND IRRIGATION ASSOCIATIONS

When more than five land owners or usufructuaries combine to erect drainage or irrigation works on one of the watercourses mentioned in

Article 1, they shall form a drainage or irrigation association. The conditions of the association shall be determined by statutes agreed upon by all the members, except in cases in which the head district official and the head county official jointly exempt them from the necessity of having statutes in consideration of the comparative unimportance of the works. Drainage or irrigation works, in which more than five proprietors or usufructuaries are interested, may not be constructed, and the number of the persons taking part in already existing drainage or irrigation works may not be increased to more than five, until statutes have been drawn up in conformity with the provisions of this Article. All the parties concerned must give their assent before such statutes are valid. The statutes also require the joint authorization of the head district official and the head county official. If the latter refuse to authorize the statutes, or if they cannot come to an agreement, their authorization may be replaced by that of the Frontier Water Commission. If an association is not formed in accordance with these regulations, it may be prohibited from using the water of the watercourse in question until the statutes have been authorized.

The statutes shall contain: a description of the works, a list of the landed properties which share in the use of these works, together with particulars regarding the proprietors and the lands, the name of the drainage or irrigation association, its seat and legal position, regulations regarding the governing body, and the rights and duties of the members, the use and upkeep of the works of the association, the special obligations of the association in its relations with third parties, the method of keeping accounts, the admission and retirement of members, and the method of amending the statutes.

Alterations in, or additions to, the statutes are subject to the provisions contained in paragraph 1.

The statutes shall be published in the manner customary in the locality in the communes and manorial districts in which the landed properties in question are situated.

The rights conferred and duties imposed upon a member of the association as such, pass without further formality to any person subsequently acquiring the property in question.

As regards already existing drainage or irrigation works, the association shall, within a year after the coming into force of this Agreement, comply with the provisions of the first paragraph of this Article.

Persons participating in old or new drainage or irrigation works for which statutes are not necessary, shall appoint a fully-authorized agent to represent them jointly in dealing with third parties. Notification thereof shall be given to the head district official or head county official.

Article 41

SUPERVISION OF DRAINAGE AND IRRIGATION WORKS

The inspectors mentioned in Article 14 shall be responsible for seeing that canals and also dams, locks and bridges forming part of the drainage or irrigation works situated on the watercourse are maintained in accordance with the authorized plans and statutes.

Defects shall be brought to the notice of the head district or county official concerned by the inspectors. The head district official or head county official may cause the work which has been neglected to be carried out, and compel the parties who are responsible to fulfil their obligations in accordance with Article 14.

If the head district official or the head county official is of opinion that the original construction of the canals together with dams, locks and bridges forming part of the drainage or irrigation works, is not in accordance with the authorized plan, the matter may be brought before the Frontier Water Commission by him, or by the participators in the drainage or irrigation works. Should this Commission, or, if necessary, the Supreme Frontier Water Commission, decide that the work which has been executed is not in accordance with the authorized plan, action shall be taken in accordance with the provisions contained at the end of paragraph 1 of Article 40.

Article 42

ARBITRARY ALTERATIONS IN DRAINAGE OR IRRIGATION WORKS

Persons interested in drainage or irrigation works who make alterations of their own accord in the installations connected with the works, or who, by their neglect, render alterations necessary, with the result that the apportionment of the water prescribed or agreed to is altered to the detriment of other persons, shall be punished.

E. USE OF WATERCOURSES

Article 43

COMMON USE OF THE WATER

All persons are entitled to use the water of the watercourses and lakes mentioned in Article 1 for watering cattle, for washing and for ordinary domestic requirements, provided that such use can be made without trespassing upon the land of third parties.

The Frontier Water Commission may, at the request of the head district official or the head county official concerned, control, restrict or prohibit the common use of the water. Reasons shall be given for decisions in this connection.

Article 44

EXISTING WORKS

Machinery authorized at the time of the coming into force of this Agreement may not, in consequence of the use of the water by other persons, be deprived of the water necessary for its working, to the extent which has heretofore been customary. If the right to enlarge the works has been established by means of an earlier authorization, the works may not be deprived of the water necessary for the extended operations. (See, however, Articles 17 and 29.)

Article 45

DISCHARGE OF HARMFUL SUBSTANCES INTO WATERCOURSES

If refuse or harmful substances are discharged into any of the watercourses mentioned in Article 1 in consequence of operations carried out on the land by mills, factories, dairy-farms, slaughter-houses etc., and if such refuse or harmful substances seriously increase the work in connection with the cleaning of the watercourse, or cause floods which damage fishing or which inflict other injury on riparian proprietors, the persons who suffer damage thereby are entitled to appeal to the Frontier Water Commission.

The fact that works have been authorized by the Frontier Water Commission does not release the person undertaking such works from the above-mentioned responsibilities.

Article 46

DECISION REGARDING CLAIMS FOR COMPENSATION

The decision shall state whether the complaint is justified, and if so, what amount of compensation must be paid to each of the injured parties, who is to pay the compensation, whether it is payable in a single sum or in the form of an annual indemnity, and further, how the costs of the action are to be defrayed. If the payment of an annual indemnity is ordered by way of compensation, the provisions of paragraph 2 of Article 36 shall be applicable in cases in which one of the parties subsequently considers that his interests are prejudiced.

Sums of money due in respect of compensation and in respect of the costs of the proceedings may, if not paid voluntarily, be recovered as a result of legal proceedings.

F. OTHER LEGAL PROVISIONS

Article 47

PROTECTION OF THE RIGHTS OF THIRD PARTIES IN CONNECTION WITH THE PAYMENT OF COMPENSATION

Compensation which is accorded to proprietors in respect of the division of their lands or the diminution in the value of their lands consequent upon the decision of the Commission or of a settlement arrived at in presence of the Commission may only be paid to the proprietors subject to the rights of mortgagees or of other persons possessing legal claims.

The President shall, for this purpose, cause an exact list to be drawn up of the proprietors and landed properties, together with particulars from the land register and the survey records and also of the sums due in respect of compensation.

This list shall be published, together with a notification in which any person who claims payment of the whole amount of compensation or of a part thereof for the protection of his rights, shall be summoned to appear at a particular date (time and place being given); notice shall be given that the claims of any person to compensation will not be recognized if he should fail to appear. The notification and list shall be published, at least 14 days before the appointed date, in the newspapers which are employed in both

countries for official notifications, and the notification shall also be published in the local newspapers.

If no objection is raised at the appointed date to the payment of compensation to a proprietor, such payment may be made to him.

If, on the contrary, objection is raised at the appointed date, efforts shall be made to obtain an agreement between the proprietor and the claimant. If such efforts do not succeed, the compensation money shall be retained by the Commission until it has been determined by a decision of the ordinary Courts to whom the money should be paid.

Article 48

OBLIGATION TO ALLOW SURVEYS, ETC., TO BE MADE

Every proprietor must permit levelling, surveys, or other technical preparatory work and investigations which may be necessary in connection with a plan for any contemplated measures of regularisation, drainage or irrigation works to be carried out on his land. The fixed marks which are necessary for these purposes may not be arbitrarily removed.

Information shall, however, be given by means of a public notification or otherwise, at least one day in advance, of any intention to undertake such work or investigations. Compensation shall be given for any damage which may be caused.

Article 49

ROADS AND RAILWAYS TO BE REGARDED AS LANDED PROPERTIES

For the purposes of this Agreement public and private roads and railways shall in general be treated as landed properties, regard being paid, however, to their character as roads and railways.

Article 50

RECOVERY OF COSTS

In all cases in which the imposition of costs or the recovery of costs as a result of legal proceedings is provided for in this Agreement, the laws of the country concerned shall be applicable.

Article 51

PROVISIONS RELATING TO PENALTIES

Persons who, by performing or failing to perform some act, render themselves liable to punishment under the provisions of this Agreement, shall be prosecuted and punished in accordance with the laws of the country concerned. If the latter should not contain any special penalties, a fine shall be imposed, which, however, must not exceed the maximum fine applicable in similar cases under the laws of the country.

Fines which are inflicted in accordance with these provisions are payable to the district or county in which the offence was committed unless otherwise provided for by law.

Article 52

USE OF UNSTAMPED PAPER

Unstamped paper may be used for protocols, applications, summonses, written statements, extracts, inventories and other documents which are required in connection with the matters dealt with in this Agreement.

Article 53

LEGAL POSITION WITH REGARD TO WATERCOURSES WHICH ARE CONNECTED WITH FRONTIER WATERCOURSES, BUT DO NOT FORM PART OF THEM

If the water from land or from drainage or irrigation works on the one side of the frontier has its regular outlet in a watercourse situated on the other side of the frontier which does not come within the provisions of this Agreement, the proprietor of the land or the association, as the case may be, is entitled to address complaints regarding the upkeep of the watercourse to the Authorities responsible for the watercourse, through the intermediary of the head district official of the district or the head county official of the county in which the land or the works are situated. Such complaints shall be dealt with according to the water laws of the country concerned, in the same manner as if the estate in connection with which the complaint is made were situated in the same country as the watercourse.

Neither the proprietors nor the association can be compelled to contribute towards the cost of the regularisation of such watercourses. If they are not prepared to share in the costs of regularisation to an extent which is considered reasonable by the water authorities, the latter are empowered to make arrangements for the erection of such installations on the watercourse in such a manner that the drainage conditions on the land in question shall remain unchanged.

If proprietors on one side of the frontier take steps to alter existing conditions by means of installations which increase the flow of water into a watercourse on the other side of the frontier without being authorized to do so by a decision of the Frontier Water Commission or of the competent water authorities on the other side of the frontier, the other persons who participate in the use of the watercourse are entitled to adopt measures on their side of the frontier to prevent the increase in the flow of water. The persons responsible for the latter measures must, however, submit to the decisions of their own water authorities if complaints are made through the intermediary of the competent head district official or head county official regarding the measures in question.

Article 54

DAMMING RIGHTS IN CONNECTION WITH SUCH WATERCOURSES

If damming rights on a watercourse on one side of the frontier which does not come within the provisions of this Agreement has heretofore belonged to land on the other side of the frontier, the right of the proprietor or usufructuary shall remain unimpaired. The right must, however, be established, if necessary by bringing an action, to the satisfaction of the water authorities of the other country in accordance with the water legislation of that country.

Article 55

EXTENT TO WHICH THE AGREEMENT SHALL HAVE BINDING FORCE

The water laws in force and the provisions for their execution shall remain in force in Germany and Denmark, in so far as they are not inconsistent with the provisions of this Agreement.

Should doubt arise as to whether, and to what extent, a matter lies within the competence of the Frontier Water Commission, the decision of this Commission shall be binding upon all persons concerned, subject, however, to an appeal to the Supreme Frontier Water Commission.

Questions concerning the diversion of water from the reclaimed land south of the frontier, through the locks at Neumark and Merlingsmark, and concerning the Wiedau from the Rutterbuel Lake to the sea near the Höjer lock, and the canal at Höjer, may not be brought before the Frontier Water Commission without the consent of all the parties concerned.

G. DIKES

Article 56

UPKEEP OF DIKES

The area controlled by the First Sleswig Dike Union, which includes the stretch of dike between Höjer and the southern boundary of the district of South Tondern, has been so divided, as a result of the fixing of the frontier, that the part of the dike north of the frontier has been excluded from the area under the Union.

The upkeep of the dikes on both sides of the frontier shall be carried out in future under economic and technical supervision in accordance with the legislation of each country. The two Governments shall give information to each other regarding the laws and regulations in force for the time being for the dikes in question.

Persons concerned in the one State who consider that their interests are prejudiced in connection with the upkeep of the dikes in the other country, shall be entitled to bring complaints before the competent dike authorities — the same rights being accorded to them as to the inhabitants of the country itself — through the intermediary of the head district official or head county official concerned.

FINAL PROTOCOL

(1) The German Government has informed the Danish Government: that according to the Expert-Report of the First Sleswig Dike Union of April 25, 1913, the profile of the sea dike in front of the New Friedrichenkoog which has now become Danish, did not satisfy the prescribed conditions throughout its entire length; that the New Friedrichenkoog which is responsible for the upkeep of this stretch of dike has not yet carried out the restoration of the dike, and consequently that the necessary protection against the danger of floods due to spring tides of storm has not been provided, that however, according to the expert opinion of the German dike authorities, there is no objection to transferring the dike in question, in compliance

with the proposal of the proprietors of the Koog of February 16, 1916, from the first class of dikes to the second, under the terms of the regulations which have heretofore been in force, for that dike, provided that the profile of the dike is actually brought, as a whole, up to the dimensions applicable in the case of the second class of dikes.

(2) The Danish Government takes cognisance of these statements, and declares that it will take steps to provide as soon as possible and maintain permanently the necessary security against the danger of floods due to spring tides by enlarging the dike in such a manner that its profile may at least correspond to that of the second class of dikes, i.e., that it should rise to a height of 5.25 metres above the ordinary high water mark.

(3) The German Government gives a corresponding guarantee in connection with the sea dike between the German-Danish frontier and the southern boundary of the district of South Tondern.

(4) Both Governments agree that the inspecting authorities of both parties on both sides of the frontier shall undertake a levelling of the surface of the dike every five years. Information regarding the results of these levelling operations shall be exchanged between the above-mentioned authorities.

STATUTES OF THE FRONTIER WATER COMMISSION AND THE SUPREME FRONTIER WATER COMMISSION

I. FRONTIER WATER COMMISSION

A. COMPOSITION OF THE COMMISSION

(1) The German and Danish Governments will communicate to each other the names of the judges of high administrative officials whom they have appointed in accordance with Article 2 of the Agreement as members of the Frontier Water Commission and as deputies. Lots will be drawn in the German Embassy at Copenhagen to determine which of the members representing the German and Danish Governments is to act as president during the first three years. The German Government will notify the German member of the result and the Danish Government will notify the Danish member. The two members will inform their deputies of the result and the German member will inform the head district officials (Landräte) of South Tondern and Flensburg and the Danish member will inform the head county officials (Ammänner) of Tönder and Aabenraa.

When new members or deputies are appointed, or when former members or deputies are reappointed, on the expiration of their period of office, such appointments or reappointments shall also be notified as described above.

(2) Three years after the date on which the lots were drawn and also every three years thereafter, the president will vacate his office and his successor will be chosen in such a manner that a president appointed by one Government will always be succeeded by a president appointed by the other Government. The retiring president will make arrangements with his successor for handing over his duties. When the handing over or the taking over of these duties, as the case may be, has been completed the German and the Danish Governments will be notified of the fact by the former and the new presidents. Similarly, the remaining members and also the head

district and head county officials will be advised of the change by the new president.

(3) The president will apply to the German and Danish Governments and request them to appoint new members and deputies at an early date, so that the latter may enter upon their official duties immediately after the expiration of the term of office of the retiring members and deputies.

(4) Retiring members and deputies may be reappointed by the Governments.

(5) If it should be necessary before the expiration of the period of six years to replace a member appointed by one of the Governments or to replace a deputy, the Government concerned will inform the other Government of the change. Further intimation and notice will be given in accordance with Nos. 7 and 8. The new appointment will only be valid for the remainder of the period of office of the retiring member or deputy.

(6) The domicile of the president will be the official seat of the Frontier Water Commission.

(7) The president will notify the Governments, and also the head district officials of South Tondern and Flensburg and the head county officials of Tondern and Apenrade, of his domicile and exact address and the names and domiciles of the other members and deputies appointed by the Governments. He will request the above-mentioned head district and County officials to take the necessary steps to secure the election — provided it has not already taken place — of the remaining members and deputies by the district committees and the county councils, and to inform him of the names of the persons elected, together with particulars regarding their place of residence.

Retiring members and deputies may be re-elected by the district committees and county councils.

(8) As soon as the president is in possession of all the names of the members and deputies, he will forward a list of the same to the head district officials of the districts of South Tondern and Flensburg and to the head county officials of the Counties of Tondern and Apenrade, with the request that the list should be published in the district gazettes or in the newspapers in which official notifications of the county councils usually appear. The cost of such publications will be borne by the districts and the counties respectively.

(9) Should a vacancy occur before the expiration of the period of six years among the members elected by the district committees or county councils or among the deputies, the president will be advised of the fact by the head district or head county official concerned. He will then arrange that due notice shall be given as prescribed in No. 8.

The newly-elected member or deputy will only hold office for the remainder of the term of office of the member or deputy who has retired.

B. TRANSACTION OF BUSINESS

(10) The president will be responsible for the conduct of business. He will keep a register in which all documents received and despatched will be entered.

(11) He may entrust the permanent or temporary control of the secre-

tarial work to one of the other members entitled to vote, and may, in case of necessity, employ a paid secretary and amanuenses.

(12) The Governments will supply the president with as many copies as may be required of the Agreement for the regulation of watercourses and dikes on the German-Danish frontier, together with the Statutes and the laws and decrees necessary for the satisfactory transaction of business.

C. ACCOUNTS

(13) The president is responsible for seeing that the accounts are properly kept. He will keep a cash book in which all monies received and paid out will be entered.

(14) He may delegate, temporarily or permanently, to one of the other members entitled to vote the duty of keeping the accounts.

(15) General expenses connected with the transaction of business (writing material, postage, secretarial work) which cannot be included, under the provisions of the Agreement, in the costs of any definite case, will be borne by the country of which the president is a national. The German and Danish Governments will issue decrees stating by whom such expenses are to be borne and the office to which the president must apply to obtain advances in view of such outlay.

The districts and counties will, upon application being made by the president, pay the necessary advances for all other expenses.

(16) The president will furnish a report at the close of each official year, and will forward his statement of accounts with the necessary documents for examination to the member appointed by the other Government and to the members who are entitled to vote. These members will give him all necessary assistance. In the event of a member declining to give assistance, the matter will be dealt with, as far as possible, by the Commission itself, by means of written or oral proceedings. If no solution can be reached in this way, the president will report the matter to the German and the Danish Governments which will settle it by joint action.

D. TRAVELLING EXPENSES AND SUBSISTENCE ALLOWANCE

(17) The members of the Commission and their deputies will receive no remuneration for their services. They will, however, be paid travelling expenses and subsistence allowance in accordance with the laws of their respective countries.

(18) The German and Danish Governments will inform the president of the amounts payable in respect of travelling expenses and subsistence allowances to the members and deputies of their respective countries. The president will arrange for paying over these fees and their recovery from the parties concerned in accordance with the provisions of the Agreement.

(19) Witnesses may at the discretion of the Commission receive reasonable compensation for any expenses they may have incurred.

E. PROCEDURE

(20) Applications to the Frontier Water Commission will be made to the president in writing, accompanied by the essential documents and, where necessary, in accordance with Articles 28 and 30 of the Agreement,

through the intermediary of the head district or head county officials concerned.

(21) The president may transfer to the competent German or Danish authorities, or may entirely reject, an application which, according to the provisions of the Agreement, obviously does not come within the jurisdiction of the Frontier Water Commission. Should the applicant insist upon his application being finally dealt with by the Frontier Water Commission, the president will bring forward the question of jurisdiction before the Commission for the purpose of obtaining a decision. However, he will, first of all, point out to the applicant that in the event of his application being refused, he will be called upon to bear the cost of the proceedings and he will then grant him a period of fourteen days in which to withdraw his application. (As regards rejection of an application by the Commission, see Agreement, paragraph 2, Article 30).

(22) In all other cases, the president will bring the matter before the Commission for the purpose of obtaining a decision. He will first of all consider which of the elected members ought to be admitted to the Commission and, if the case is one affecting both German districts or both Danish counties, he will, in accordance with Article 2 of the Agreement, obtain, through the intermediary of the head district or head county officials, the decision of the two German district committees or the two Danish county councils as to which of the two German or Danish members is to be admitted to the Commission. The member appointed by the Government of the other side will, in accordance with Article 2 of the Agreement, take part in all the proceedings.

(23) The president may require the applicant to support his application by fuller statements, by the production of evidence or by naming witnesses and experts; he may also require him to produce definite papers or other similar documents by the date on which proceedings are opened.

(24) The application will be submitted for consideration to the three other members of the Commission after it has been examined by the president and after having been completed if necessary. By arrangement with the members, the president will fix the date on which proceedings will be opened and will issue a summons by registered letter to the members, the applicant, other parties whose presence may be desirable in view of the documents submitted and such witnesses and experts as may be necessary, to attend the Court, such persons being given at least eight days' notice. In cases of considerable importance, a public announcement inserted on three occasions in the newspapers with the largest circulation in the districts and counties concerned may be made, in addition to the above-mentioned summons, if the president deems such a course desirable. The former notice must be published at least two weeks before the date on which proceedings open. In addition to the date, hour and place of holding the Court, the question to be dealt with will be briefly described in the summons and in any announcement which may be published.

(25) Written notice of the date of all proceedings will be forwarded to the competent head district and head county officials. They are entitled to be present at the proceedings or to be represented thereat and also to give their views as to the matter before the Commission, but they are not entitled to vote.

(26) The preliminary proceedings of the Frontier Water Commission with regard to any case will be conducted on the spot.

(27) Any matter officially brought forward by a head district official or head county official will be dealt with at the appointed time even if such official is not represented. If a case is brought forward by a private person it may, on the other hand, even if it is submitted through the head district officials or the head county officials, be dismissed as a result of a unanimous decision of the Commission, provided the applicant does not appear. Under such circumstances the Commission may award the parties who have appeared in Court reasonable compensation at the cost of the applicant.

If one of the parties who has been duly summoned to appear is not present, the matter will, if the parties who have appeared so desire, be dealt with in accordance with the information which these parties bring forward or which the Frontier Water Commission has itself obtained as a result of its investigation on the spot.

28. When the parties appear at the opening of the proceedings, the Frontier Water Commission will endeavour to bring about an amicable agreement between them. Proceedings for the purpose of effecting a settlement may also be opened later. Any settlement concluded in the presence of the Frontier Water Commission will have the same validity as a decision given by the Commission.

29. If one of the parties in a case considers that the Frontier Water Commission is not competent to deal with the question, he must raise the matter at the opening of the proceedings to which he has been summoned, in the manner described above. Before proceeding further with the case the Commission will first settle the question of competency.

An appeal may naturally be lodged with the Supreme Frontier Water Commission against any such decision. The period in which the appeal may be made will be counted as from the date on which the decision was forwarded by registered letter.

30. The parties may appear in Court accompanied by counsel or may be represented by counsel or any other person. Any person appearing on behalf of another must be provided with all the necessary powers.

31. Proceedings will be oral, and will be carried on under the direction of the president. The latter will arrange for the keeping of a record containing the substance of the statements made during the proceedings. Any statement may be taken down verbatim if one of the members of the Commission or one of the parties make such a request. The record will be signed by all the members of the Commission.

32. The Frontier Water Commission must hear the witnesses and experts named by the parties, and is empowered, of its own motion, to invite and to hear the evidence of experts and other persons. Any decision to refuse to hear the evidence of witnesses and experts can only be taken by a unanimous vote. The Commission may also call upon the ordinary Courts to hear witnesses and experts on oath.

33. If in the opinion of the Commission sufficient light has been thrown upon the matter by the evidence adduced and the information obtained during the oral proceedings to enable a decision to be made, this decision shall, if possible, be given in the Court itself, or, if not, as soon as practicable and in any case within six weeks. If, on the other hand, the Commission deems it essential to obtain further material, to hear witnesses or experts who were not present, to apply for legal or other opinions, or, in exceptional cases, submit documents, the case is to be postponed and a new and con-

venient date will be fixed. If the new date cannot be appointed during the hearing itself, the summons to attend the Court will be issued as in the case of the summons for the first proceedings.

If after the conclusion of the proceedings the Court feels convinced that further information is necessary, it may reopen proceedings, and may issue summonses for a new date. This procedure must also be adopted if, when the case is first brought forward or when it is being dealt with, it appears that certain official formalities have not been carried out, without which a decision cannot be taken in the case.

34. If maps, surveyors' plans, documents relating to levelling, estimates of costs or similar papers are required for the settlement of the case, and if none of the parties are prepared of their own accord to procure such papers, the Commission will decide which of the parties shall be responsible for supplying them.

35. If the members of the Commission do not reach a unanimous decision, the decisions and resolutions of the Commission will be adopted by a majority vote, provided that a unanimous vote is not expressly prescribed in these Statutes. Only the three members named in Article 2 of the Agreement are entitled to vote.

36. If the decision is given within the Court itself, such decision shall be entered in the records, together with a statement of the grounds of the decision, and will be announced forthwith to the parties who have appeared.

Should it prove impossible to give judgment in the Court itself, the president is authorized to appoint a date for a meeting of the members of the Frontier Water Commission, or to take a vote in writing.

37. The terms of the decision will be drawn up by the president and signed by all the members entitled to vote.

A copy of the decision, together with the grounds for the same, will be forwarded by registered letter to all the parties as soon as possible, and at latest within two weeks after the decision has been given. A copy of the decision will also be forwarded to the head district or head county officials concerned.

Should any member entitled to vote dissent from the decision, his opinion will, if he so desires, be entered in the records and attached to the written copy of the decision.

II. SUPREME FRONTIER WATER COMMISSION

A. COMPOSITION OF THE COMMISSION

38. Upon the request of the president of the Frontier Water Commission, the Supreme Frontier Water Commission will, in accordance with Article 3 of the Agreement, be constituted by the German and Danish Governments by mutual agreement. The names of the president and the members, together with particulars regarding their domicile, will be communicated by both Governments to the president of the Frontier Water Commission. The latter will thereupon apprise the head district and head county officials concerned in the case that the Supreme Frontier Water Commission has been constituted, and will also give the names of the members.

39. The official seat of the Commission, which must be a place situated

within the German-Danish frontier area, shall be selected by the president of the Supreme Frontier Water Commission.

B. TRANSACTION OF BUSINESS

40. As regards the transaction of business, the provisions for the Frontier Water Commission (Nos. 10-12 of these Statutes) shall apply *mutatis mutandis*. The requisite number of copies of the documents, laws and provisions mentioned in No. 12 will be forwarded to the president by the German and Danish Governments.

C. ACCOUNTS

41. As regards the keeping of accounts, the provisions for the Frontier Water Commission (Nos. 13-16 of these Statutes) shall apply *mutatis mutandis*, subject, however, to the following modifications:

The president will receive the necessary advances paid out by the president of the Frontier Water Commission, and thereafter the president of the Frontier Water Commission will cause the sums in question to be collected from the parties liable for payment under the provisions of the Agreement.

On the conclusion of the case for which the Supreme Frontier Water Commission is summoned, the president will submit to the other members of the Supreme Frontier Water Commission accounts showing all the expenditure, together with the relevant documents, and thereafter these members will give him the necessary assistance under the provisions of No. 16. The president will then forward the accounts and the relevant documents to the president of the Frontier Water Commission, to enable the latter to make arrangements for finally settling the accounts with those parties who have to pay the costs of the case. The accounts will be filed among the documents of the Frontier Water Commission.

D. INDEMNITIES, TRAVELLING EXPENSES AND SUBSISTENCE ALLOWANCE

42. The indemnity for the president will be settled by agreement between the German and Danish Governments on the one hand and the Government of the Netherlands on the other. The fees payable to the other members and to witnesses will be fixed on the same basis as in the case of the Frontier Water Commission (Nos. 17-19 of these Statutes).

E. PROCEDURE

43. The president of the Supreme Frontier Water Commission will request the president of the Frontier Water Commission to forward to him all the documents connected with the case for which the Supreme Frontier Water Commission has been summoned, together with copies of the records taken down during the hearing of the case. After noting the contents of these documents, and after ordering any further enquiries which he may think necessary, he will forward the documents in the case, etc. to the other members of the Commission for their consideration.

44. If the president is of opinion that the case is sufficiently complete, he will, by arrangement with the other members of the Commission, determine the date, hour and place of the opening proceedings, which whenever necessary, must be conducted on the spot. All persons whose

evidence appears to be necessary will be summoned to attend the Court. The members of the Frontier Water Commission and also the head district and head county officials concerned will, even if it appears unnecessary to summon them to Court, nevertheless be notified of the date of the proceedings, and must be heard if they desire to give evidence.

45. If any party does not appear in court, it is assumed that he has nothing to add to the statements which he made before the Frontier Water Commission. Should the parties appear in court, the Supreme Frontier Water Commission will first of all endeavour to bring about an agreement. The Commission may, if the progress of the hearing occasions it, order or allow the productions of further documents and evidence, hear further explanations, or apply to the ordinary courts to take the evidence of witnesses and experts on oath. In the event of new evidence being produced against any party, he must, if he has not appeared before the Supreme Frontier Water Commission, be expressly notified of such evidence and be given an opportunity to make a counterstatement. In other respects, the procedure before the Supreme Frontier Water Commission shall conform *mutatis mutandis* to the provisions laid down for the procedure for the Frontier Water Commission (Nos. 20-37 of these Statutes). In any case, the decision will be given within a period of eight weeks after the close of the hearing. The decision will also be communicated by the president of the Supreme Frontier Water Commission to the president of the Frontier Water Commission. The latter will notify the competent head district and head county officials.

46. All the documents connected with the case will be preserved by the Frontier Water Commission.

III. GENERAL PROVISIONS

METHOD OF SUPPLEMENTING THE STATUTES

47. The Frontier Water Commission and also the Supreme Water Commission may issue provisions supplementary to these Statutes. It is, however, a necessary condition that supplementary provisions must not be inconsistent with the foregoing provisions in these Statutes and that they should be passed by a unanimous vote of the members of the Commission and, in the case of the Frontier Water Commission, with the assent of the fourth member also. Otherwise, any additions and also any amendments require the assent of the German and Danish Governments.

167. AGREEMENT¹ BETWEEN DENMARK AND GERMANY REGARDING FISHERIES AND REED CUTTING IN THE RUDEBÖL LAKE AND THE VIDAA RIVER, AND REGARDING THE CUTTING OF HAY AND BULRUSHES IN THE GOTTESKOOG, ATTACHED AS ANNEX TO THE TREATY² BETWEEN BOTH COUNTRIES CONCERNING THE SETTLEMENT OF QUESTIONS ARISING OUT OF THE TRANSFER TO DENMARK OF THE SOVEREIGNTY OVER NORTH SLESVIG, SIGNED AT COPENHAGEN, APRIL 10, 1922³

A. FISHERIES IN THE RUDEBÖL LAKE AND THE VIDAA RIVER

Article 1

The present lessees of fishing rights, belonging to the district of Tondern, in the Rudeböl Lake and the Vidaa River and also in the adjoining waters are entitled to continue to hold their leases until the expiration of these leases on March 31, 1931.

Article 2

Frontier cards containing particulars of the place or places where the frontier may be crossed will be issued to lessees.

A list of all lessees with their addresses will be forwarded by the principal lessee to the customs and police authorities concerned.

Article 3

Lessees shall be entitled to sell their catch free of duty in Højer or Tonder and may also import into Germany, free of duty, fish caught in the above-mentioned Danish waters.

Article 4

Fishing appliances and boats which have been brought in by German fishermen for their own use for the fisheries mentioned in Article 1, may, whether new or already in use, be exported and imported free of duty, subject only to the necessary customs inspection.

If a German fisherman sells any of the above-mentioned articles in Denmark they shall be subject to the usual customs regulations. The same provision will apply when Danish fishermen who have leased the above-mentioned fishing rights purchase fishing appliances and boats in Germany and import them into Denmark.

German fishermen who buy fishing appliances or boats in Denmark will similarly be subject to German customs regulations.

Any customs duty which has been paid for such articles cannot be recovered if they should be subsequently re-exported.

¹ The exchange of ratifications took place at Berlin on 7 June, 1922.

² See article 1 (4) of the Treaty (League of Nations, *Treaty Series*, vol. 10, p. 187).

³ *Ibid.*, p. 243.

Article 5

The competent customs and police authorities are empowered to issue the necessary regulations.

B. REED CUTTING IN THE RUDEBÖL LAKE AND IN THE VIDAA RIVER*Article 6*

Until March 31, 1931, the inhabitants of Aventoft and Rosenkranz shall have the right to cut reeds for making baskets, mats and similar wicker-work, in the Rudeböl Lake and the Vidaa River at those places where the inhabitants of the district of Tonder have the right to cut reeds. The commune (Gemeinde) of Aventoft will, in return for this right, pay an annual tax of 20 crowns, which will be handed over to the district of Tonder every year on January 2 for the period April 1 to March 31 of the same year.

The existence of this right shall not, however, debar the county council of Tonder from granting the inhabitants of the county of Tonder permission to cut reeds free of all duties and charges in the same places, but only, however, to such an extent that the inhabitants of Aventoft and Rosenkranz shall always be able to obtain sufficient material for their work.

For the purpose of crossing the frontier, the parties concerned will be provided with frontier cards, containing particulars of the place or places where the frontier may be crossed.

Article 7

The export from Denmark of quantities of cut reeds and the import of the same into Germany will be permitted without further formality and free from any customs or export duties.

C. CUTTING OF HAY AND RUSHES IN THE GOTTESKOOG*Article 8*

Owners of landed estates in Rudeböl and neighbourhood who have leased out areas in the Gotteskoog for the cutting of hay and rushes will be entitled, until March 31, 1931, to lease such areas with the same rights as are enjoyed by German nationals.

Lands will be let on lease as hitherto to the highest bidder within a specified period, notice of which will be given in the local newspapers fourteen days in advance.

During the period of the lease, lessees will have free and unimpeded access to and from the areas and shall be entitled without special export licences, but upon payment of the customary export duties, which are also applicable to German nationals, to export the hay and rushes cut within these areas.

German customs officials are entitled to exercise the necessary supervision to prevent larger quantities of hay and rushes being exported than have been cut on the leased areas.

For the purpose of crossing the frontier, the parties concerned will be provided with frontier cards giving particulars of the place or places where the frontier may be crossed.

Article 9

On the sale of landed property the right to lease the above-mentioned areas shall be transferred to the new owner for the remainder of the period up to March 31, 1931.

Article 10

A list of the above-mentioned lands in Rudeböl and its neighbourhood, together with particulars of the names of the owners, will be forwarded to the German customs and police authorities and also to the head district officials of the district of South Tonder.

FINAL PROTOCOL

The Contracting Parties have agreed that, as regards the export of rushes from the Gotteskoog, the head district official of the district (Kreis) of South Tonder will, of his own accord and in due time, prepare the export licences in so far as they are required by German regulations and will issue them to the competent German customs authority, such licences being valid for one leasehold year and for the quantity which may be reasonably regarded as the year's supply from the land in question.

Finland-Norway

168. AGREEMENT¹ BETWEEN THE GOVERNMENTS OF FINLAND AND NORWAY ON THE TRANSFER FROM THE COURSE OF THE NÄÄTÄMO (NEIDEN) RIVER TO THE COURSE OF THE GANDVIK RIVER OF WATER FROM THE GARSJÖEN, KJERRINGVATN AND FÖRSTEVANNENE LAKES, SIGNED AT OSLO ON 25th APRIL 1951²

Whereas, in connexion with the operation of the electric power station to be built at Gandvik in Finnmark county, Norway, it is deemed desirable to transfer from the river Kallo, a tributary of the Näätämo river, to the course of the Gandvik river, water from the Garsjöen and Kjerringvatn lakes and, if necessary, from Lake Förstevannene in the Sör-Varanger commune, with catchment areas of about forty-one, twenty-three and fifty-one square kilometres respectively;

And whereas such a transfer is not likely to bring about any appreciable increase in the flow of the Näätämo river and is therefore unlikely to interfere to any appreciable degree with the use of the Näätämo river for transport or timber floating or with the upstream and downstream movement of fish, to the detriment of fishing in the Inari commune in Finland,

The Government of Finland and Norway have agreed as follows:

¹ Came into force on the day of its signature.

² *Finlands Författningssamlings. Fördragserie. Överenskommelser Med Främmande Makter*, 1951, no. 8, p. 24 (translated from the Finnish by the Secretariat of the United Nations).

ARTICLE 1. The Government of Finland shall raise no objection to the closing of the natural outflow of the Garsjöen, Kjerringvatn and Förstevannene lakes by dams or otherwise, or against the diversion of water from these lakes through pipes to Fuglevatn or any of its tributaries.

ARTICLE 2. To offset any inconvenience which the transfer of water referred to in article 1 could cause the inhabitants along the banks of the Näätämo river, the Governments shall take the following measures:

(a) The Government of Norway shall take steps to facilitate the movement of salmon upstream past Koltaakoski on the Näätämo river so that the fish can gain access to the upper reaches of the river.

The plans for the installation shall be laid before fishery experts designated by the Government of Finland, for their opinion.

The work shall be carried out at the expense of the Government of Norway as soon as possible after the entry into force of this Agreement.

(b) The Government of Finland shall arrange for the removal of a number of large boulders and holms lying in the stretch of about four kilometres along the Näätämo river between the confluence of the Kallo and Näätämo rivers and the frontier between Finland and Norway and obstructing timber-floating.

(c) The Government of Norway shall compensate the Government of Finland for any loss of water power which may be caused as a result of this Agreement and for the cost of the clearing operations referred to under (b) above, by an over-all payment which has been fixed at 15,000 Norwegian kronor.

(d) The Governments of Finland and Norway shall try as soon as possible to reach agreement on uniform conservation and similar measures for the protection and care of the fish in the Näätämo river.

. . .

169. AGREEMENT¹ BETWEEN NORWAY AND FINLAND CONCERNING THE CONSTRUCTION AND MAINTENANCE OF A BRIDGE ACROSS THE ANARJOKKA (INARIJOKI) RIVER. SIGNED AT HELSINKI, ON 28 JUNE 1957²

. . .

Article 10. Compensation for any damage or inconvenience caused to the watercourse or to riparian land by the construction of the bridge shall be payable by the State in whose territory the damage or inconvenience is caused, in accordance with the legislation of that State.

. . .

¹ Came into force on 28 June 1957, upon signature, in accordance with article 11.

² United Nations, *Treaty Series*, vol. 272, p. 196.

170. AGREEMENT¹ BETWEEN THE KINGDOM OF NORWAY AND THE REPUBLIC OF FINLAND REGARDING NEW FISHING REGULATIONS FOR THE FISHING AREA OF THE TANA RIVER, SIGNED AT OSLO, ON 15 NOVEMBER 1960²

The Kingdom of Norway and the Republic of Finland have agreed as follows:

Article 1

Fishing regulations for the fishing area of the Tana river shall be issued, so far as possible simultaneously, in Norway and Finland, in Norway in accordance with the annexed Norwegian text, and in Finland in accordance with the annexed Finnish text.

The fishing regulations shall come into force in both countries on 1 January 1961.

Article 2

The fishing regulations shall remain in force until further notice. If either country desires to terminate or amend the regulations in force, notice to that effect shall be given to the other country at least one year before such termination or amendment takes effect.

Article 3

Joint Norwegian-Finnish fishery inspection patrols consisting of one Norwegian and one Finnish inspector may be established for the part of the watercourse forming the frontier. The number of patrols, the inspection areas, etc., shall be decided jointly by the county governor of Finnmark County and the county governor of Lapland County. Each country shall pay and equip its own inspectors, but joint costs shall be divided equally between the two countries.

The competent Norwegian and Finnish district bailiffs and fisheries inspectors are authorized to communicate directly with each other if either of them becomes aware, either through personal observation or through information from a reliable source, that, in the parts of the rivers forming the frontier, fishing is taking or has taken place in the territory of the other country in violation of this Agreement or of the fishing regulations in force and under such conditions that the inspection authorities of the country concerned are presumably unaware of the fact.

If the competent district bailiff is informed by his own authority that the fishing regulations have been waived as provided in article 19 of the Norwe-

¹ Came into force on 1 January 1961, in accordance with article 1. This Agreement supersedes the Agreement between Norway and Finland regarding fishing regulations for the fishing area of the Tana river of 20 May 1953 (United Nations, *Treaty Series*, vol. 173, p. 163) and the Agreement of 2 June 1959 regarding arrangements for fishing at Storfossen (Alaköngäs) in the Tana river in the Palmak district (*Ibid.*, vol. 338, p. 373).

² United Nations, *Treaty Series*, vol. 383, p. 160.

gian and Finnish regulations at a place where the rivers form the frontier, he shall so notify the competent district bailiff of the other country.

Article 4

A person desiring to fish with rod or hand-line in the part of the fishing area which forms the frontier must, before fishing begins, procure a fishing card entitling the holder to fish in the other country's territory also. Rowers must also be in possession of a valid fishing card.

A fishing card shall not exempt the holder from the obligation to comply with the regulations for the time being in force concerning entry, registration with the police, etc. An alien not having access to both countries without a viséd passport may not be granted a fishing card unless he proves that he is in possession of a viséd passport valid for both countries.

A fishing card may be procured upon payment of the following fees.

A person entitled to engage in fishing and residing permanently in the aforementioned part of the area shall, for the right to fish on the other side of the frontier, pay two kroner in Norway or 100 markkaa in Finland per calendar year.

A person not entitled to engage in fishing but residing permanently within the river valleys of the fishing area in the communes of Polmak, Karnsjok, Kautokeine, Utsjok and Enare, and the inspectors referred to in article 3 shall, for fishing in the aforementioned part of the fishing area, pay four kroner in Norway or 200 markkaa in Finland per calendar year.

Other Norwegian and Finnish nationals shall pay twenty kroner in Norway or 1,000 markkaa in Finland, and nationals of all other countries, thirty kroner or 1,500 markkaa, respectively, per day. Fishing rights as mentioned in the preceding sentence shall not be granted to any person for more than ten days in any calendar year and shall entitle the holder to engage only in fly fishing, except in Skiettsjamjokka where fishing with tinbait and hand-line is also authorized. The fishing period may be divided into not more than two parts. Persons referred to in the first sentence of this paragraph who engage in fishing from boats which are not locally owned shall pay an additional fee of ten kroner in Norway or 500 markkaa in Finland per day.

The fishing day shall be reckoned from twelve o'clock.

If the rate of exchange between the currencies of Norway and Finland changes, the county governor of Finnmark County and the county authority of Lapland County shall, before the end of April of each year, jointly make the corresponding changes in the fees for fishing rights and for fishing from boats.

Norwegian and Finnish nationals shall procure fishing cards in their own country.

Nationals of other countries may procure fishing cards in either of the two countries.

The fishing card, as well as the card indicating payment of the fee for fishing from boats which are not locally owned, shall on demand be produced to the inspection authorities, including those of the other country. The county governor of Finnmark County and the county authority of Lapland County shall, by 1 April of each year, inform each other of the names and addresses of persons by whom fishing cards are issued and boat fees are collected.

All revenue from the issue of fishing cards and from boat fees shall be divided equally between the two countries. The apportionment shall be

carried out by the county governor of Finnmark County and the county authority of Lapland County. The county governor and the county authority shall, by 1 December of each year, forward to each other a statement of account for the revenue from the fishing cards issued and the boat fees collected during the fishing season in the country concerned.

Article 5

In the part of the fishing area forming the frontier, the competent Norwegian and Finnish district bailiffs shall jointly designate and mark the places where seine fishing is permitted. In other parts of the fishing area, the places for seine fishing shall be designated and marked by the competent district bailiff.

In August of each year, notice of new places for seine fishing shall be given by the competent district bailiff, in Norway to the county governor of Finnmark County and in Finland to the county authority of Lapland County.

The county governor of Finnmark County and the county authority of Lapland County may jointly modify decisions taken by the district bailiffs under the first paragraph, first sentence.

Similar action on decisions in regard to places for seine fishing in other parts of the fishing area may be taken by the county governor in Norway and the county authority in Finland.

Article 6

Within the area clearly marked by the competent Norwegian and Finnish district bailiffs at Storfossen (Alakõngäs) in the Tana river in the Polmak district, Norwegian and Finnish nationals shall divide the fishing on the Norwegian and Finnish sides for three-day periods at a time, in such a manner that when Norwegian nationals have a preferential right to fish on the Finnish side, Finnish nationals shall have a preferential right to fish on the Norwegian side, and vice-versa:

A person who does not have a preferential right shall unconditionally yield his place to a person who does have such right.

The foregoing arrangement shall not apply to fishermen who are not Norwegian or Finnish nationals.

During the first three-day period of the 1961 fishing season, Finnish nationals shall have a preferential right to fish on the Finnish side and Norwegian nationals a preferential right to fish on the Norwegian side. In subsequent fishing seasons, the fishing areas for the first three-day period shall be alternated.

Article 7

In so far as tributaries lying entirely within its territory are concerned, each country may establish its own fishing regulations and take measures to promote fishing.

Article 8

The county governor of Finnmark County, the county authority of Lapland County and the persons in each country concerned with fishery inspection shall ensure that the fishing regulations made under this Agreement are complied with.

Article 9

The county governor of Finnmark County and the county authority of Lapland County, may in consultation with each other and within their respective areas of responsibility, make further regulations for the execution of this Agreement and of the fishing regulations, including the form and content of the aforementioned fishing cards and boat-fee cards in Norway and Finland.

Article 10

This Agreement supersedes the Agreement between Norway and Finland regarding fishing regulations for the fishing area of the Tana river of 20 May 1953 and the Agreement of 2 June 1959 regarding arrangements for fishing at Storfossen (Alaköngäs) in the Tana river in the Polmak district.

[*Translation of the Norwegian Text*]

FISHING REGULATIONS FOR THE FISHING AREA OF THE TANA RIVER

Chapter I

THE EXTENT OF THE FISHING AREA

Article 1

The fishing area of the Tana river comprises the Norwegian parts of the Skiettsjanjokka, the Anarjokka and the Tana river as far as its mouth, together with the tributaries flowing into these rivers as far up as salmon are known to go.

In so far as tributaries lying entirely within its territory are concerned, each country may establish its own fishing regulations and take measures to promote fishing.

Chapter II

THE CATCHING OF SALMON AND SEA TROUT

*Tackle**Article 2*

Subject to the restrictions resulting from the following provisions, the following tackle may be used for catching salmon and sea trout (*Komse*):

- a. Barriers with hook nets and/or fish traps;
- b. Drift nets;
- c. Ordinary bar nets;
- d. Seine nets;
- e. Rods and hand-lines. This does not, however, include beam trawls or similar tackle.

It shall be unlawful, for the purpose of fishing, to use shrimp, shrimp gear or similar tackle or fish as bait. This shall not, however, apply to winter fishing for burbot.

Fishing with rod or hand-line shall be prohibited:

1. In the river from an anchored boat;
2. From a motor boat when the engine is in use;
3. Within connecting nets in barriers or within an area extending fifty metres below a barrier and ten metres on either side.

Article 3

No person entitled to fish may use more than two barriers. If a barrier location is rendered unusable because of alteration of the bottom or for other reasons, the competent district bailiff may designate a new location.

Bar nets (cf. article 2 (*e*)) may not exceed thirty metres in length, and when fishing is being carried on with this tackle, artificial breakwaters may not be used.

Drift nets may not exceed forty-five metres in length, and, when in use, the distance between two drift nets shall at no point be less than 200 metres. When in use, no part of a drift net may come nearer any part of a barrier than 100 metres, and drifting may not take place for a greater distance than 500 metres. When drifting is being carried on, only one boat may be used.

Article 4

The use of seine nets shall be permitted only above (to the south of) the mouth of the Levajokka.

Seine nets may not exceed 100 metres in length, and not more than four boats may be used in casting out a seine net. The distance between the place where a seine net is cast out and the place where it is taken in may not exceed 250 metres measured along the bank of the river.

Seine nets or drift nets may not be drawn against artificial barriers (*goldem*).

In the part of the fishing area forming the frontier, the competent Norwegian and Finnish district bailiffs shall jointly designate and mark the places where seine fishing is permitted. In other parts of the fishing area, the competent district bailiff may designate and mark places for seine fishing.

In August of each year, notice of new places for seine fishing shall be given by the competent district bailiff, in Norway to the county governor of Finnmark County and in Finland to the county authority of Lapland County.

The county governor of Finnmark County and the county authority of Lapland County may jointly modify decisions taken by the district bailiffs under the fourth paragraph, first sentence. Similar action on decisions in regard to places for seine fishing in other parts of the fishing area may be taken by the county governor in Norway and the county authority in Finland.

Article 5

Knotted tackle having a mesh smaller than fifty-eight millimetres between the knots, counting from the middle of each knot when the tackle is wet, may not be used for salmon fishing.

Bar nets for catching sea trout (*komse*) may have a mesh which, measured in the same manner, is between forty and forty-five millimetres.

Chapter III

PROTECTION

Article 6

In the part of the fishing area lying north of (below) the marked southern boundary of zone 7 in the Tana district, it shall be unlawful, from 20 July to 30 April, inclusive, to catch or kill salmon or sea trout or to use or lay out tackle for such fish, or to allow the tackle to remain in position for catching fish. Notwithstanding this provision, sea trout (*komse*) may be caught, until 31 August inclusive, with rod or hand-line or with bar nets of the type referred to in article 5, second paragraph.

In the remaining part of the fishing area, salmon and sea trout shall be protected in the same manner from 1 September to 30 April, inclusive.

Seine nets may not be used from 1 August to 30 April, inclusive.

Drift nets may not be used from 21 June to 9 May, inclusive.

All knotted tackle, as well as fish traps and connecting nets, shall be taken on land immediately at the beginning of the annual close period, and all sticks, posts, trestles, etc., shall be taken on land two weeks thereafter.

Article 7

In the part of the fishing area lying north of (below) the marked southern boundary of zone 7 in the Tana district, it shall be unlawful, from 6 p.m. on Saturday to 12 p.m. on Sunday, to use, lay out or leave in position tackle designed for the catching of salmon or sea trout, in such a manner that the fish may be caught or their movement hampered.

All knotted tackle, except connecting nets in barriers, shall during this period be taken on land.

In the remaining part of the fishing area, salmon and sea trout shall be protected in the same manner from 6 p.m. on Friday to 6 p.m. on Monday.

During this period, connecting nets shall be suspended above the water, and all other knotted tackle — including hook nets and fish traps in barriers — shall be taken on land.

The provision regarding the weekly close period shall not apply to fishing with rod or hand-line.

Chapter IV

FISHING AT STORFOSSEN (ALAKÖNGÄS)

Article 8

Within the area clearly marked by the competent Norwegian and Finnish district bailiffs at Storfossen (*Alaköngäs*) in the Tana river in the Polmak district, Norwegian and Finnish nationals shall divide the fishing on the Norwegian and Finnish sides for three-day periods at a time, in such a manner that when Norwegian nationals have a preferential right to fish on the Finnish side, Finnish nationals shall have a preferential right to fish on the Norwegian side, and vice versa.

A person who does not have a preferential right shall unconditionally yield his place to a person who does have such right.

The foregoing arrangement shall not apply to fishermen who are not Norwegian or Finnish nationals.

During the first three-day period of the 1961 fishing season, Finnish nationals shall have a preferential right to fish on the Finnish side and Norwegian nationals a preferential right to fish on the Norwegian side. In subsequent fishing seasons, the fishing areas for the first three-day period shall be alternated.

Chapter V

THE CATCHING OF OTHER FISH

Article 9

For the purpose of catching fresh-water trout, red char, caryling, fresh-water herring, vendace, pike, perch and burbot in a river or in a lake within 200 metres of its inlet or outlet, only bar nets without breakwaters or only rods and hand-lines may be used. The annual and weekly close periods established in articles 6 and 7 shall apply in these areas.

For the purpose of catching such fish in those parts of a lake exceeding the aforementioned distance, bar nets, seine nets, fish traps, lines and other hook tackle may be used.

In addition, burbot may be caught with hook tackle and fish traps while the rivers are icebound.

Article 10

The mesh of tackle used for catching the kinds of fish mentioned in article 9 shall not be less than thirty millimetres or more than forty-five millimetres between the knots, counting from the middle of each knot when the tackle is wet. It shall, however, be permissible to catch vendace in lakes with bar nets of a mesh down to twenty millimetres.

Fish traps, including connecting nets, may not anywhere exceed 1.5 metres in height.

Chapter VI

MISCELLANEOUS PROVISIONS

Article 11

Nets of metal wire shall not be used in tackle for catching fish.

Article 12

The use, for the purpose of catching fish, of tackle other than that mentioned in chapters II and III and article 9 shall be prohibited. The use of fish-gigs or any other tackle with points or hooks which is not intended to be swallowed by fish, and the use of lime, explosives, poisonous substances or electric current shall also be prohibited. It shall, in addition, be unlawful to use tackle with hooks in such manner or in such circumstances that fish can be caught in the hooks. It shall, however, be permissible to use gaffs, fish-axes or spoon nets as auxiliary tackle.

Article 13

All posts below the level of the water, the end post of a barrier and other posts that are left standing on account of gravel deposits or other natural obstacles shall in every case be clearly marked by bundles of branches of such a height as to be always above the level of the water.

Article 14

Objects calculated to frighten fish or to hamper their freedom of movement may not be placed in or over the water.

Article 15

No part of barriers or bar nets may be fixed over the centre line of the channel in the main stream or in subsidiary streams which contain water all summer. In addition, the outer part of a barrier may not at any point extend to within less than ten metres of the opposite bank. If such tackle is laid out from opposite banks either immediately opposite each other or within a distance of 120 metres reckoned along the river, at least one fourth of the width of the stream must be clear, with the result that no part of the tackle may be fixed nearer the centre line of the channel than was one eighth of the width of the river or stream at the average summer water-level.

Where there is a tributary up which salmon travel, barriers may not be placed on the main stream on the same side of the channel less than 200 metres below the boundary between the main stream and the tributary.

Article 16

The competent district bailiff may establish:

- a. The boundary between rivers and lakes;
- b. The boundary between main streams and tributaries;
- c. The centre line of the channel in main streams and tributaries;
- d. Protected zones in and near salmon passes.

In the part of the fishing area forming the frontier, decisions in the foregoing matters shall be made jointly by the competent Norwegian and Finnish district bailiffs.

An appeal against a decision of the district bailiff may be lodged with the country governor of Finnmark County or the authority of Lapland County, as the case may be, whose decision shall be final, but the final decision in a matter relating to the part of the fishing area which is on the frontier shall be made jointly by the county governor of Finnmark County and the county authority of Lapland County.

Article 17

It shall be unlawful to catch or kill salmon, sea trout or fresh-water trout less than twenty-five centimetres in length, measured from the tip of the snout to the end of the central part of the tail fin.

If such fish are caught, they shall immediately be released. The same shall apply to salmon, even when exceeding the minimum dimension, if they are:

- (a) Caught in the annual close season;

- (b) Caught in the weekly close period otherwise than with rod or hand-line;
- (c) Caught out of season (winter thaw).

Article 18

Pollution of the water and the discharge of waste harmful to fish shall be prohibited, cf. the Watercourses Act of 15 February 1940.

Article 19

The present regulations shall not prevent the inspector of fresh-water fishing, subject to such conditions as he considers necessary, from permitting fishing free of charge for scientific purposes or for the improvement of fish stocks.

Article 20

A person intending to fish shall, before doing so, procure a fishing card, which he shall on demand produce to inspectors of the country concerned.

Article 21

Fishery inspectors shall be considered on the same footing as police officials in respect of any insulting language or action used against them.

Article 22

Breaches of these provisions shall be subject to penalties. Boats or fishing tackle used for unlawful fishing and fish unlawfully caught, or the value of such boats, tackle and fish, may be confiscated.

Article 23

These regulations shall come into force on 1 January 1961.

[*Translation of the Finnish text*]

FISHING REGULATIONS FOR THE FISHING AREA OF THE TANA RIVER

Chapter I

THE EXTENT OF THE FISHING AREA

Article 1

The fishing area of the Tana river comprises the Finnish parts of the Skiettsjamjokka, the Anarjokka and the Tana river, together with the tributaries flowing into these rivers as far up as salmon are known to go.

In so far as tributaries lying entirely within its territory are concerned, each country may establish its own fishing regulations and take measures to promote fishing.

[For articles 2 to 6, see translation of Norwegian text]

Article 7

During the open fishing season, it shall be unlawful, from 6 p.m. on Friday to 6 p.m. on Monday, to use, lay out or leave in position tackle designed for the catching of salmon or sea trout, in such a manner that the said fish may be caught or their movement hampered. During this period, connecting nets in barriers shall be suspended above the water, and all other knotted tackle — including hook nets and fish traps — shall be taken on land.

The provision regarding the weekly close periods shall not apply to fishing with rod or hand-line.

[For articles 8 to 17, see translation of Norwegian text]

Article 18

Any pollution of, or the discharge of waste or sewage into, the waters in the fishing area shall be prohibited unless duly authorized.

Article 19

These regulations shall not apply to such fishing carried on for scientific purposes or for the improvement of fish stocks as the Board of Agriculture, subject to the conditions which it prescribes to prevent abuses, has permitted. Such fishing shall be free of charge.

Article 20

A person intending to fish shall, before doing so, procure a fishing card, which he shall on demand produce to inspectors of the country concerned. In the part of the fishing area forming the frontier, fishing with rod and hand-line shall be permitted without payment of the fish conservation fee provided for in article 83 of the Fisheries Act.

Article 21

Any person duly authorized to supervise the observance of these regulations shall have the same rights and legal protection as a police officer.

Article 22

Breaches of the present regulations and Agreement shall be subject to ordinary legal penalties. The confiscation of prohibited fishing tackle or boats used for unlawful fishing, fish unlawfully caught or the value of such tackle, boats or fish shall be subject to the regulations otherwise in force concerning such matters.

Article 23

These regulations shall come into force on 1 January 1961.

Finland-Sweden

171. CONVENTION¹ ENTRE LE ROYAUME DE SUÈDE ET LA RÉPUBLIQUE DE FINLANDE CONCERNANT L'EXPLOITATION EN COMMUN DE LA PÊCHE DU SAUMON DANS LES FLEUVES DE TORNEÅ (TORNIO) ET DE MUONIO, ET RÈGLEMENT SUR LA PÊCHE DANS LA ZONE DE PÊCHE DU FLEUVE DE TORNEÅ (TORNIO), SIGNÉE À HELSINKI LE 10 MAI 1927²

Animés du désir de favoriser les relations d'amitié et de bon voisinage entre les deux Etats,

Ont résolu de conclure à cet effet une convention relative à l'exploitation en commun de la pêche du saumon dans les fleuves de Torneå (Tornio) et de Muonio. . .

ARTICLE PREMIER. La pêche du saumon dans les fleuves de Torneå (Tornio) et de Muonio depuis l'embouchure, qui est censée être située entre la pointe nord de Hellelä, du côté finlandais, et la pointe Virtakari, sur la rive opposée, pointe la plus proche du territoire suédois, sera, en amont, aussi loin que lesdits cours d'eau constituent la frontière entre la Suède et la Finlande et que le saumon y remonte, exploitée en commun pour le compte des deux Etats contractants, à l'exception toutefois des pêcheries (skatteförsålda laxfisken — verollemyydyt lohenkalastukset) suivantes, à savoir Sompaisenniska, Alainen Korpikoski, Syväkoste et Muuraisaari en Suède, et Hellelä et Tuoppolansaari en Finlande.

ARTICLE II. Aussi longtemps que l'exploitation commune de la pêche sera maintenue, la pêche du saumon et de la truite saumonée sera interdite dans la partie de l'archipel côtier situé en face de l'embouchure du fleuve qui est délimitée du côté de la mer par une ligne allant de la rive méridionale de l'ouverture de la baie de Salmisviken (*Salmenlahti*) en passant par les pointes les plus méridionales des îles de Kraaseli et de Tirro et par la pointe nord-ouest de l'île de Sellö, jusqu'à la pointe sud-ouest de l'île de Björkö (Pirkiö).

Les intérêts de l'exploitation en commun de la pêche exigeant, en outre, que vers le sud un passage libre soit laissé, reliant lesdites eaux au détroit séparant les îles de Stora Tervakari (*Iso Tervakari*) et de Hamppuleiviskä, afin de ne pas empêcher le poisson de remonter, il sera également interdit d'établir de chaque côté dudit détroit des appareils ou engins de pêche d'une longueur dépassant deux cents mètres.

ARTICLE III. Chacun des deux Etats contractants disposera de la moitié de la pêche.

¹ L'échange des instruments de ratification a eu lieu à Stockholm, le 31 décembre 1927. La Convention est entrée en vigueur le 1^{er} janvier 1928, conformément à l'article 15.

² Société des Nations, *Recueil des Traités*, vol. 70, p. 202.

ARTICLE IV. Des appareils fixes de pêche employés jusqu'à ce jour, les suivants seront supprimés comme constituant des entraves au flottage, à savoir les « pata-pato » de Danski, Buumi, Törmä et Varttosaari. En outre, la « pata-pato » de Marjosaari sera, pour la même raison, transférée en un lieu, situé entre l'îlot de Palosaari et la côte finlandaise, que les administrations provinciales des provinces de Norbotten et d'Uleåborg (*Oulu*) détermineront en commun.

La « pata-pato » de Kiviranta sera provisoirement maintenue. Mais les administrations provinciales desdites provinces pourront, sur la demande de l'Association de flottage des fleuves frontières de Torneå (Tornio) et de Muonio (Torneå och Muonio gränsälvars flottningsförening — Tornion ja Muonion rajajokien lauttausyhdistys), et après avoir pris l'avis de la commission prévue à l'article XIII, décider qu'elle sera également supprimée. La demande susvisée devra être faite auprès des administrations provinciales le 1^{er} octobre au plus tard de l'année antérieure à celle où il est désiré que ladite pêcherie cesse d'être exploitée.

Pour le fermage que l'abandon des pêcheries fera perdre aux Etats contractants, la susdite association de flottage versera une indemnité, dont le montant est fixé pour la première période décennale de la durée de la présente convention, en ce qui concerne les « pata-pato » de Danski, Buumi, Törmä et Varttosaari, à 6.000 couronnes par an.

Le montant de l'indemnité à verser pour la perte du fermage de la « pata-pato » de Kiviranta, dans le cas où celle-ci cesserait d'être exploitée, sera de 4.000 couronnes par an pendant la première période décennale de la durée de la convention.

Le montant de l'indemnité à verser, après l'expiration de la première période décennale de la durée de la convention, pour chaque pêcherie qui aura été supprimée, sera fixé en commun par les administrations provinciales des provinces de Norrbotten et d'Uleåborg (*Oulu*), après qu'il aura été procédé à une enquête de l'espèce prévue ci-dessous à l'article XIII.

ARTICLE V. L'exploitation commune des pêcheries aura lieu :

- a) Aux grands appareils fixes de pêche de Sumisaari, de Marjosaari et, aussi longtemps que celui-ci sera maintenu, de Kiviranta, ainsi qu'aux « notvarp-apajapaikka » les plus importants de Karungi, de Vitsaniemi au sud de « Kultaniitty », de Puittamonsaari (*dite « Kultaniitty »*), de Bockholmen et de Laurinhietä ;
- b) A des pêcheries moins importantes, telles que « strandpata-rantapato », « notvarp-nuotta-apaja » et autres appareils destinés à la pêche du saumon ;
- c) A la cuiller et au moyen d'engins assimilables.

ARTICLE VI. L'exploitation des pêcheries spécifiées à l'article V sous a) sera, en ce qui concerne la « pata-pato » de Kiviranta pour un an, et concernant les autres pêcheries, pour cinq années consécutives, offerte en ferme :

Celle des « pata-pato » de Kiviranta et de Sumisaari, aux propriétaires fonciers (*hemmansägare-tilalliset*) des villages suédois de Mattila, Nedre Vojakkala et Ovre Vojakkala et des villages finlandais de Kiviranta, Nedre Vojakkala et Ovre Vojakkala (*Ala-ja Ylä-Vojakkala*) ;

Celle de la « pata-pato » de Marjosaari, aux propriétaires fonciers des villages suédois de Matarengi, Haapakylä et Kuivakangas et des villages finlandais de Närkki, Kuivangas et des villages finlandais de Närkki, Kuivakangas et Kauliranta ;

Celle des pêcheries (*notvarp-nuotta-apajapaikka*) de Karungi, aux propriétaires fonciers des villages suédois et finlandais de Karungi;

Celle des « notvarp-apajapaikka » de Vitsaniemi, Puittamonsaari et Bockholmen, aux propriétaires fonciers des villages suédois de Vitsaniemi, Päckilä et Koivukylä, et des villages finlandais de Kainuunkylä et Armassaari;

Celle des « notvarp-apajapaikka » de Laurinhietä, aux propriétaires fonciers du village suédois de Niemis et du village finlandais de Nuotioranta.

Si les offres n'aboutissent pas à la conclusion de baux relatifs à l'exploitation des susdites pêcheries, soit avec les propriétaires fonciers (*hemmansägare-tilalliset*) de l'ensemble ou de quelques-uns des villages susdénommés, soit avec des unions des propriétaires fonciers desdits villages, l'exploitation sera mise aux enchères publiques.

Avant la conclusion d'un bail de l'espèce visée au présent article, des dispositions seront prises, concernant les mesures de protection qui seraient jugées nécessaires en vue de parer aux dommages qui pourraient résulter du flottage.

ARTICLE VII. L'exploitation des pêcheries visées à l'article V sous b) pourra être concédée sur demande, pour des périodes de cinq années consécutives, à la communauté foncière dite « byalag-kyläkunta » dans les limites de laquelle la pêcherie est située.

Si un particulier demande la concession du droit de pêche, celui-ci sera, antérieurement à toute décision, offert en ferme, soit à la « byalag-kyläkunta », soit à un ou plusieurs participants de la « byalag-kyläkunta », qui y ont un droit de préférence.

Avant la conclusion d'un bail de l'espèce visée au présent article, le lieu et le mode d'exploitation de la pêche seront déterminés, ainsi que les mesures de protection qui seraient jugées nécessaires en vue de parer aux dommages qui pourraient résulter du flottage.

ARTICLE VIII. Le droit de pêcher à la cuiller et au moyen d'engins assimilables sera concédé pour la durée d'une année civile contre acquittement des droits d'un permis de pêche, valable pour un district déterminé et nommé désigné sur le permis.

ARTICLE IX. Dans le cas où le droit de pêche aurait été concédé dans les conditions prévues aux articles VI et VII, les fermiers, si leur nombre est de cinq au minimum, seront tenus de constituer une association dont les statuts devront être sanctionnés, si elle a son siège en Suède, par l'administration provinciale de la province de Norrbotten, ou, si elle a son siège en Finlande, par l'administration provinciale de la province d'Uleåborg (*Oulu*), après que l'administration provinciale de l'autre pays aura été mise en mesure, toutefois, de donner son préavis sur le projet de statuts.

Les statuts de l'association, qui devront être essentiellement conformes aux dispositions législatives en vigueur dans le pays du siège de l'association, concernant les associations économiques et les entreprises coopératives, énonceront les dispositions relatives aux bases de la participation des associés et à l'obligation pour le conseil d'administration de fournir des indications détaillées sur les résultats de la pêche pendant l'année, ainsi que tous autres renseignements qui pourraient lui être demandés.

Si le nombre des associés est inférieur à cinq, les dispositions relatives aux obligations leur incombant seront insérées dans le bail.

ARTICLE X. Pour subvenir aux frais de la surveillance de la pêche dans les eaux où, aux termes des dispositions de l'article premier, l'exploitation aura lieu en commun, ainsi que dans celles où, à teneur de l'article II, la pêche est interdite, chacun des deux Etats contractants alouera un crédit annuel de 3.000 couronnes ou une somme équivalente en monnaie finlandaise.

ARTICLE XI¹. En vue d'améliorer la pêche dans la zone de pêche, les Etats Contractants construiront, entretiendront et exploiteront en commun dans la zone un établissement de pisciculture. Les frais en résultant seront couverts par le produit des taxes à acquitter pour l'amélioration de la pêche par l'Association de flottage des fleuves frontières de Torneå (Tornio) et de Muonio, conformément aux dispositions de l'Article 2 de la Déclaration du 3 juillet (20 juin) 1917 relative à l'organisation du service de flottage dans les fleuves de Torneå (Tornio) et de Muonio, dans la teneur que présente cet Article dans l'accord conclu entre les Etats Contractants en date du 16 février 1933.

La direction et la gestion dudit établissement de pisciculture seront assurées par une commission de 3 personnes, composée d'experts désignés, un par la Direction de l'Agriculture de chacun des deux pays, et le troisième par l'Association de flottage fondée pour l'exercice du flottage des bois dans les fleuves frontières. La commission sera tenue de présenter un rapport sur sa gestion et de tenir une comptabilité régulière, établie pour la période allant du 1^{er} décembre au 30 novembre, et de se conformer à tous autres égards aux dispositions dont les Gouvernements des deux pays pourront convenir entre eux.

La gestion et la comptabilité seront examinées par les commissaires aux comptes désignés par les administrations provinciales des provinces de Norrbotten et d'Uleåborg (Oulu) pour l'Association de flottage des fleuves frontières de Torneå (Tornio) et de Muonio, à l'occasion de la vérification, à laquelle ils procéderont, de la comptabilité de ladite Association. La commission adressera immédiatement à la Direction de l'Agriculture de chacun des deux pays le rapport des commissaires aux comptes ainsi que le rapport de gestion.

Dans le cas où la présente Convention viendrait à être dénoncée par l'un des deux Etats Contractants, des négociations seront engagées en vue d'assurer par la suite aussi l'exercice en commun de la pisciculture.

ARTICLE XII. Aussi longtemps que la dîme du saumon actuellement perçue n'aura pas été remplacée par une redevance fixe en argent, il sera prélevé, comme par le passé, sur le produit total de la pêche du saumon et de la truite saumonée, une dixième partie en nature, qui sera partagée par moitié entre les ayants droit aux dîmes des Etats contractants. Chacun des deux Etats aura pleine liberté de répartir à son gré le produit des dîmes entre ses ressortissants.

¹ Le texte de cet article est celui de la Déclaration entre la Suède et la Finlande portant modification de la Convention du 10 mai 1927 concernant la pêche du saumon dans les fleuves de Torneå et de Muonio, signée à Stockholm, le 16 février 1933 et dont les ratifications ont été échangées à Helsingfors, le 1^{er} avril 1933. (De Martens, *Nouveau Recueil Général des Traités*, 3^e série, vol. XXVIII, p. 806.)

ARTICLE XIII. Pour toutes les questions relatives à la pêche en commun les administrations provinciales des provinces de Norrbotten et d'Uleåborg (*Oulu*) représenteront respectivement les deux Etats contractants. Avant l'affermage de la pêche conformément aux dispositions de l'article VI ou de l'article VII les susdites administrations provinciales feront procéder, par l'organe d'une commission composée de trois ressortissants de chacun des Etats contractants, dont l'un devra être un fonctionnaire du service des pêcheries, un autre un fonctionnaire de l'administration centrale des forêts, et le troisième une personne connaissant les circonstances locales, et qui seront désignées par leurs pays respectifs, à une enquête relative aux conditions de l'affermage. Avant tout nouvel examen du chiffre de l'indemnité à verser, aux termes de l'article IV, par l'Association de flottage des fleuves frontières de Torneå (*Tornio*) et de Muonio, il sera également dressé, dans les mêmes conditions, un projet de fixation du taux de cette indemnité. Il incombera à la dite commission de veiller, dans l'exercice de son mandat, à ce que les intérêts, tant de la pêche que du flottage, soient dûment pris en considération et sauvegardés.

Par l'organe de la même commission, qui ne se composera toutefois dans ce cas que des deux fonctionnaires du service des pêcheries et des deux personnes connaissant les circonstances locales, les susdites administrations provinciales procéderont également à une enquête relative à la division en districts de la zone de pêche, en vue de la concession du droit de pêche conformément aux dispositions de l'article VIII, ainsi que concernant le montant de la taxe à acquitter dans les divers districts pour la délivrance des permis de pêche.

RÈGLEMENT SUR LA PÊCHE DANS LA ZONE DE PÊCHE DU FLEUVE DE TORNEÅ (TORNIO)

En outre des stipulations de la Convention du 10 mai 1927 entre la Suède et la Finlande concernant l'exploitation en commun de la pêche du saumon dans les fleuves de Torneå (*Tornio*) et de Muonio, il sera fait application, en ce qui concerne l'exercice de la pêche dans la zone de pêche du fleuve de Torneå (*Tornio*) des dispositions suivantes.

ARTICLE PREMIER. La zone de pêche du fleuve de Torneå (*Tornio*) comprend tout ensemble les fleuves de Torneå (*Tornio*) et de Muonio avec leurs affluents aussi haut qu'il est établi que le saumon remonte ces cours d'eau, et toutes les eaux de l'archipel côtier situé en face de l'embouchure du fleuve de Torneå (*Tornio*), dans les paroisses suédoise et finlandaise de Nedertorneå (*Alatornio*). Les dispositions ci-dessous ne s'appliqueront pas toutefois aux pêcheries de saumon (*laxpata-lohipato*) privilégiées des propriétaires fonciers (*byamän- Kyläläiset*) de Kaakamo et de Ruottala, qui sont situées à l'embouchure du fleuve de Kemi, à la limite des paroisses finlandaises de Nedertorneå (*Alatornio*) et de Kemi.

ARTICLE 2¹. La pêche du saumon et de la truite saumonée est interdite depuis le 1^{er} septembre jusqu'à la débâcle du printemps. La pêche de la

¹ Les textes de cet article et de l'article 7 sont ceux de la Déclaration entre la Suède et la Finlande portant modification du Règlement sur la pêche dans le fleuve de Torneå du 10 mai 1927, signée à Stockholm, le 16 février 1933. (De Martens, *Nouveau Recueil Général des Traités*, 3^e série, vol. XXVIII, p. 805.)

truite saumonée pourra avoir lieu toutefois jusqu'au 24 septembre inclusivement dans l'archipel côtier et aux appareils de pêche fixes du fleuve, ainsi que, dans le fleuve, à la cuiller ou au moyen d'engins analogues, dans les paroisses suédoise et finlandaise de Nedertorneå (Alatornio).

Sous réserve de la dérogation prévue ci-dessus, il n'est pas permis, par conséquent, depuis le 1^{er} septembre jusqu'à la débacle du printemps, de laisser dans les eaux où a lieu la pêche, et moins encore d'y poser ou d'y utiliser de n'importe quelle autre manière des appareils ou engins de pêche, quels qu'en soient le nom et la nature, destinés à la pêche du saumon ou de la truite saumonée.

Il n'est permis à aucune époque de l'année de pêcher à la ligne ni de prendre intentionnellement de n'importe quelle autre manière des saumons d'une longueur inférieure à 50 centimètres et des truites saumonées d'une longueur inférieure à 35 centimètres.

ARTICLE 3. Durant le temps où la pêche du saumon et de la truite saumonée est interdite, il ne devra être mis en vente, acheté, reçu ou transporté d'un lieu à un autre, aucun poisson desdites espèces, à moins qu'il ne puisse être établi par les voies légales que la capture en a été effectuée en temps licite ou que l'acquisition en a eu lieu autrement dans des conditions autorisées par la loi. A aucun moment de l'année, il ne devra être mis en vente, acheté, reçu, ou transporté d'un lieu à un autre, du poisson desdites espèces, dont la longueur serait inférieure à celle prévue à l'article 2.

ARTICLE 4. L'usage d'appareils fixes de pêche ou de « pata-pato » n'est autorisé pour la pêche du lavaret que du 25 juillet au 24 septembre inclusivement.

ARTICLE 5. Les sennes (*notar-nuotat*) destinées à la pêche du saumon ou de la truite saumonée ne devront pas avoir des mailles de dimensions supérieures aux suivantes: 12 fois l'écart entre deux nœuds sur 60 centimètres de longueur ininterrompue du filet, mesurée lorsque celui-ci est mouillé et tendu dans le sens longitudinal des mailles. Toutefois, les sennes employées pour la capture du poisson dans les parcs dits « karsinapata » pourront avoir des mailles de dimensions correspondant à 15 fois au plus l'écart entre deux nœuds sur 60 centimètres de longueur de filet.

Les sennes destinées à la pêche d'autres espèces de poisson auront, si elles sont employées dans les fleuves, des mailles de dimensions correspondant à 16 fois au moins et 20 fois au plus l'écart entre deux nœuds sur 60 centimètres de longueur de filet, et leur longueur ne devra pas dépasser 80 mètres. Si des raisons locales rendent désirable l'emploi de filets de dimensions plus grandes, une demande y relative pourra être adressée à l'une des administrations provinciales de la province de Norrbotten ou de la province d'Uleåborg (*Oulu*), auxquelles il appartiendra de statuer en commun, après une enquête effectuée dans les conditions prévues à l'article XIII de la convention sur la pêche en commun du saumon.

Les sennes employées dans l'archipel côtier ne devront pas, sauf celles destinées à la pêche des espèces de poisson visées ci-dessous à l'article 7, avoir des mailles dont les dimensions correspondent à plus de 18 fois l'écart entre deux nœuds sur 60 centimètres de longueur de filet.

ARTICLE 6. Sous réserve des dérogations prévues à l'article 7, les filets fixes (*nät-verkot*), les verveux (*ryssjor-ryssät*) — à l'exception de ceux dits

« storryssjor-isorysät » — et les nasses (*mjärdar-merrat, tinor-lanat*) ne devront pas avoir des mailles correspondant à plus de 20 fois l'écart entre deux nœuds sur 60 centimètres de longueur de filet.

Les filets fixes (*nät-verkot*) dont les mailles ont des dimensions correspondant à plus de 12 fois l'écart entre deux nœuds sur 60 centimètres de longueur de filet, ne pourront être employés que dans l'archipel côtier et dans les pêcheries des fleuves où la pêche du saumon est autorisée.

Les verveux dits « storryssjor-isorysät », par où il faut entendre, tant les verveux de toute espèce ayant en quelque point une hauteur de plus de 1,2 mètre, ou garnis de coiffes d'une hauteur supérieure à la susdite, que tous autres engins de pêche des dites dimensions qui sont munis d'un fond en filet (*nätbotten-verkkopohja*), devront avoir, s'ils sont destinés à la pêche du petit hareng (*strömming-silakka*) ou du corégone blanchâtre, des mailles de dimensions correspondant à 36 fois au moins et à 40 fois au plus, et, s'ils sont destinés à la pêche du saumon, de la truite saumonée, du lavaret ou de toute autre espèce de poisson, à 18 fois au plus l'écart entre deux nœuds sur 60 centimètres de longueur de filet dans la partie de l'appareil ou engin dite « fiskhus-pesä ».

S'il apparaissait que l'emploi de « storryssjor-isorysät » destinés à la pêche du petit hareng ou du corégone blanchâtre, risque d'entraîner la destruction du lavaret, chacun des deux Etats aura le droit de l'interdire ou de le limiter.

L'emploi de « storryssjor-isorysät » dans les fleuves est interdit.

ARTICLE 7¹. Pour la pêche de l'éperlan, du corégone blanchâtre, de la grilagine, de l'ablette ou du petit hareng, il pourra être employé dans l'archipel côtier des filets fixes (*nät-verkkoja*) ayant des mailles de dimensions correspondant à 30 fois au moins et 50 fois au plus l'écart entre deux nœuds sur 60 centimètres de longueur du filet, ainsi que des sennes (*notar-nuottia*) ayant, à la poche ou au milieu et jusqu'à 10 mètres de chaque côté du milieu, des mailles de dimensions correspondant à 30 fois au moins et 50 fois au plus l'écart entre deux nœuds sur 60 centimètres de longueur du filet.

S'il apparaissait que l'emploi des engins de pêche visés au présent article risque d'entraîner la destruction desdites espèces ou d'autres espèces de poisson, chacun des deux Etats aura le droit de l'interdire ou de le limiter.

ARTICLE 8. Dans les « pata-pato » où la pêche du saumon n'est pas autorisée en vertu d'une concession accordée par les Etats contractants, l'emploi de tous engins destinés à la pêche du saumon ou de la truite saumonée, quels qu'en soient le nom et la nature, est interdit. Dans les « pata-pato » de l'espèce susvisée destinées à la pêche du lavaret ou d'autres petites espèces de poisson, il est interdit, en conséquence, de faire usage de « mocknät-mutkaverkko » ou « potkunät-potkuverkko », ainsi que de verveux (*ryssjor-rysiä*) ou nasses (*mjärdar-merloja, tinor-lanoja*) dont l'ouverture ou le cerceau dont elle est garnie a dans un sens quelconque plus de 16 centimètres de diamètre.

ARTICLE 9. La pêche de la lamproie fluviatile (« *nätting* » ou « *nejonöga* » — « *nahkainen* ») pourra avoir lieu, à l'avenir aussi, aux mêmes époques et dans les mêmes conditions que jusqu'à ce jour.

¹ Voir *supra*, note p. 625.

ARTICLE 10. La pêche à la foène (*ljustring-tuohustaminen*) est interdite. Quiconque sera trouvé dans les eaux de la zone de pêche, porteur de feux (*ljustereld-tuohustuli*) ou muni d'ustensiles servant à la pêche à la foène, sera passible des mêmes peines que celui qui pêche à la foène.

ARTICLE 11. La pêche au moyen de verveux dits « storryssjor-isorysät » de « bottengarn-pohjaverkot » ou de « mockor-mutkaverkot », ainsi que de tous autres engins destinés à la pêche du saumon, est interdite dans l'archipel côtier situé en face de l'embouchure du fleuve de Tornéa (*Tornia*), dans une zone limitée du côté de la mer par une ligne allant de la rive sud de l'ouverture de la baie de Salmisviken (*Salmenlahti*), par les pointes les plus méridionales des îles de Kraaseli et de Tirro et la pointe nord-ouest de l'île de Sellö, jusqu'à la pointe sud-ouest de l'île de Björkö (*Pirkiö*).

Est également interdite, dans le détroit séparant les îles de Stora Tervakari (*Iso-Tervakari*) et de Hamppuleiviskä, la pose, de chaque côté, d'appareils ou engins de pêche d'une longueur dépassant 200 mètres.

ARTICLE 12. Tous les appareils fixes de pêche destinés à la pêche du saumon, de la truite saumonée ou du lavaret, seront, chaque année, à l'expiration du temps pendant lequel la pêche est autorisée, immédiatement ouverts au libre passage du poisson. Avant la fin du mois de septembre, les filets de clôture (*stängselnät-sulkuverkot*) employés aux appareils de pêche, ainsi que tout le bois ayant servi à la clôture des appareils, seront retirés de l'eau. Les pieux principaux (*huvudpålar-päävaajat*) fixes des appareils de pêche pourront toutefois rester en place jusqu'à la fin de l'année, après quoi ils devront également, ainsi que toutes les pierres employées pour les appareils de pêche, être replacés à terre.

Tous les matériaux de constructions des « pata-pato » destinés à la pêche de la lotte en hiver seront, avant la débâcle du printemps, soigneusement retirés de l'eau et transportés à terre.

Si le possesseur d'un appareil de pêche néglige de se conformer dans les délais fixés aux dispositions qui précèdent, l'officier du ministère public compétent pourra faire exécuter les travaux non effectués, dont le prix sera recouvré contre le défaillant dans les formes prévues par la loi.

ARTICLE 13. Le titulaire d'un droit de pêcher le saumon et ses assistants pourront, pour l'exercice de la pêche, pénétrer sur les terrains des propriétaires riverains, à l'exception des terrains bâtis ou des jardins ou potagers et assécher leurs engins sur la rive, aux endroits où celle-ci n'est pas contiguë à des terrains bâtis ou cultivés. Les propriétaires riverains auront droit toutefois à être pleinement indemnisés de tout dommage ou préjudice à eux causé de ce fait.

Les propriétaires riverains seront également tenus d'accorder, contre une indemnité pécuniaire pour dommages ou préjudice le libre passage à la pêcherie (*fiskevatten-kalavesi*) au titulaire du susdit droit de pêche et à ses assistants, s'ils ne peuvent s'y rendre autrement dans des conditions suffisantes de commodité.

ARTICLE 14. Les poursuites pour infractions aux dispositions du présent règlement seront exercées devant le tribunal du lieu où le délit a été commis. Si un ressortissant de l'un des deux Etats contractants a commis un délit sur le territoire de l'autre Etat contractant, mais qu'il ait cessé d'y séjourner,

il sera poursuivi dans son pays devant le tribunal du lieu le plus proche de celui du délit.

Les contestations relatives aux indemnités dues pour dommages ou préjudice de l'espèce visée à l'article 13, pourront être portées, soit devant un des tribunaux prévus au présent article, soit devant le tribunal du lieu où le défendeur à son domicile.

ARTICLE 15. Quiconque contreviendra aux interdictions ou négligera de se conformer aux prescriptions du présent règlement, sera puni, si le délit est poursuivi devant un tribunal suédois, d'une amende de vingt à cinq cents couronnes ou, si le délit est poursuivi devant un tribunal finlandais, de deux cents jours-amende au plus; le cas échéant, la marchandise visée à l'article 3 aussi bien que les engins et le poisson pêché en délit, ainsi que le permis de pêche, s'il en a été délivré un, seront frappés de confiscation.

Si les engins de pêche, le poisson pêché ou mis en vente de manière délictueuse qui ont été frappés de confiscation ne peuvent être représentés, ou si le poisson pêché ou mis en vente de l'espèce susvisée a subi une détérioration, le délinquant en payera la valeur.

ARTICLE 16. Le produit des amendes, ainsi que les engins, le poisson pêché en délit et la marchandise qui ont été frappés de confiscation, ou leur valeur, reviennent à l'Etat. Si les ressources font défaut pour le payement total des amendes, celles-ci seront converties suivant les règles du code pénal.

ARTICLE 17. Si l'individu qui se livre à la pêche, soit à une époque où elle est interdite, soit avec des engins prohibés, est pris en flagrant délit par un officier du ministère public, un garde-pêche ou un fonctionnaire de l'administration de la pêche, celui-ci pourra saisir, outre les engins et la pêche du délinquant, ainsi que son permis de pêche, son bateau aussi et conserver le tout jusqu'à ce que le délinquant ait satisfait aux dispositions de la loi.

Les officiers du ministère public, les gardes-pêche et les fonctionnaires de l'administration de la pêche pourront également saisir les engins de pêche prohibés en vertu du présent règlement, qu'ils trouveront dans un cantonnement, un bateau, un hangar (*öppen sjöbod-avoin ranta-aitta*) ou en tout autre lieu voisin du cantonnement. Toutefois, celui qui opérera la saisie devra, s'il n'est pas officier du ministère public, en informer sans délai le ministère public, à qui il incombera de la rendre immédiatement publique au moyen d'un avis affiché dans un local communal ou en tout autre lieu approprié de la paroisse où la saisie a été effectuée. Si le propriétaire ne se fait pas connaître dans le délai d'un mois à compter du jour de l'affichage, les objets saisis reviendront à l'Etat.

Le poisson pêché en délit ou la marchandise dont la saisie a été opérée et qui est susceptible de détérioration pourra, après inspection et estimation par deux hommes impartiaux, être vendu dans des conditions appropriées par les soins du ministère public, qui rendra compte sans délai à l'administration provinciale compétente du produit de la vente.

ARTICLE 18. Les personnes dûment commissionnées à l'effet de surveiller l'observation du présent règlement, auront les mêmes pouvoirs et jouiront de la même protection que les agents de la force publique.

ARTICLE 19. Les administrations provinciales des provinces de Norrbotten et d'Uleåborg (*Oulu*) pourront, si la demande leur en est faite, accorder

pour un objet scientifique ou dans l'intérêt de la pisciculture l'autorisation d'exercer la pêche en temps prohibé ou suivant un mode ou procédé interdit. En même temps, des prescriptions appropriées seront rendues, en vue de prévenir les abus, et la décision sera portée à la connaissance du ministère public du lieu.

172. AGREEMENT¹ BETWEEN THE KINGDOM OF SWEDEN AND THE REPUBLIC OF FINLAND CONCERNING TIMBER FLOATING IN THE TORNE AND MUONIO FRONTIER RIVERS, SIGNED AT STOCKHOLM, ON 17 FEBRUARY 1949²

His Majesty the King of Sweden and the President of the Republic of Finland, having jointly agreed on the necessity of replacing by a new Agreement the Declaration to regulate the floating of timber down the Torne and Muonio rivers, concluded between Sweden and Russia on 3 July/20 June 1917 and declared by an Exchange of Notes of 10 May 1920 between Sweden and Finland to be in force between the latter two countries, and the Regulations annexed thereto concerning the floating of forest produce in the frontier rivers of Torne and Muonio, . . . have agreed upon the following provisions:

Article I

Timber floating in the Torne and Muonio frontier rivers and in such part of the sea area situated outside the mouth of the Torne river as is now or henceforth may be designated as a floatway shall be permitted both to the Contracting States and to individuals and bodies corporate of those States in accordance with the provisions of the Regulations annexed hereto.

Article II

Timber, when being delivered for floating, while being floated or when being delivered after floating, shall be exempt from all customs formalities and from import and export duties on condition that it is delivered to the State from which it was brought to the floatway.

Equipment and material for floating operations or for the delivery of timber after floating, including provisions for the floating crews, may be taken from one State to the other free of customs duty or any other import or export charge and irrespective of import or export restrictions other than those relating to public health or security or to the prevention of animal or plant diseases. In the transport of goods as aforesaid the regulations of the customs authorities of both States concerning notification and supervision shall be complied with.

Article III

The timber floating association referred to in the Regulations annexed hereto shall be exempt from the obligation to pay taxes to either State or to

¹ Came into force on 9 July 1940, by the exchange of the instruments of ratification at Helsinki, in accordance with article VII.

² United Nations, *Treaty Series*, vol. 197, p. 148.

any commune or parish belonging thereto in respect of income from timber floating operations or of property regarded as assets necessary for the conduct of those operations, including such buildings, structures and land and water areas as are intended to serve the immediate requirements of those operations.

Article IV

The authorities of each State shall permit persons who are responsible for, managing or participating in the work of timber floating to cross the frontier in connexion with the floating wherever the work of floating makes it expedient to do so, and shall give those persons as much assistance as possible with regard to passports and other identification papers, and the times during with the frontier may be crossed and residence may be permitted in the other State.

Article V

For the purpose of preserving fish stocks in the water area, each cubic metre of timber floated, computed in accordance with the existing standards for cubic measurement, shall be subject to tax not exceeding five öre in Swedish currency or the equivalent in Finnish currency as determined by expenditures for fish hatcheries or other protective measures. Timber which is taxed in accordance with this provision shall not in either State be subject to any other levy for the preservation of fisheries.

The tax referred to in the first paragraph shall be levied on the timber floating association, and the proceeds thereof shall upon request be handed over to the board mentioned in article XI of the Convention of 10 May 1927 concerning the joint exploitation of the salmon fisheries in the Torne and Muonio rivers, as amended by the Declaration of 16 February 1933¹.

Article VI

Any dispute between the contracting States concerning the interpretation or application of this Agreement or the Regulations annexed hereto, which cannot be settled by negotiation shall be dealt with as provided in the Convention on conciliation procedure, concluded between Sweden and Finland on 27 June 1924.

. . . .
ANNEX

REGULATIONS CONCERNING TIMBER FLOATING IN THE FLOATWAY OF THE
TORNE AND MUONIO FRONTIER RIVERS

CHAPTER I

GENERAL PROVISIONS

Article 1

Timber floating in the floatway of the Torne and Muonio frontier rivers shall be governed by the Agreement in force between Sweden and Finland on timber floating in the aforesaid rivers, by these Regulations and by such

¹ See *supra*, Treaty No. 171, p. 621

provisions (rules) for the widening, maintenance or use of the floatway as have been or may be made by the county administrations of Norrbotten and Lappland counties.

Article 2

Persons engaged in the floating of loose timber in the floatway of the frontier rivers shall, save as otherwise provided in this article, constitute a timber floating association. The affairs of the association shall be managed by a governing body, and the timber floaters may participate in the management of the association's affairs at the meetings of the association. Floating carried out under the direction of the association shall be known as common floating.

The governing body of the timber floating association shall make rules concerning the common floating of timber so as to prevent such timber from becoming mixed with other floating timber (separate floating) and concerning the conditions governing common floating.

An owner or proprietor of farm land need not, in respect of the floating of timber for his household needs, belong to the timber floating association or pay taxes for the use of the floatway. Such timber floating (timber floating for household needs) shall not, however, take place in such a manner or at such a time as to constitute an obstacle to common floating operations or to create a risk that timber for household needs may become mixed with timber included in the common floating operations. A person floating timber for household needs shall therefore comply with whatever instructions are issued jointly by the county administrations concerning notification of intention to float timber and compliance with the necessary safety precautions. He shall also reimburse the timber floating association for any direct costs incurred by the association in respect of his timber floating operations.

The governing body of the association may in particular cases, where a small amount of timber is to be floated for a short distance, dispense the person doing such floating from the obligation to be a member of the association and may in this connexion specify the conditions under which such floating will be permitted.

Article 3

A person wishing to use the floatway of the frontier rivers for the floating of timber in rafts shall so notify the timber floating association and shall be permitted to proceed if the operation can be conducted without hindrance to the common floating. Except where the floating of timber for household needs is concerned, the person carrying out such floating operations may be required by the association to pay amortization and maintenance charges in respect of the floatway facilities used by him. He shall also reimburse the association for any direct costs incurred by it in connexion with his floating operations.

Article 4

Timber which apparently can be floated out during the first floating season after being felled may be floated with the bark on. If the floating apparently cannot be carried out within that period, the timber shall be carefully barked before it is delivered to the floatway. However, timber

from hardwood trees which have been felled and left to season may be floated with the bark on also during the succeeding floating season.

Bark-removing operations must not be carried out on the ice or at any point on the bank of the watercourse close enough for the bark to be washed into the water.

Regulations providing for the barking of timber otherwise than as prescribed in the first paragraph or granting exceptions to the provisions of that paragraph may, where necessary, be made jointly by the county administrations in respect of the entire floatway or a specific portion thereof.

Article 5

The persons conducting floating operations shall, without the special permission of the owner or proprietor, have access to property situated on the bank or elsewhere if to do so is necessary for the conduct of the floating operations, the rolling of timber into the water or the assembling of timber, or for the avoidance or assessment of damage. Cultivated land, grounds attached to a building, gardens; and areas used for bathing or storage shall not, however, be trespassed upon if some other means of access can be used without serious hindrance or delay.

The provisions of the first paragraph shall likewise apply to access by the inspectors referred to in article 6 or by the arbitrators in the performance of their duties as provided in article 24.

While floating is in progress, sheer or catch booms and other necessary apparatus may be left in the water temporarily on condition that traffic is not materially hindered thereby; the necessary attachments, supports and other equipment for the booms may be placed on or near the bank, and for this purpose there may be used material objects that cannot thereby be seriously damaged.

CHAPTER 2

WIDENING OF THE FLOATWAY, ETC.

Article 6

Draft rules shall, after a local inspection has been carried out, be prepared by two experts and two representatives, one each of whom shall be appointed by each county administration. In connexion with the inspection at least one meeting shall be held in each commune through which the affected portion of the floatway passes.

The time and place of the inspection and the meeting shall be announced by the inspectors at least fourteen days in advance in all the communes referred to in the first paragraph and shall be published in at least one local newspaper in each country; and persons known to the inspectors as the owners or usufructuaries of a riparian area, bridge, fishery, water mill or unimproved waterfall affected by the scheme or measure shall be specially notified by post. Notice of the inspection and the meeting shall also be sent within the same time-limit to the timber floating association; to the Crown Lands Board, the Forestry Board and the Board of Fisheries in Sweden; and to the Forestry Board, the Board of Agriculture and the Civil Engineering Board in Finland.

The inspectors' draft shall be submitted to the county administrations. After an opportunity has been given to submit objections to the draft, the

county administrations shall announce in the form of a joint decision the action taken by them on the matter.

Less important rules may, if special circumstances so require, be issued without a prior inspection after persons having a legal interest and the authorities have been afforded an opportunity to express their views.

If for the purposes of timber floating the rules authorize work to be performed or equipment installed, the county administrations may prescribe that such work or equipment shall upon completion be inspected.

Instructions concerning inspection procedure shall be issued by the county administrations. If the work performed or equipment installed is in any way defective, the county administrations may also order the necessary rectification and may, each on its own side of the national frontier, impose suitable fines.

Article 7

If the widening or improvement of the floatway makes it necessary to use land or water areas belonging to other persons, or if some other measure must be taken which may affect the rights either of a person owning a riparian area, bridge, fishery or water mill or of some other person and the person concerned has not given his consent, then, except where expropriation is involved, the county administrations, after an investigation has been conducted as provided in article 6, shall jointly authorize the measure to be taken and shall determine the compensation to be paid for the damage and inconvenience thereby caused. Care must be taken in this regard to ensure that the purpose is accomplished without undue expenditure and with the least possible inconvenience to others.

A person who is dissatisfied with the county administrations' award of compensation as mentioned in the first paragraph may within sixty days of the date of the award lodge an appeal with the ordinary court of first instance of the place where the damage or inconvenience was caused.

Compensation for damage or inconvenience as mentioned in the first paragraph shall, however, as provided in article 22, in some cases be determined in accordance with the provisions of articles 22-28 relating to damage resulting from timber floating (timber floating damage).

Article 8

If the widening or improvement of the floatway requires the expropriation of all or part of a property, the matter shall, in the absence of an amicable agreement, be decided as regards Swedish territory in accordance with the provisions of the Expropriation Act and as regards Finnish territory in accordance with the regulations governing the cession of property for the purposes of the floatway.

CHAPTER 3

THE TIMBER FLOATING ASSOCIATION AND ITS ACTIVITIES

Article 9

The timber floating association shall, for the joint account and on the joint responsibility of its members, supervise the common floating operations,

have charge of and maintain the floatway and its appurtenances, and collect and account for the charges levied for the use of the floatway.

The association shall not engage in any activity alien to the aforementioned functions.

Article 10

The timber floating association may acquire immovable property only for the account of the floatway and only where:

1. The property is necessary for construction work or other measures relating to the floatway or for the proper conduct of floating operations;
2. The acquisition of a specified area is considered desirable in order to reduce payments of compensation for damage; or
3. The property is considered suitable for the construction of necessary office or workshop buildings or of housing for the timber floating chief or for office, timber floating or other workers.

The county administrations shall jointly determine whether the acquisition of immovable property in the aforesaid cases is permissible.

Immovable property acquired pursuant to this article shall be property of the floatway.

Article 11

Property of the floatway shall not be encumbered or pledged, but where it appears expedient to do so in a particular case the county administrations may jointly authorize the timber floating association to encumber property mentioned in article 10, first paragraph, sub-paragraph 3. Immovable property shall not be disposed of without the joint consent of the county administrations. Buildings and equipment required for timber floating shall not be transferred from the ownership of the floatway.

Article 12

By-laws shall be drawn up for the timber floating association and shall deal with the mutual relationship between timber floaters and their responsibilities for the association's obligations, the governing body of the association and the supervision of its activities, the meeting of the association, the timber floating chief, the marking of timber and the conduct of timber floating operations. The by-laws shall not contain any provision conflicting with the Agreement referred to in article 1 or with these Regulations.

The by-laws shall be ratified jointly by the county administrations upon the recommendation of the timber floating association. Before ratifying any draft by-laws or amendment thereto, the county administrations shall consult the Crown Lands Board and the Forestry Board of Sweden and the Forestry Board of Finland, and shall by means of announcements in each commune situated along the floatway afford forest owners and other persons concerned an opportunity to express their views. If an amendment is proposed otherwise than by the timber floating association, the members of the association shall likewise be afforded an opportunity to express their views at the meeting of the association.

Copies of the regulations shall be printed on the association's initiative in the Swedish and Finnish languages and shall be supplied upon request to forest owners and timber floaters.

Article 13

With a view to safeguarding the public interest, each county administration shall appoint a representative (public representative) to participate without the right to vote in the meetings of the timber floating association and of its governing body. If the public representative considers that a decision is contrary to the regulations in force or to the public interest and if the matter is not rectified after he has drawn attention to it, he shall report the circumstances to the county administration which appointed him. The person appointed as public representative shall be familiar with forestry and timber floating conditions in the area but shall not be personally engaged in timber floating or employed by a timber floater. The representative shall receive from the association such remuneration as the county administration prescribes.

Each county administration may likewise appoint an auditor, who, together with the auditors appointed by the association, shall examine the association's books. An auditor appointed by a county administration shall receive from the association such remuneration as the county administration prescribes.

An annual statement and auditors' report on the activities of the association shall be submitted to the county administrations each year.

Article 14

The timber floating association shall annually appoint for each commune situated along the floatway at least one representative (local representative) whose name shall be reported to the county administrations and to whom riparian owners and other persons may submit the claims mentioned in article 23 or any other matters concerning timber floating.

Article 15

The expenses of the timber floating association shall be apportioned among the timber floaters in the manner prescribed by the by-laws.

The county administrations, upon the request of the timber floating association or of a member thereof, may jointly direct that expenditures for widening or improving the floatway or for acquiring immovable property, and other expenditures likely to be of considerable benefit for timber floating in the future as well as in the present shall be amortized over a period of several, but not more than twenty, years out of charges assessed against the timber floated and so adjusted that the principal together with interest on the unpaid balance can reasonably be expected to be paid in full within the period thus fixed.

The timber floating association may, without seeking instructions from the county administrations, arrange for expenditures as aforesaid to be amortized within a period not exceeding three years.

Article 16

If in a given year the timber floating association incurs expenditures which as provided in article 15 may be amortized over a period of several years, the association may, if the expenditures cannot be met by advances from the timber floaters participating in that season's floating, contract a

loan for that purpose under an arrangement whereby the lender will be entitled to collect the amortization charges fixed for the repayment of the loan.

Occasional loans to meet the association's current needs may in addition be contracted by the governing body of the association to such amount and under such conditions as provided in the by-laws or prescribed by the association. The repayment of such loans shall be incumbent solely upon the timber floaters participating in floating operations during the year in which the expenditure constituting the debt was incurred.

Article 17

The sums required to meet the association's expenses shall, in such manner and within such time as the governing body of the association specifies, be advanced by every person participating in the common floating. If a timber floater fails to pay the amount due from him, the governing body may hold his timber as security and, after notifying him, sell at public auction as much thereof as is necessary to cover the amount due.

The sums advanced may not be used or distrained for any purpose other than to defray the association's expenses for the year for which the advances were made. If there is a surplus, it shall be refunded.

If it appears that an expenditure incurred by the timber floating association should be charged to the timber floaters participating in the floating operations of a previous year, but no funds were previously set aside for that purpose, the governing body shall forthwith assess the said timber floaters for the amount due in proportion to their participation in the expenses for that year. If a timber floater does not have the means to pay his assessment, the amount in default shall be charged to the other timber floaters in proportion to their participation as aforesaid.

Article 18

Subject to such limitations and conditions as the by-laws may prescribe, decisions and agreements binding also on timber floaters participating in floating operations of future years may be made with respect to the engagement for several years of a timber floating chief, other staff and labourers; to the terms of their remuneration; and to pensions and accident, sickness and similar benefits for themselves or their families.

If any person wishes to ascertain that a decision or agreement as aforesaid is not subject to objections on the grounds mentioned in article 21, he may apply to the county administrations for confirmation in this regard.

The timber floating association may also enter into multi-year agreements with riparian owners or other persons concerning compensation for timber floating damage, riparian leases, timber floating under contract and similar matters.

Article 19

Any members of the governing body of the timber floating association who by contravening these regulations or the by-laws of the association or in any other manner wilfully or negligently cause the floatway or the timber floating association loss or damage shall be jointly and severally liable therefor. They shall be similarly liable for any damage which, by

contravening these regulations or the by-laws of the association, they wilfully or negligently cause a third party.

Article 20

If the auditors of the association have knowingly made erroneous statements in their report or in any other document submitted to the association or have wilfully failed to draw attention to such statements in a document examined by them or have been negligent in the performance of their duties, those of them who have been guilty of such conduct shall be jointly and severally liable for any damage thereby caused to the association.

Article 21

If a timber floater is dissatisfied with the activities of the governing body of the timber floating association or with the apportionment of the association's expenses among its members or with any decision or agreement made by the association, he may so inform either county administration within 180 days from the date on which the decision or measure objected to came to his notice or, if he was not at that time participating in the timber floating operations, from the date on which he began so to participate. If the by-laws prescribe a specific procedure for notifying timber floaters of a decision, any decision so notified shall be considered to have been duly communicated to the persons participating in the common floating at that time. If a measure, decision or agreement appears to be in conflict with regulations in force or with the interests of the floatway, or to be obviously disadvantageous to the timber floaters, the county administrations shall jointly prescribe the necessary rectification or take such other measures as the circumstances may require.

CHAPTER 4

DAMAGE RESULTING FROM TIMBER FLOATING OPERATIONS

Article 22

Full compensation shall be paid by the timber floating association for any damage or inconvenience which in the course of the common floating operations results from the timber while being floated, from measures taken under article 5 or from any other action relating to the floating operation (timber floating damage). The provisions in respect of timber floating damage shall likewise apply to damage or inconvenience resulting from construction or any measure referred to in article 7 relating to the floatway if compensation for that purpose has not already been provided for in the rules or otherwise fixed by law and no compensation has been paid.

A person carrying on timber floating for household needs or such special timber floating as is mentioned in article 2, fourth paragraph, shall be solely liable for any damage or inconvenience resulting from his timber floating operations.

Liability for damage resulting from the floating of timber in rafts shall be borne by the person carrying out the timber floating operation. If several persons are engaged in a floating operation as aforesaid and it is impossible to ascertain whose timber has caused the damage, all those who cannot

be proved to have had no part in the damage shall be jointly and severally liable.

Where timber floating damage appears to be of such a permanent nature that it can be evaluated in advance, the amount of compensation may, if the injured party or the timber floating association so requests, be fixed in the rules.

Article 23

A claim for damages against the timber floating association shall, on penalty of the right of claim being lost, be submitted to the association or its local representative or referred to arbitration before the expiry of the calendar year in which the damage occurred. A claim for compensation for damage to a fishing structure or to fishing equipment shall, however, subject to the same penalty, be submitted within fourteen days of the date on which the damage came to the notice of the owner of the structure or equipment.

A claim as aforesaid shall be submitted in writing, but a claim submitted to a local representative may be made orally. A claim in writing shall be deemed to have been duly communicated if sent to the recipient's customary address by a registered letter posted within the time-limit prescribed in the first paragraph.

Article 24

If no agreement can be reached concerning the timber floating association's liability for damages, the matter shall be referred to three arbitrators, one of whom shall be appointed by each party, the two so appointed choosing a third arbitrator who shall act as chairman.

Except as otherwise provided in articles 25-28 below, all matters relating to the arbitrators and to procedure, awards, invalidity of awards and costs shall be subject to the relevant provisions of the general legislation on arbitration in force in the state where the damage occurred.

Article 25

For the purposes of the arbitration proceedings mentioned in article 24, permanent arbitrators shall be appointed each year by the timber floating association, at least one arbitrator and alternate being appointed for Sweden and one arbitrator and alternate for Finland. The association may, however, appoint another arbitrator to deal with particular cases involving damage or inconvenience of a special kind.

The names and addresses of the permanent arbitrators appointed by the timber floating association shall be reported to the county administrations within the time-limit specified in the by-laws so that they may be published in due form at the association's expense.

Article 26

A party may request arbitration by presenting a proposal to that effect to the other party or to the arbitrator previously appointed by that party. The proposal shall set forth the matter or matters in respect of which arbitration is requested.

Article 27

The arbitrators shall determine whether and, if so, where an inquiry should be held and shall bear in mind that unless an estimate of the damage is needed without delay, the inquiry should so far as possible be carried out after the timber floating operations have been concluded and in conjunction with the appraisal of other cases of damage.

If no arbitral award is handed down either within 90 days after arbitration has been requested or, where an inquiry is considered necessary but cannot be carried out owing to seasonal conditions, by 31 July of the following year, either party shall be free to submit the dispute to the ordinary court of first instance of the place where the damage occurred. An arbitral award handed down after the aforesaid time-limit shall be void unless the parties agree to abide by it.

An arbitral award shall be in writing and immediately after being handed down shall be formally communicated to the parties.

Article 28

A party who is dissatisfied with an arbitral award may submit the dispute to the court mentioned in article 27, second paragraph, if he institutes proceedings within the time-limit prescribed for appeals against arbitral awards in the general legislation on arbitration of the State concerned. Nevertheless, the arbitral award may take effect forthwith unless the court or the chief administrator of justice otherwise directs.

The arbitral award shall clearly set forth the formalities to be complied with by a dissatisfied party in submitting the dispute to the court.

CHAPTER 5

SPECIAL PROVISIONS

Article 29

If such existing or prescribed structures for the protection of the navigable channel or the prevention of other damage from timber floating as are supposed to be maintained by the timber floating association are not properly cared for, the county administrations, each in respect of its own side of the national frontier, may compel the association under penalty of a fine to comply with its obligations or may proceed immediately to rectify the situation at the association's expense.

In urgent cases where no delay can be tolerated, a person who may directly suffer from the situation mentioned in the first paragraph may at the timber floating association's expense himself take the action necessary to protect his property if the need for such action has been certified by the district police superintendent or bailiff of the locality after an investigation conducted on the spot.

Article 30

A riparian owner or other person who is inconvenienced by sunken or sinking timber may in the presence of two witnesses remove the timber from the water on to the bank. Notice of the removal shall within seven days thereafter be given to the governing body of the timber floating association, the

timber floating chief or the local representative. The timber floating association shall take possession of the timber within three months from the date of the notice and shall pay reasonable compensation for the removal; otherwise, the person removing the timber may use it for his own purposes.

Article 31

If sunken timber, bark or the like has accumulated in the floatway to such an extent that silting or some other inconvenience results, or if waterlogged timber in the floatway constitutes a potential source of damage, the county administrations may, each on its own side of the national frontier, compel the timber floating association, under penalty of a fine, to remove the hindrance within a specified time or may themselves take the necessary action at the association's expense.

Article 32

If floated timber is left on the bank beyond the time which in the light of properly conducted timber floating operations and of other circumstances seems necessary, the riparian owner or any other person affected thereby may request the timber floating association through its governing body, the timber floating chief or the local representative to take possession of the timber without delay. If no action is taken by the association, the said owner or other person may appeal to the county administration of the county in which the timber is situated, and the county administration may fix a time-limit within which the association must remove the timber under penalty of the said owner or other person being able to use the timber for his own purposes.

Article 33

If timber brought to the floatway from one State is delivered after floating to a destination in the other State, the timber floating association shall so notify the appropriate customs authorities of both States and inform them of the amount of timber. Such timber, when delivered by the timber floater for floating, shall be separate from his other timber and be marked with special markings prescribed by the governing body of the association; the governing body may, however, waive this provision in respect of timber the delivery of which has been agreed upon in the course of the floating operations.

Article 34

If it appears that the floatway is not being properly maintained, that prescribed amortization charges or compensation for damage are not being paid or that the floating of timber is not being properly conducted, or if the activities of the timber floating association otherwise call for censure, and no corrective action is taken after the association has been consulted on the matter, then the county administrations shall call a general meeting of the timber floaters at which a special discussion shall be held to determine whether and on what conditions the floating of loose timber shall continue to be permitted in the floatway.

CHAPTER 6

PENALTIES, ETC.

Article 35

The placing of unbarked timber in the floatway when to do so is prohibited or the removal of bark contrary to the provisions of article 4, second paragraph, shall be punishable by daily fines.

If a person wilfully or through manifest negligence obstructs the frontier river or in the course of floating operations causes damage, inconvenience or delay to others he shall be punished by daily fines unless he is also liable at law.

Article 36

An offence mentioned in article 35 shall be dealt with by the ordinary court of first instance of the place where the offence was committed, but if the offence was committed by a national of one State in the territory of the other State and the offender is no longer in the State in which the offence was committed, the case shall be tried in the State of which the offender is a national by the court situated nearest to the place where the offence was committed.

Fines shall accrue to the State in which the offence is tried.

A contingent fine (*vite-uhkasakko*) may be levied by the county administration that is empowered to fix such a fine. A contingent fine shall accrue to the State whose county administration levied the fine.

Finland-Union of Soviet Socialist Republics

173. CONVENTION¹ BETWEEN THE REPUBLIC OF FINLAND AND THE RUSSIAN SOCIALIST FEDERAL SOVIET REPUBLIC CONCERNING THE MAINTENANCE OF RIVER CHANNELS AND THE REGULATION OF FISHING ON WATERCOURSES FORMING PART OF THE FRONTIER BETWEEN FINLAND AND RUSSIA, SIGNED AT HELSINGFORS, OCTOBER 28, 1922²

THE GOVERNMENT OF THE REPUBLIC OF FINLAND and THE GOVERNMENT OF THE RUSSIAN SOCIALIST FEDERAL SOVIET REPUBLIC have in accordance with the provisions of Article 21 of the Treaty of Peace of Dorpat, signed on October 14, 1920, decided to conclude an Agreement regarding the maintenance of river channels and the regulation of fishing on water courses which flow from the territory of one of the contracting States to the territory of

¹ Came into force as from 13 March 1948, the date of the notification given to the Government of the Finnish Republic by the Government of the Union of Soviet Socialist Republics of the revival of the said Conventions, in accordance with article 12 of the Treaty of Peace with Finland, signed at Paris on 10 February 1947 (United Nations, *Treaty Series*, vol. 67, p. 155).

² League of Nations, *Treaty Series*, vol. 19, p. 193.

the other, or which are situated along the common frontier between the contracting States . . .

Article 1

In water-courses flowing from Finland to Russia and vice versa, or situated along the common frontier between those two countries, the Contracting States undertake to leave the fairway open for the free flow of the water, for navigation by sea-going and river craft, for timber floating, and for the migration of fish.

Article 2

On rivers and in straits, the fairway shall be held to consist of at least one-third of the width of the water at its mean level and at its deepest part. Nevertheless, where there is a current, the fairway shall not be considered as wider than at most a portion corresponding to one-third of the volume of water flowing past at mean level. Moreover, in the case of a fairway used for navigation or timber floating, the width of the channel may not be less than seven metres.

On lakes, channels used for navigation or timber-floating must be left open for the necessary width.

Article 3

Water may not be diverted from the watercourses referred to in Article 1, nor may any constructions be erected therein or any steps be taken such as to cause damage, by altering the present depth or condition of the parts of the watercourse situated in the territory of the other Contracting State, to the extent of water in its territory, or to its fish, land or other property, or thereby to damage the fairway or to encroach upon channels used for navigation or timber-floating, unless a special agreement has been concluded in each case between the Contracting States.

Article 4

Exceptions to the provisions laid down in Articles 1-3 of the present Agreement may be allowed in virtue of the laws in force in each country, except in the cases referred to in Article 3, but only on condition that the owners of the land or water concerned in the other Contracting State shall be indemnified in a manner to be agreed upon beforehand for any damage or inconvenience which may be caused.

If the fairway is blocked, and the consequent effects extend to the territory of the other Contracting State, the purposes for which the fairway is used must be provided for by some other means.

Article 5

The following regulations shall be put into force in order to protect fisheries and fish in the following salmon and gwyniad (sik) waters flowing from the territory of one Contracting State to that of the other, namely:

On the Tuulomanjoki and its upper waters, known as the Luttojoki, which flows into the Col Fiord on the Russian side, from the mouth of the

former river as far as the upper waters of the Luttojoki on the Finnish side;

On the Kutajoki and its upper waters, known as the Tuntsajoki, which flows into the Kutalahti on the Russian side from the mouth of the Kutajoki as far as the upper waters of the Tuntsajoki on the Finnish side,

On the southern part of the upper waters of the Kutajoki, known as the Ulanganjoki, from the entry of the latter river into the Pääjärvi outside Russia, as far as Paanajärvi on the Finnish side;

On the river known as the Pistojoiki from the lake of Yla-Kuittijärvi situated on the Russian side as far as Kuusamonjärvi on the Finnish side;

On the river Lieksa and its tributary, the Tuulijoki, which flows into the Pielisjärvi on the Finnish side, from the entry of the former river into the Pielisjärvi as far as Lentiera and the lake of Tuulijärvi on the Russian side;

On the Tulenmanjoki, which flows into the lake Ladoga in Finnish territory, from the entry of the river into the lake as far as Lake Tulenanjärvi on the Russian side; and:

On the Miinalanjoki, which flows into the lake Ladoga on the Finnish side, from the mouth of the river as far as the upper waters of the river on the Russian side.

(1) On the above watercourses a fairway shall be regarded as fishing water; for this purpose the fairway shall be held to include the water at the ends of the fairway, for double the width of the fairway, until a depth of two metres is reached.

(2) No nets, fish traps or other permanent gear, except bait, may be placed in position in the fishing water, nor may fishing installations be erected elsewhere, nor may fishing be carried on with permanent apparatus in such a manner as appreciably to prevent the fish from ascending to the upper waters or from surmounting waterfalls.

(3) If the fairway is blocked by a dam or by any other means, the Contracting State concerned shall take measures to protect the existing conditions as regards the fish and the fisheries by erecting suitable salmon ladders or by some other means.

(4) It is absolutely forbidden to catch salmon or lake trout (taimen) in streams or torrents from the beginning of September until the end of October.

(5) It is forbidden to use poisons, drugs or explosives for fishing.

(6) It is forbidden to establish factories or other structures, either fixed or floating, which retard the flow of the stream, in so far as such structures cause damage to the fish in the territory of the other State.

Article 6

The regulations laid down in the previous article shall be carried out where applicable in the case of watercourses which form natural frontiers between the two States.

. . .

Article 9

. . .

174. CONVENTION¹ BETWEEN THE REPUBLIC OF FINLAND AND THE RUSSIAN SOCIALIST FEDERAL SOVIET REPUBLIC REGARDING THE FLOATING OF TIMBER IN WATERCOURSES FLOWING FROM FINLAND TO RUSSIA OR VICE VERSA, SIGNED AT HELSINGFORS, OCTOBER 28, 1922²

THE GOVERNMENT OF THE REPUBLIC OF FINLAND and THE GOVERNMENT OF THE RUSSIAN SOCIALIST FEDERAL SOVIET REPUBLIC, having decided, in conformity with the provisions of Article 1 of the Treaty of Peace signed at Dorpat on October 14, 1920, to conclude an agreement regarding the regulation of timber-floating in watercourses flowing from the territory of Finland into the territory of Russia or from Russia into that of Finland, . . .

Article 1

In the case of watercourses which flow from Finland to Russia or from Russia to Finland, citizens, companies and State enterprises of the two contracting countries shall be entitled to float timber without hindrance, across the frontier and beyond it, in the territory of either contracting country as far as the sea under the arrangements and upon the conditions laid down in the present Convention.

. . .³

Article 4

If timber floated down a watercourse is destined for export from the country, and if, in consequence, duties or other charges are payable upon it, the floater shall pay such charges before the timber is exported from the country. Should he fail to do so, the liability for the payment of the charge shall rest upon the Board of the Floaters Association or upon the individual floater concerned, and in order to defray this charge it shall be lawful, at the instance of the State to which the charge is payable, to distrain on the whole or a part of the timber floated by the Association or belonging to it or to its members, or even on timber belonging to a floater who is not a member of the Association.

If the timber which is being floated is not intended to be exported from the country, but only to be transported through the territory of the other State, the charges referred to in this Article may not be exacted, nor may any transit dues be levied on timber transported within the territory of either of the Contracting States.

¹ Came into force as from 13 March 1948, the date of the notification given to the Government of the Finnish Republic by the Government of the Union of Soviet Socialist Republics of the revival of the said Convention, in accordance with article 12 of the Treaty of Peace with Finland, signed at Paris on 10 February 1947 (United Nations, *Treaty Series*, vol. 67, p. 158).

² League of Nations, *Treaty Series*, vol. 19, p. 170.

³ Articles 2, 3 and 7 amended by the Convention signed at Moscow on 15 October 1933 (See *infra*, treaty No. 175, p. 647.).

Article 5

If either of the Contracting States should grant within its territory, in connection with timber-floating on watercourses covered by this Convention, any privileges or advantages to floaters belonging to its own country or to any third State, the same privileges and advantages shall be simultaneously and unconditionally granted to the timber floaters of the other Contracting State.

Article 6

The timber floaters of both Contracting States shall be entitled, without having to pay any duties or other charges, to convey the necessary timber-floating gear, and also provisions for their workmen, to the territory of the other State. Neither shall any export duties be levied when the said timber-floating gear is brought back to the timber floaters' own country.

The timber floaters of each Contracting State shall be entitled, within the territory of the other Contracting State, to hire land and accommodation, and shall be free to purchase the articles and gear required for timber-floating and for the equipment of their workmen, and further to take all measures which are necessary for timber-floating, provided that they observe the laws and regulations which are in force in the country in question.

Article 8

The Contracting States undertake to communicate to each other all the laws and regulations which affect timber-floating in the watercourses covered by this Convention. Any modifications or additions to these laws and regulations shall be communicated in good time to the other Contracting State.

Article 9

If differences of opinion should arise regarding the interpretation or application of the present Convention, it shall be referred for decision to a special commission, constituted on a basis of parity. The representatives on this commission shall be designated by the Governments of the two Contracting States.

175. CONVENTION¹ MODIFYING THE CONVENTION OF OCTOBER 28th 1922, BETWEEN FINLAND AND THE UNION OF SOVIET SOCIALIST REPUBLICS REGARDING THE FLOATING OF TIMBER DOWN WATERCOURSES FLOWING FROM FINNISH TERRITORY INTO THE TERRITORY OF THE UNION OF SOVIET SOCIALIST REPUBLICS AND VICE VERSA. SIGNED AT MOSCOW, OCTOBER 15th, 1933²

THE PRESIDENT OF THE REPUBLIC OF FINLAND and THE CENTRAL EXECUTIVE COMMITTEE OF THE UNION OF SOVIET SOCIALIST REPUBLICS, considering that the Convention of October 28th, 1922, regarding the floating of timber down watercourses flowing from Finnish territory into the territory of the Union of Soviet Socialist Republics and *vice versa* calls for certain amendments and amplifications, have decided to conclude the present Convention, embodying these amendments and amplifications . . .

I

Considering that it is to their common interest to simplify and expedite floating operations, the two Contracting States agree to amend the following Articles of the Convention of October 28th, 1922, and also to include in the Convention a new Article 3A, these Articles to read as follows:

Article 2

In the case of watercourses which, having their sources in the territory of one of the Contracting States, only cross the State frontier once, the floaters of the one Contracting State shall have the right to float timber into the territory of the other Contracting State along the shortest common floating route, and in accordance with the rules laid down in the laws and regulations in force in that State.

If the interests of the floaters of the one Contracting State require any operations to be carried out on the logging routes referred to in the present Article and situated in the territory of the other Contracting State, such operations may only be executed subject to observance of the laws and regulations in force in that territory. Requests for such work to be carried out shall be submitted by the organizations or persons concerned referred to in Article 3 of the present Convention to their Government Delegates, who will transmit these applications to the Delegates of the other Contracting State. The decisions adopted on such applications shall be notified to the applicants through the same Delegates. The Contracting States undertake to give favourable consideration to such applications.

Article 3

In the case of watercourses which, having their sources in the territory

¹ Came into force as from 13 March 1948, the date of the notification given to the Government of the Finnish Republic by the Government of the Union of Soviet Socialist Republics of the revival of the said Conventions, in accordance with article 12 of the Treaty of Peace with Finland, signed at Paris on 10 February 1947. (United Nations, *Treaty Series*, vol. 67, p. 155).

² League of Nations, *Treaty Series*, vol. 149, p. 267.

of one of the Contracting States, cross the State frontier at several points or form the frontier between the Contracting States, the floating of timber as from the point where the watercourses for the first time either cross the State frontier or become a frontier watercourse up to the point where the said system finally enters the territory of the other Contracting State, shall be effected in accordance with the rules in the present Article, and also in Article 3A. On the other sections of such watercourses the rules laid down in Article 2 of the present Convention shall be applied:

1. The general supervision of timber-floating over the various watercourses, the determination of the conditions governing such floating, the reconciliation of the interests of floaters with the interests of owners of areas of bank and waterway, and also the settlement of all questions relating to floating, shall devolve on the Delegates for timber-floating questions, one of whom shall be appointed by each Contracting State for a given waterways system.

Particulars of the surnames and Christian names of these Delegates and also of their permanent places of residence shall be exchanged through the diplomatic channel.

Each Delegate shall have the right, if he considers it necessary, to appoint a deputy holding the same rights as the Delegate and acting under his responsibility, and also one or more assistants who shall be responsible for settling routine questions of timber-floating. Delegates shall notify one another of the surnames and Christian names of such persons and also of their permanent places of residence.

Delegates and their assistants shall have the right to correspond direct with one another on all questions relating to timber-floating, and also, when on duty, to cross the State frontier on the strength of the service documents issued to them and *visé* by the frontier authorities of the Contracting States for specific periods.

2. The decisions of Delegates shall be taken unanimously.

Should differences of opinion arise between Delegates on questions requiring urgent settlement, they must immediately report the fact to their Governments, who shall take steps to settle the matter in dispute as promptly as possible through the diplomatic channel.

3. The maintenance in proper condition of logging channels, the execution of work for the improvement of such channels, the erection of permanent plant for timber-floating purposes, and also all steps for regulating timber-floating, shall be carried out in accordance with decisions taken jointly by Delegates. These decisions shall be adopted in the form of Minutes.

These Minutes shall, in particular, specify how logging channels should be constructed and how they should be maintained; how timber should be floated (whether by separate logs or in floats); whether, on a particular waterways system, rafting should be allowed only in mixed floats, or whether it is considered possible also to raft logs in individual consignments; how obstacles to the flow of water should be obviated and removed, etc.

Minutes certifying the necessity for carrying out operations involving financial outlay for the Contracting States, or likely to produce a dangerous rise in the water level, to impair the channel or to spoil fishing or fish-breeding, must be approved by the central organizations of the Contracting States dealing with timber-floating questions.

4. In the discharge of the duties devolving upon them, Delegates and

their assistants shall have the right to carry out the necessary inspections on the spot. If an impending inspection may lead to a decision likely to affect the interests of the owners of areas of the bank or waterway, the Delegate or his assistant must give notice of the proposed inspection to the persons concerned residing in the territory of his State, fourteen days at least before the inspection. These persons shall have the right to attend inspections and defend their interests.

5. If, in order to regulate, widen or improve the logging channel, it is necessary to acquire the right to utilise for timber-floating purposes an area of land or water owned by a third party, the question of the transfer of such area shall, if no amicable agreement on the subject is arrived at with its owner, be settled in accordance with the procedure laid down for the expropriation of property, in the interests of public utility, in the State in which the area in question is situated.

Note: The sections of the Timber-Floating Regulations drawn up in accordance with the provisions of the Convention of October 28th, 1922, that do not conflict with the present Convention shall remain in force unless Delegates agree to the complete abrogation of a particular Regulation.

Article 3A

The floating of timber over the watercourses referred to in Article 3 of the present Convention shall be carried out in accordance with the following rules:

1. Every timber owner shall annually, before January 1st, submit to his Government Delegate in duplicate preliminary particulars of the quantity of timber he proposes to prepare and transport over a particular waterways system during the ensuing logging season.

2. Every owner of timber to be floated shall, by March 1st, submit for the approval of his Government Delegate a full-size facsimile in duplicate of his mark. The design of the mark must be approved by both Delegates before use. It is absolutely essential for a timber owner to brand all timber rafted by him with his mark. This rule shall not apply to small lots of timber rafted by local owners or lessees of land over short distances and for their own domestic requirements.

If, notwithstanding the foregoing rule, timber not branded with an approved mark is brought on to watercourses, the Delegates may agree to sell such timber by public auction if the owner of such timber is not traced within a period of three months.

3. Every owner of timber must appoint on the territory of his State a representative to whom interested parties can refer in matters relating to the loss or damage caused to such parties by timber-floating. These representatives shall be appointed: in Finland, in every commune contiguous with a particular waterways system; and in the Union of Soviet Socialist Republics, in the district (*raion*) concerned. All communications between nationals of one Contracting State and the representatives of timber owners of the other Contracting State shall be passed through the Delegates or their assistants. Notice of the appointment of a representative and of his place of residence must be given by every timber owner before April 15th to the Delegate of his Government, who shall inform the Delegate of the other Contracting State.

Each Delegate shall notify the nationals of his State of the surnames and

Christian names of the above-mentioned representatives, their addresses and also the designs of marks approved for timber.

4. Every owner of timber to be floated must submit to his Government Delegate before April 15th final and detailed particulars of the quantity and quality of the timber he proposes to float in the current year over a particular waterways system, and also of the points where floating will begin and end.

5. Delegates shall communicate to one another the particulars referred to in paragraphs 1 to 4 of the present Article within 14 days after the expiry of the periods referred to in the said paragraphs.

If a timber owner does not submit these particulars, or submits them late, he may, at the discretion of the Delegates, be mulcted in a fine not exceeding 50% of the rafting dues payable by that owner.

If no rafting dues are levied on a particular waterways system, the said money fine shall be computed by the Delegates at a rate not exceeding 50% of the rafting dues which are current on the nearest waterways system and which would be payable on the timber of the said proprietor if he floated it down that waterways system.

The proceeds of such fines, together with those of the sale of the timber without approved brand-marks referred to in paragraph 2 of the present Article, shall be applied to defraying the cost of constructing and maintaining the logging channel.

6. Delegates must jointly discuss the plan and conditions of the next timber-floating season.

Delegates may on their own initiative or at the request of one of the timber proprietors convene a meeting of all proprietors interested in timber-floating over a given waterways system for joint discussion of questions concerning loading of logs on the said waterways system, of the order of rafting, of safeguarding the interests of individual timber-floaters when mixed floats are rafted, of timber-floating during intervals, etc.

If timber owners fail to agree, the points at issue shall be decided by the Delegates. If the latter cannot come to an agreement, timber shall be rafted for the joint account of all the proprietors. The Delegates shall lay down the conditions and the order of such rafting and delegate its execution either to their assistants or to persons specially appointed for the purpose.

7. Every timber proprietor may raft timber for his own account, except in the case referred to in the above paragraph.

Rafting must be carried out with the greatest possible despatch and in such a manner as to safeguard in the best possible way the interests of the owners of all the timber rafted; timber may be rafted at any season of the year when natural conditions permit.

When timber is rafted in floats, the latter must in those sections of the watercourses skirted by the State frontier and where the channels are sufficiently wide and deep, and where in general it is possible to do so without difficulty and extra expense, keep within the boundary of the State from which the timber came. In these sections of the waterways rafts may stop near the shores of the other Contracting State and crews land on the bank only in cases of *force majeure* (rafts driven into the bank by the wind, break up of rafts, rafts stranded on a shoal, etc.). In such cases, raftsmen must stay where they land and do their best to send the rafts on their way as soon as possible. Representatives of the Frontier Guard of the Contracting States must in such cases give raftsmen the necessary assistance.

If several timber floaters raft timber simultaneously over one and the same waterways system, each must take care to see that his timber is so rafted as not to cause avoidable obstruction or inconvenience to the other. In particular, the unloading of rafted timber at the terminal points of rafting situated near the State frontier must be carried out without delay and in the shortest possible time. If negligence is shown in this respect and duly proved by the Delegates, the guilty party shall be bound to make good the loss and damage sustained as a result of delay in rafting.

8. If the Delegates agree that rafting must be carried out by the labourers of the Contracting Party through whose territory part of the rafting is being effected, such labourers must be supplied by the Delegate or his assistant for the whole period of rafting through such territory.

9. During timber-floating, raftsmen shall be permitted to place booms and other temporary rafting erections at such points where this is necessary for carrying out rafting or preventing damage. These booms and erections must not hinder the flow of water or the passage of fish towards their spawning-places and fisheries and must also not materially obstruct traffic on watercourses.

Cross-booms may be erected when logs are floated separately, but on condition that they are not placed near villages or points where they might cause a considerable rise in the water-level.

Bridges, landing-stages, bathing-places and other erections on watercourses must be protected so far as necessary during the rafting season by devices safeguarding them against damage.

10. Timber, the rafting of which is completed within one year from the date of felling, may be floated with the bark on. Other timber must have the bark removed, unless for special reasons the timber floater has been released from this obligation. The bark must be removed in such a place and in such a manner that it does not fall into the watercourses.

11. Subject to observance of the provisions of Article 7 of the present Convention, labourers engaged in timber-floating shall be entitled to land and remain on the bank of the other Contracting State:

(1) In order to carry out the operations referred to in the present Convention (paragraphs 6, 9, 12-15 of the present Article);

(2) For timber-floating purposes, more particularly for the erection of timber-floating installations, controlling the movement of logs, protecting timber from breakage and jamming, clearing the banks and logging-channels of timber, timber-floating refuse, etc.; and also

(3) Where necessary, for executing the decisions of the Delegates.

Nevertheless, landing on the bank and the crossing of yards, gardens, parks and store premises shall only be permitted where it is impossible to avoid this by means of rafting devices or other methods.

When within the 100-metre zone, referred to in Article 7 of the present Convention, on the bank of the other Contracting State, the labourers must as far as possible, utilise the roads and paths in that zone.

12. As soon as they have noticed it or after they have been informed thereof, timber floaters must immediately remove the timber that has collected on rapids, that has been cast up by the stream on the shore and also timber that is submerged or on the point of sinking, so far as this would result in obstructing the watercourses or inconveniencing traffic or fishing.

Should no such consequences result, the timber must be removed before the end of the same year.

Pieces of timber submerged or on the point of sinking must be piled on the nearest bank at points where they will cause no damage or inconvenience.

13. Timber floaters must be careful to see that ferries are able to cross watercourses and must also assist other forms of transport on watercourses, if the rafting devices or the timber rafted hinder traffic.

To ensure traffic movement on waterways, timber floaters must, where necessary, arrange suitable openings in their booms.

14. Timber floaters shall be authorized, while rafting is proceeding, to take down any fencing or parts thereof adjacent to watercourses which obstruct rafting operations. In doing so, care must be taken not to do them any damage. After the rafts have passed, the replacement of the fencing and parts thereof in their previous position shall be effected or arranged by the timber floaters.

15. All waste from rafting operations (splinters, bark, branches, twigs, etc.), and also logs left on the bank, must be secured against the possibility of their being carried into watercourses, and when floating operations are completed they, and also all other refuse, must be cleared away and removed from the banks beyond the highest level of the spring floods.

When rafting operations are completed, the logging channels and their banks must be cleared of the stray timber left by rafting.

16. The Delegates of the Contracting States shall inform one another of the completion of all timber-floating operations after the shore zones have been cleared.

17. The cost of maintaining and improving logging channels shall be defrayed by the Contracting States in the manner agreed upon between the Delegates of the two Parties of a given waterways system. These costs shall be refunded by the owners of the timber floated down in the form of a special rafting fee, fixed for each waterways system in the manner laid down in Article 3, paragraph 3, of the present Convention.

The amounts due by the owners of floated timber shall be paid by the latter, before timber-floating starts, to the Delegate of their State. On the completion of floating Delegates shall settle accounts between themselves in proportion to the expenses which each of the Contracting States has borne for a given waterways system. These settlements must be completed not later than December 1st of the current year.

The owners of the timber floated must also pay for the various services rendered to them with their consent during rafting (supply of materials, labour, etc.). Payment of these expenses must be made within 10 days of the corresponding service being rendered. Delegates shall have the right to fix other time-limits for the payment of expenses, in the event of the provisions of paragraph 8 of the present Article being applied.

18. Timber floaters shall participate in overhead expenses in proportion to the number of kilometres traversed and the quantity of timber rafted by them in the rafting season in question.

The Delegates shall fix the quantity of timber regarded as the rafting unit for the assessment of the amount due in respect of the above expenses.

19. The damage caused by landing on banks, by floating operations or circumstances connected therewith must be refunded to the injured party by the owner of the timber direct if in his own State, and through the

Delegate of his own Government or his assistant if in the other Contracting State.

If no agreement is arrived at between the Parties concerned regarding the amount of compensation and the method of payment, these damages shall be assessed by a Valuation Commission consisting of three reputable persons. Each Delegate shall appoint one member of the Commission and the members thus appointed shall jointly select two Chairmen: one for assessing the damage done on the territory of the Union of Soviet Socialist Republics and the other for assessing the damage done on the territory of Finland. Should disagreement arise on the question of the appointment of Chairmen, the latter shall be nominated by the Delegates by joint agreement. If the Delegates are also unable to come to an agreement, each Government shall appoint a Chairman to assess the damage done on its territory. The decisions of the Valuation Commission shall be final and binding on the parties concerned. Each Commission shall start work immediately timber-floating ceases at the place where damage has been done.

The members of the above Commission may cross the State frontier in the discharge of their duties on the strength of appropriate certificates issued by the frontier authorities of their State, in the manner laid down for the crossing of the frontier by Delegates.

20. In the case of all settlements of account effected in virtue of the provisions of the present Convention, the corresponding amounts shall be reckoned in U.S.A. gold dollars and be paid in the currency agreed upon by the Delegates.

21. Disputes connected with timber-floating which cannot be settled by agreement between the Delegates and which are not covered by other provisions in the present Convention, shall be referred for settlement through the diplomatic channel.

Article 7

The officials and labourers engaged on timber-floating operations who are compelled, owing to the nature of their work, to stay in the territory of the other Contracting State shall, in the event of a special agreement regarding passports being concluded between the Union of Soviet Socialist Republics and Finland, enjoy the facilities laid down in that agreement.

Pending the conclusion of such an agreement, the following rules shall apply:

1. A list certified by the frontier authorities, giving the names of timber-floating officials and labourers who have to cross the State frontier, shall be submitted to the nearest authorized local frontier passport control authorities of the other Contracting State in good time before the frontier is crossed. The certificates issued by the frontier authorities of both States shall also be accepted as passports in addition to the ordinary passports. All changes in the list of officials and labourers shall similarly be notified weekly.

2. Timber-floating officials and labourers may not go farther than 100 metres from the line of bank existing at the time of timber-floating. Frontier-crossing-points shall in each particular case be fixed by common agreement between the Delegates or their assistants.

Note. The present rules shall also apply to labourers engaged in making the logging channel.

II

The present Convention shall form an integral part of the Convention of October 28th, 1922, and shall come into force immediately after it is ratified by both Contracting States.

FINAL PROTOCOL

In connection with the provisions of the Convention signed to-day modifying the Convention of October 28th, 1922, regarding the floating of timber down watercourses flowing from Finnish territory into the territory of the Union of Soviet Socialist Republics and *vice versa*, the Plenipotentiaries of the Contracting States have agreed as follows:

Ad Article 1 of the Convention of October 28th, 1922

The right to float timber as far as the sea also includes the right to the use, at the point where the river enters the sea, of a suitable plot of ground for sorting and piling timber floated down separately. If at such point there is no plot of land allocated for the joint use of timber floaters, the timber floater of the other Contracting State shall have the right to lease such a plot, and for this purpose the Delegate of the State in which the mouth of the river is situated shall give the necessary assistance.

Ad Article 3, Point 1

1. Each Delegate shall appoint as his deputy and assistants either officials responsible for timber-floating questions or members of the State Frontier Guard, or representatives of collective farms or timber merchants or private individuals.

2. The crossing of the State frontier by Delegates and their assistants shall be effected as far as possible at the points where the frontier guards are posted and after due notice to the latter. The term of validity of visas for the crossing of the State frontier shall be three months, unless the Delegates jointly agree to other periods.

Ad Article 3, Point 3

1. On rivers which flow along the State frontier, the logging channel may, at the discretion of the Delegate of each Contracting State, be cleared of stones and other objects that have fallen into it, if these operations do not have the effect of altering the watercourses; notice for the purpose must be given at least five days in advance to the Delegate of the other Contracting State or his assistant.

2. The Contracting States interpret paragraph 3 of the aforesaid point to mean that the point does not in the nature of things refer to minor routine expenditure defrayed out of the amounts received by Delegates from timber floaters.

Ad Article 3, Point 4

Delegates shall be bound to give the owners of areas of bank and waterway and also tenants of the same at least 14 days' notice of an inspection, but

only in the case of inspections undertaken in order to arrange for new logging channels, to assess the damage done to the owners or tenants of plots, or to acquire, for timber-floating purposes, from the said persons property belonging to them or to restrict the use of such property.

As regards other inspections, the prescribed period of notice, if any, may be shortened in emergencies.

Ad Article 3A, Point 19

The owners and tenants of areas of bank or waterway shall be entitled to compensation for loss or damage due to the construction of a logging channel or to the actual floating of timber itself, but may not claim payment for the fact that timber is floated through their property.

In adopting the foregoing provisions, the Plenipotentiaries of the Contracting States agree that neither the present Convention nor the Convention of October 28th, 1922, may be interpreted as modifying in any way the general procedure for settling frontier incidents and disputes strictly so called as laid down in the Agreements at present in force between Finland and the Union of Soviet Socialist Republics. . . .

176. ADDITIONAL PROTOCOL¹ BETWEEN THE UNION OF SOVIET SOCIALIST REPUBLICS AND FINLAND CONCERNING COMPENSATION FOR LOSS AND DAMAGE AND FOR THE WORKS TO BE CARRIED OUT BY FINLAND IN CONNECTION WITH THE IMPLEMENTATION OF THE AGREEMENT OF 29 APRIL 1959 BETWEEN THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS, THE GOVERNMENT OF FINLAND AND THE GOVERNMENT OF NORWAY CONCERNING THE REGULATION OF LAKE INARI BY MEANS OF THE KAITAKOSKI HYDRO-ELECTRIC POWER STATION AND DAM, SIGNED AT MOSCOW, ON 29 APRIL 1959²

The Government of the Soviet Union and the Government of Finland having signed this day the Agreement concerning the regulation of Lake Inari by means of the Kaitakoski hydro-electric power station and dam,² have agreed as follows:

Article 1

In consideration of such loss and damage as have been or may be caused to the lands, waters, structures or other property of any kind belonging to the State, communes and private persons and bodies of Finland as a result of the regulation of Lake Inari under the Agreement of 24 April 1947 and the Agreement concluded this day, and as payment for the works which have been and are to be carried out by the Finnish Ministry under the Regula-

¹ Came into force on 29 April 1959 by signature, in accordance with article 2.

² United Nations, *Treaty Series*, vol. 346, p. 212.

tions referred to in article 2 of the said Agreements, the Government of the Soviet Union has paid to the Government of Finland a lump sum of seventy-five million (75,000,000) Finnish markkaa.

The Government of the Soviet Union is consequently exonerated of all responsibility to the State, communes, individuals and corporate bodies of Finland for the loss and damage referred to in the first paragraph of this article and for the works which have been and are to be carried out by the Finnish Ministry under the Regulations referred to in article 2 of the said Agreements. The Finnish Ministry assumes all such responsibility to the said authorities, persons and bodies.

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177. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC OF FINLAND AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS CONCERNING THE REGIME OF THE FINNISH-SOVIET STATE FRONTIER AND THE PROCEDURE FOR THE SETTLEMENT OF FRONTIER INCIDENTS. SIGNED AT HELSINKI, ON 23 JUNE 1960²

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PART II

REGULATIONS GOVERNING THE USE OF FRONTIER WATERS AND OF RAILWAYS AND MAIN AND OTHER ROADS INTERSECTING THE FRONTIER LINE

ARTICLE 11. 1. In the case of all rivers intersected by the frontier line and of lakes and coastal bays along which the frontier line runs, a strip of water 100 metres wide on either side of the frontier line shall be deemed to be frontier waters.

2. Those sections of rivers and the narrow sections of lakes along which the frontier line runs shall be deemed to be frontier waters in their entirety.

. . .

ARTICLE 15. The Contracting Parties shall ensure that the frontier waters are kept clean and are not artificially polluted or fouled in any way. They shall also take measures to prevent wilful damage to the banks of frontier waters.

ARTICLE 16. The Contracting Parties shall take appropriate measures to ensure that in the use of frontier waters the provisions of this Agreement are observed and the relevant rights and interests of the other Contracting Party are respected.

¹ Came into force on 5 October 1960. This Treaty replaces the one concluded between the two countries and concerning the regime of the Finnish-Soviet State Frontier, signed at Moscow on 9 December 1948 (United Nations, *Treaty Series*, vol. 217, p. 158).

² United Nations, *Treaty Series*, vol. 379, p. 330.

2. Where failure to comply with the requirements of paragraph 1 occasions material loss to one Contracting Party, compensation for that loss shall be paid by the Party to whose negligence the loss is attributable.

ARTICLE 17. The competent authorities of the Contracting Parties shall, as far as possible, exchange such information concerning the water level, water volume and ice conditions in frontier waters as might avert danger from flooding or from drifting ice. In addition, the said authorities shall, as necessary, agree on a regular system of signals during periods of high water or drifting ice.

ARTICLE 18. This Agreement shall not affect the floating of timber in frontier waters nor traffic on railways, main roads and waterways intersecting the frontier line; such matters shall be settled by special agreement between the Contracting Parties.

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PART III

FORESTRY, FISHING, HUNTING AND MINING

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ARTICLE 21. 1. Nationals of the two Contracting Parties may fish in frontier waters up to the frontier line in accordance with the regulations in force in their respective territories, but shall be prohibited from:

- (a) Using explosive, poisonous or narcotic substances or resorting to other means that result in the large-scale destruction or mutilation of fish;
- (b) Fishing in frontier waters at night.

2. The preservation and breeding of fish in frontier waters, prohibitions against the catching of fish of particular species in specified areas, fishing seasons and other measures concerning fishing may be regulated by special agreement between the relevant authorities of the Contracting Parties.

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France-Germany

178. TRAITÉ¹ ENTRE L'ALLEMAGNE ET LA FRANCE PORTANT DÉLIMITATION DE LA FRONTIÈRE, SIGNÉ À PARIS, LE 14 AOÛT 1925²

[L'article premier reproduit l'article 27 et 51 du Traité de Versailles qui rétablit la frontière du 18 juillet 1870.]

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¹ L'échange des instruments de ratification a eu lieu le 15 mai 1928.

² Société des Nations, *Recueil des Traités*, vol. 75, p. 104.

ARTICLE 13. Aucune modification ne pourra être apportée soit au tracé, soit au classement des chemins, des canaux et des cours d'eau non navigables formant frontière, aucun établissement ou changement essentiel de barrage, d'installation ou construction quelconque susceptible de modifier le régime des eaux ne pourra être entrepris, sans entente préalable entre les Hautes Parties contractantes.

ARTICLE 14. Les installations actuelles ou à établir en vue de l'utilisation normale des cours d'eau non navigables et des canaux de décharge formant frontière ne doivent pas entraver le passage des eaux ni en diminuer le débit au point qu'il puisse en résulter un préjudice grave pour les riverains d'aval.

Cette clause s'applique également aux cours d'eau et canaux qui, sans former frontière, la traversent ou se déversent dans un cours d'eau frontière.

ARTICLE 15. Aucune modification n'est apportée aux dispositions spéciales qui régissent l'utilisation et l'entretien des conduites d'eau traversant la frontière et des constructions qui s'y rapportent.

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. . .

ARTICLE 42. Les travaux d'entretien et de curage des cours d'eau non navigables et des canaux de décharge formant frontière seront exécutés simultanément de l'une et de l'autre rive à la diligence des personnes physiques ou morales auxquelles incombe cette obligation et conformément aux règlements et usages locaux.

La liste de ces cours d'eau et canaux est donnée à l'Annexe VI.

ARTICLE 43. Les cours d'eau et canaux qui, sans former frontière, traversent celle-ci ou se déversent dans un cours d'eau frontière, devront toujours être maintenus dans un état d'entretien tel que leur régime habituel soit assuré.

ARTICLE 44. Les Hautes Parties Contractantes prendront, chacune en ce qui la concerne, les mesures d'hygiène nécessaires pour assurer la pureté et la salubrité des eaux des cours d'eau et canaux visés dans les articles 42 et 43.

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France-Germany (Federal Republic of)

179. TRAITÉ¹ ENTRE LA RÉPUBLIQUE FRANÇAISE ET LA RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE SUR LE RÈGLEMENT DE LA QUESTION SARROISE, SIGNÉ À LUXEMBOURG, LE 27 OCTOBRE 1956²

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¹ Entré en vigueur le 1^{er} janvier 1957, conformément à l'article 97 du Traité.

² *Journal officiel de la République française*, quatre-vingt neuvième année, n° 8, 10 janvier 1957, p. 460.

ANNEXE 8

NAVIGATION FLUVIALE

Titre 1^{er} : Infrastructure et régime des eaux

ARTICLE 6. 1. La pêche, dans la partie de la Sarre formant cours d'eau frontière, appartient à la France en amont du kilomètre 70,270 (kilométrage rive gauche) et à la République Fédérale d'Allemagne en aval de ce point.

2. Les deux Gouvernements s'emploient à ce que les règlements concernant la police et l'exercice de la pêche, ainsi que le repeuplement en poisson et la protection de celui-ci, applicables dans la partie de la Sarre formant cours d'eau frontière, se correspondent dans toute la mesure du possible.

ARTICLE 7. 1. Dans la zone inondable de la partie commune de la rivière Sarre formant frontière aucun ouvrage principal ou accessoire ne peut être établi qu'après accord entre les administrations compétentes des deux pays. La même procédure est appliquée pour toutes modifications notables apportées à un ouvrage pour autant que ces changements puissent avoir une influence sur l'écoulement des crues.

2. Chacun des deux Gouvernements exerce la police fluviale dans la partie de la Sarre située sur son territoire. Les autorités compétentes des deux pays s'apportent mutuellement leur concours à cet effet.

3. L'utilisation normale de l'eau, telle qu'elle résulte de la réglementation en vigueur dans le pays d'utilisation, est libre dans la partie de la rivière Sarre formant frontière. Toute utilisation ne remplissant pas les conditions précédentes nécessite, à partir de la date d'entrée en vigueur du traité, l'accord réciproque des deux Gouvernements.

ARTICLE 8. Les deux Gouvernements prennent, chacun dans le domaine de sa compétence, les mesures nécessaires en vue d'assurer la pureté et la salubrité des eaux de la Sarre. Ils prennent les mêmes engagements en ce qui concerne les affluents de la Sarre. Ils encourageront la constitution de groupements ou d'associations ayant pour objet de maintenir la salubrité des eaux.

ARTICLE 9. 1. Les autorités compétentes des deux pays maintiennent un service d'annonce du niveau des eaux de la Sarre et des conditions de navigabilité sur cette rivière.

2. La transmission d'une cote d'alerte prise sur le cours supérieur de la Sarre par la station de Sarrebourg déclenche le fonctionnement du service d'annonce des crues de la Sarre à Sarrebruck. A partir de ce moment les services d'annonce compétents restent constamment en relations jusqu'à transmission, par la station de Sarrebruck, de l'avis de fin d'alerte.

3. En vue d'assurer la transmission rapide des avis, la République Fédérale d'Allemagne maintient entre le service compétent de Sarreguemines et le service de la navigation de Sarrebruck une ligne téléphonique spéciale.

Celle-ci, placée sous forme de câble le long du chemin de halage, se trouve donc en amont du point kilométrique 75,617 (kilométrage rive gauche) sur le sol français.

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180. CONVENTION¹ ENTRE LA RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE ET LA RÉPUBLIQUE FRANÇAISE SUR L'AMÉNAGEMENT DU COURS SUPÉRIEUR DU RHIN ENTRE BÂLE ET STRASBOURG ET PROTOCOLE ANNEXÉ À LA CONVENTION, SIGNÉE À LUXEMBOURG LE 27 OCTOBRE 1956²

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Section A

DESCRIPTION GÉNÉRALE ET PRINCIPES

Article 1

(1) L'aménagement du Rhin à l'aval du bief de Vogelgrün et jusqu'à Strasbourg sera composé de quatre biefs: Marckolsheim, Sundhouse, Gerstheim et Strasbourg; chacun d'eux comprendra:

1° A un endroit favorable du cours du fleuve, aux environs de la moitié du bief, un barrage de retenue;

2° Une partie en amont du barrage, dans le lit du fleuve, limitée par des digues revêtues;

3° Une partie à l'aval sur la rive gauche du fleuve, constituée par un canal de dérivation sur lequel seront établis l'usine hydro-électrique, les écluses et garages annexes (partie analogue au projet actuel du Grand Canal d'Alsace);

4° Un raccordement au Rhin.

(2) Cet aménagement laisse subsister, à l'aval de chaque barrage, une section de fleuve à laquelle s'appliquent les dispositions de l'article 8 ci-après.

Article 2

(1) L'aménagement sera exécuté par la France. Il sera conçu et réalisé par elle de la manière la plus rationnelle et de façon à obtenir un rendement économique maximum dans la production de l'énergie électrique en étudiant, en particulier, l'intérêt, d'une part de dragages à l'amont des retenues et, d'autre part, de l'augmentation du débit dérivé, il devra être exécuté conformément aux résolutions de la Commission Centrale pour la Navigation du Rhin en ce qui concerne les ouvrages de navigation.

(2) L'aménagement doit être entrepris sans délai et exécuté avec la plus grande diligence.

¹ Entre en vigueur le 31 décembre 1956 par l'échange des instruments de ratification.

² Le Ministre Fédéral de la Justice de la République Fédérale d'Allemagne, *Bundesgesetzblatt Nr. 36*, 1956, Partie II, p. 1864.

Article 3

Au fur et à mesure de leur établissement, les projets seront communiqués sans délai à la Commission Centrale pour la navigation du Rhin.

Article 4

(1) Chacune des parties contractantes prendra à sa charge sur son territoire l'adduction des affluents et des vieux-Rhin dans les contre-canaux qui suivront les digues latérales de retenue.

(2) Chacune des parties contractantes prendra également à sa charge, sur son territoire, les mesures nécessaires afin d'éviter sur sa rive tout dommage du fait de variation de niveau de la nappe phréatique.

Article 5

Les parties contractantes institueront un Comité Technique paritaire composé de Représentants de chaque Gouvernement, assistés d'experts (Comité A). Ce Comité sera tenu informé en temps utile des plans généraux, des programmes d'exécution et des états d'avancement des travaux. Il pourra présenter toutes observations utiles avant le commencement des travaux, il suivra par ailleurs l'exécution de ceux-ci.

Article 6

(1) La République Fédérale d'Allemagne reconnaît à la France les droits d'appui et de passage sur tous les terrains situés sur la rive droite qui seront nécessaires aux études, à la construction et à l'exploitation des ouvrages.

(2) La République Fédérale mettra à la disposition de la France les terrains devant être occupés à titre temporaire ou à titre définitif sur son territoire pour la réalisation des travaux.

(3) Les occupations devront pouvoir intervenir dans un délai maximum de trois mois après la demande qui sera adressée par le Gouvernement français, en ce qui concerne le bief de Marckolsheim. Ce délai pourra être augmenté pour les biefs suivants, après examen par le Comité A, compte tenu du Droit allemand en matière d'occupation temporaire et d'expropriation.

Article 7

(1) Sans préjudice du droit de souveraineté administrative de la République Fédérale d'Allemagne, la France, qui exploitera les barrages de retenue, aura la charge de l'entretien de ces barrages sur toute leur longueur.

En ce qui concerne les digues latérales et les berges sur la rive allemande, leur entretien sera assuré:

a) Par les soins du Gouvernement français sur une longueur de 200 mètres tant à l'amont qu'à l'aval de chaque barrage;

b) Par les soins du service allemand compétent à l'amont de chaque barrage sur le reste de la longueur; cet entretien sera effectué dans les meilleurs délais, pour le compte du Gouvernement français, conformément aux dispositions que celui-ci fera connaître au service précité.

La République Fédérale pourra, en cas de péril imminent, prendre toutes mesures d'urgence en vue de sauvegarder la sécurité publique.

Les contre-canaux de décharge et les ouvrages réalisés par les parties

contractantes sur ces contre-canaux seront entretenus aux frais et par les soins de chacun des Gouvernements sur son territoire.

(2) La République Fédérale a le droit d'autoriser des installations nouvelles sur la rive allemande en bordure de la retenue de chaque bief. Toutefois, les projets correspondants devront être soumis au Comité A qui ne pourra s'opposer à leur exécution que dans le cas où celle-ci entraînerait des inconvénients pour la tenue et l'exploitation de l'aménagement hydro-électrique.

Article 8

(1) Après la mise en service de chaque dérivation, il sera établi dans le lit du Rhin, à l'aval du barrage de retenue, des seuils fixes judicieusement placés en vue de maintenir en moyenne dans le profil en long du fleuve, entre deux seuils successifs, le plan d'eau à son niveau actuel; toutefois et sous réserve d'un accord entre les deux parties contractantes, ces seuils fixes pourront avoir pour objet, sur certaines sections, de modifier le niveau actuel du plan d'eau, à la condition que les effets des modifications soient favorables sur l'une et l'autre rive. A l'égard des crues, la situation actuelle ne devra pas être aggravée.

(2) Dans la mesure où des seuils fixes ne rempliraient pas les buts précités, des ouvrages appropriés, par exemple mobiles, seront établis.

Article 9

(1) A l'aval du barrage de Kembs et jusqu'à la restitution de l'usine de Vogelgrün, le débit réservé est fixé à 50 m³/sec. Toutefois, dans la période qui s'écoulera jusqu'à la mise en service de l'usine de Vogelgrün et dans celle qui suivra l'achèvement de la construction du ou des barrages agricoles de Brisach, le débit réservé est ramené à 30m³/ sec. pour autant que cela n'affectera pas gravement les intérêts généraux des zones riveraines de l'une ou l'autre des parties contractantes. Le Comité A établira d'autre part les conditions d'un régime d'hiver à 20 m³/sec. pour tenir compte des besoins d'énergie électrique et sous la même réserve.

Sur ce tronçon et dans la limite d'un débit maximum de 6 m³/sec., la République Fédérale pourra permettre que des eaux soient prélevées pendant la période de végétation et en vue d'irrigation, sur le débit réservé.

(2) Dans la partie de l'aménagement visée à l'article 1, le débit réservé est fixé à 50 m³/sec. tant que, dans un bief, n'aura pas été créée à l'aval du barrage de retenue une suite ininterrompue de plans d'eau créés par les ouvrages prévus à l'article 8. Dès qu'il en sera ainsi dans un bief, le débit réservé sera fixé pour ce bief à 15 m³/sec. pour autant que cela n'affectera pas gravement les intérêts généraux des zones riveraines de l'une ou l'autre des parties contractantes; toutefois, le Comité A établira, d'autre part, les conditions d'un débit réservé plus faible pour tenir compte des besoins d'énergie électrique et sous la même réserve.

(3) Sur tout le cours du Rhin, la République Fédérale pourra autoriser des prélèvements d'eau à usage industriel. Les conditions en seront fixées par le Comité A. A l'aval des barrages de retenue et jusqu'au point de restitution correspondant, ces prélèvements seront pris sur le débit réservé.

Article 10

(1) Après la mise en service du bief de Vogelgrün, la République Fédérale construira à bref délai à l'amont de Brisach un ou deux barrages

agricoles. Le Gouvernement français donnera l'autorisation pour la construction, sur son territoire, de ces ouvrages et mettra à la disposition de la République Fédérale les terrains nécessaires. Lesdits ouvrages ne devront causer aucun dommage agricole sur la rive française. Les projets seront soumis au Comité A, ainsi que les règlements d'exploitation.

(2) La République Fédérale supportera intégralement les charges de construction, d'exploitation et d'entretien de ces ouvrages.

Article 11

(1) La France a le droit exclusif à l'énergie produite.

(2) Les dépenses d'exécution de l'aménagement, tel qu'il est défini aux articles 1 et 8, sont intégralement prises en charge par la France.

(3) En contre partie du supplément de dépenses entraîné par la modification du projet initial, la France n'est tenue de faire à la République Fédérale d'Allemagne aucun paiement au titre de l'énergie produite par les usines construites ou à construire de Bâle à Strasbourg.

Section B

PROBLÈMES RELATIFS À LA FRONTIÈRE

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Article 16

(1) Les personnes chargées de la surveillance technique, de l'exploitation et de l'entretien du barrage ont, pour remplir leurs fonctions, le droit de franchir la frontière sur le barrage et de séjourner sur les ouvrages situés en territoire allemand entre la frontière et la grille.

(2) Les personnes désignées à l'alinéa 1 ci-dessus doivent, dans l'exercice de leurs fonctions en territoire allemand, porter sur elles un document établissant leur qualité et le produire à toute réquisition.

Article 17

(1) Sans préjudice du droit de souveraineté administrative de la République Fédérale, l'exploitation, l'entretien et la surveillance technique du barrage, des ouvrages et installations accessoires, existant sur le territoire allemand, sont assurés par les agents de l'exploitant conformément aux règlements techniques arrêtés par les services français. Ces règlements seront communiqués à l'autorité allemande.

(2) La République Fédérale donnera aux agents de l'exploitant toutes facilités nécessaires à l'accomplissement de leurs missions au-delà de la grille de clôture Est; ces facilités feront l'objet d'un accord particulier.

Article 18

Les parties contractantes ne prélèveront aucun droit d'importation ou d'exportation sur les matériaux, les matières premières et le matériel exportés de l'un des Etats vers l'autre et destinés à la surveillance, à l'exploitation, à l'entretien ou à la conservation du barrage, des ouvrages et des installations accessoires situés des deux côtés de la frontière; elles laisseront passer lesdits

produits libres d'interdiction ou restrictions économiques d'importation ou d'exportation.

Article 19

(1) Les dispositions des articles 12 à 18 relatifs à Kembs sont de façon analogue applicables aux biefs de Marckolsheim, Sundhouse, Gerstheim et Strasbourg, pour autant qu'elles ne sont pas en contradiction avec celles de l'article 7.

(2) Les dispositions de l'article 18 seront étendues aux matériaux, aux matières premières et au matériel utilisés pour la construction de ces derniers biefs.

Section C

INDEMNISATIONS

Article 20

Des indemnités équitables seront versées par la République Fédérale aux propriétaires de fonds grevés de servitudes ou définitivement occupés d'une autre manière par les travaux. Elles seront remboursées par la France à la République Fédérale.

Article 21

Les dispositions de l'article 20 sont également applicables au bief de Kembs.

Article 22

La France versera à la République Fédérale des indemnités équitables pour les dommages causés par les biefs de Kembs à Vogelgrün inclus, autres que ceux résultant des travaux d'amélioration ou de la correction du Rhin réalisés au siècle dernier.

Article 23

Pour les biefs de Marckolsheim à Strasbourg qui seront réalisés conformément aux dispositions des articles 1, 2 et 8 de la présente convention, la République Fédérale ne pourra prétendre de la part de la République Française à aucune indemnisation de réparation de dommages. Cette disposition n'exclut pas la possibilité de demander réparation pour des dommages résultant d'inadvertances du personnel ou de défaillances des installations.

Article 24

Les parties contractantes institueront un Comité paritaire composé de représentants de chaque Gouvernement, assistés d'experts (Comité B). Ce Comité sera chargé d'examiner les difficultés éventuelles relatives à l'application des articles 20 et 21 et de déterminer le montant des indemnités prévues aux articles 22 et 23.

Section D

PROCÉDURE ARBITRALE

Article 25

Les différends relatifs à l'interprétation ou à l'application de la présente Convention seront, dans la mesure du possible, réglés par les autorités compétentes des deux parties contractantes.

Article 26

Au cas où un différend ne pourrait être réglé de cette manière, il sera soumis à un tribunal arbitral à la requête de l'une des parties. Le Tribunal arbitral sera en particulier saisi des cas sur lesquels les Comités visés aux articles 5 et 24 n'auront pu se mettre d'accord.

Article 27

Le Tribunal arbitral sera composé dans chaque cas de la façon suivante: chaque partie contractante nommera un représentant et les deux représentants ainsi nommés désigneront d'un commun accord un tiers-arbitre appartenant à un Etat tiers. Si les représentants et le tiers-arbitre n'ont pas été désignés dans un délai de trois mois après que l'une des parties contractantes aura fait connaître son intention de saisir le tribunal arbitral, chaque partie contractante pourra, en l'absence de tout autre accord, demander au Président de la Cour Internationale de Justice de procéder aux nominations nécessaires. Au cas où le Président aurait la nationalité de l'une des parties contractantes, ou serait empêché pour un autre motif, le Vice-Président serait chargé de procéder aux nominations nécessaires.

Article 28

Le Tribunal arbitral statue à la majorité des voix. Ses décisions lient les parties. Chaque partie contractante supporte les frais exposés par son représentant. Les autres frais sont supportés à parts égales par les parties contractantes. Sur tous les autres points, le tribunal arbitral règle lui-même sa procédure.

PROTOCOLE ANNEXE À LA CONVENTION

Article 1

Pour l'application de l'article 22, bien que les experts allemands estiment, contrairement aux experts français, que la construction du canal d'Alsace pourra causer des dommages aux cultures, il est entendu que ces dommages éventuels ne donneront lieu ni à discussions ni à indemnités.

Article 2

(1) Pour l'application de l'article 23, il est entendu que les seuils prévus à l'article 8 pour les biefs de Marckolsheim à Strasbourg seront construits, sauf cas de force majeure constatés par le Comité A, dans un délai maximum de deux ans à partir de la dérivation de la navigation dans chaque bief.

Dans le cas où au lieu d'un seuil un autre ouvrage, par exemple mobile, serait reconnu nécessaire, le délai ci-dessus pourrait être augmenté en fonction de l'importance de cet ouvrage par le Comité A.

Si ces délais ne sont pas respectés, des dommages éventuels pourront être admis par dérogation aux dispositions de l'article 23. Le montant des dédommagements sera déterminé par le Comité B.

(2) L'article 23 n'exclut pas l'indemnisation de dommages occasionnels, directs, matériels et certains causés pendant l'exécution des travaux sur le lieu et dans le cadre de ces travaux.

Article 3

Pour l'application de l'article 24, il est entendu que le Comité B se conformera aux décisions prises le 16 mars 1956 par la Sous-Commission III de la Commission d'Etudes franco-allemande pour l'aménagement du Rhin, ainsi qu'au rapport des Experts en date du 25 mai 1956 concernant la pisciculture.

France-Italy

181. ACCORD PROVISOIRE¹ ET ÉCHANGE DE NOTES ENTRE LA FRANCE ET L'ITALIE RELATIF AU FONCTIONNEMENT DE L'USINE DE GRAN SCALA, SIGNÉ À ROME, LE 12 JANVIER 1955²

Le Gouvernement de la République Italienne et le Gouvernement de la République Française,

Considérant la nécessité de régler les problèmes techniques relatifs au fonctionnement de l'usine de Gran Scala,

Considérant l'opportunité de réserver les questions de fait et de droit actuellement pendantes,

Considérant qu'il convient de ne pas préjuger la solution définitive qui serait éventuellement recherchée par les deux Gouvernements en ce qui concerne le sort de l'usine,

Considérant que la dérivation en Italie de l'énergie produite par l'usine de Gran Scala peut intervenir par application de l'article 27 de la loi française du 16 octobre 1919 et du Traité du 10 février 1947, sont convenus des dispositions suivantes:

ARTICLE 1. Sous réserve de la couverture des besoins locaux en électricité, toute l'énergie produite par la Centrale de Gran Scala est réservée à l'Italie.

ARTICLE 2. Le Gouvernement italien assure le fonctionnement des installations hydroélectriques actuelles du Mont-Cenis, y compris l'usine

¹ Entré en vigueur le jour de sa signature, ses dispositions prenant effet rétroactivement à dater du 1^{er} avril 1948, conformément aux dispositions de l'article 5 de l'Accord.

² *Gazzetta Ufficiale della Repubblica Italiana*, 97^e année, n° 13, 17 janvier 1956, p. 162.

de Gran Scala, dans les conditions prévues au paragraphe A de l'Annexe III du Traité du 10 février 1947.

Le Gouvernement italien prend à sa charge toutes les dépenses relatives à l'entretien et au renouvellement des installations ci-dessus.

Le Gouvernement français est dégagé de l'exécution des garanties prévues au paragraphe A de l'Annexe III au Traité du 10 février 1947. En cas d'aménagement du Lac du Mont-Cenis, la France assumera les obligations prévues au paragraphe A (I) précité (a, b, c).

ARTICLE 3. Le Gouvernement italien paie au Gouvernement français, pour l'utilisation du courant produit par l'usine de Gran Scala, une somme annuelle fixée forfaitairement à 17 millions de francs.

Le montant de cette somme fera l'objet d'une révision, s'il y a lieu, tous les cinq ans d'un commun accord, en tenant compte du prix de l'électricité tel qu'il résulte du dernier prix admis pour le calcul de la valeur des parts de production d'électricité de France.

Le Gouvernement italien est exonéré du paiement de tout impôt présent ou futur frappant l'exportation d'énergie électrique pour ce qui concerne la production de la Centrale de Gran Scala.

ARTICLE 4. La Commission technique de surveillance franco-italienne, prévue au paragraphe A (IV) de l'Annexe III susvisé est chargée de surveiller l'exécution des clauses ci-dessus, en coopération avec les Services techniques français de contrôle compétents.

Rome, le 12 janvier 1955

Monsieur le Président,

Me référant à l'article 2 de l'accord provisoire signé ce jour relatif au fonctionnement de l'usine de Gran Scala, j'ai l'honneur de porter à votre connaissance que le Gouvernement Italien a chargé la Société hydro-électrique du Piémont d'assurer l'exploitation des installations hydro-électriques du Mont-Cenis, conformément aux termes dudit accord.

Veillez agréer, Monsieur le Président, les assurances de ma très haute considération.

G. MARTINO

À Son Excellence Monsieur Pierre Mendès-France

Président du Conseil des Ministres et Ministre des Affaires Étrangères,
Rome

Rome, le 12 janvier 1955

Monsieur le Ministre,

En date de ce jour Vous avez bien voulu me communiquer ce qui suit :
« Me référant à l'article 2 de l'accord provisoire signé ce jour relatif au fonctionnement de l'usine de Gran Scala, j'ai l'honneur de porter à votre connaissance que le Gouvernement Italien a chargé la Société hydro-électrique du Piémont d'assurer l'exploitation des installations hydro-électriques du Mont-Cenis, conformément aux termes dudit accord. »

En Vous déclarant mon accord sur ce qui précède je Vous prie d'agréer, Monsieur le Ministre, l'assurance de ma très haute considération.

Pierre MENDÈS-FRANCE

A Son Excellence Monsieur Gaetano MARTINO
Ministre des Affaires Etrangères, Rome

Rome, le 12 janvier 1955

Monsieur le Président,

Me référant à l'article 3 de l'accord provisoire signé ce jour relatif au fonctionnement de l'usine de Gran Scala, j'ai l'honneur de porter à votre connaissance que le Gouvernement italien se propose de verser à terme échu, le 1^{er} avril de chaque année, la somme fixée à l'article ci-dessus visé. Cette somme sera transférée vers la France dans le cadre des accords de paiement en vigueur entre les deux pays à la date à laquelle chaque paiement aura lieu, et sera versée en francs à Paris.

Le Gouvernement italien prendra d'autre part les mesures nécessaires pour assurer le paiement des termes actuellement échus dans le plus bref délai possible et, au plus tard, le 1^{er} juillet 1955.

Il est enfin entendu entre les deux Gouvernements que le chiffre de 17 millions prévu à l'article 3 précité est fixé en tenant compte du prix moyen de l'électricité en France au 1^{er} avril 1954.

Veillez agréer, Monsieur le Président, les assurances de ma très haute considération.

G. MARTINO

À Son Excellence Monsieur Pierre Mendès-France

Président du Conseil des Ministres et Ministre des Affaires Étrangères,
Rome

Rome, le 12 janvier 1955

Monsieur le Ministre,

En date de ce jour Vous avez bien voulu me communiquer ce qui suit: « Me référant à l'article 3 de l'accord provisoire signé ce jour relatif au fonctionnement de l'usine de Gran Scala, j'ai l'honneur de porter à votre connaissance que le Gouvernement italien se propose de verser à terme échu, le 1^{er} avril de chaque année, la somme fixée à l'article ci-dessus visé. Cette somme sera transférée vers la France dans le cadre des accords de paiement en vigueur entre les deux pays à la date à laquelle chaque paiement aura lieu, et sera versée en francs à Paris.

« Le Gouvernement italien prendra d'autre part les mesures nécessaires pour assurer le paiement des termes actuellement échus dans le plus bref délai possible et, au plus tard, le 1^{er} juillet 1955. »

« Il est enfin entendu entre les deux Gouvernements que le chiffre de 17 millions prévu à l'article 3 précité est fixé en tenant compte du prix moyen de l'électricité en France au 1^{er} avril 1954. »

En Vous déclarant mon accord sur ce qui précède je Vous prie d'agréer, Monsieur le Ministre, l'assurance de ma très haute considération.

Pierre MENDÈS-FRANCE

À Son Excellence Monsieur Gaetano MARTINO
Ministre des Affaires Etrangères - Rome

France-Netherlands

182. TRAITÉ¹ DE LIMITES ENTRE LA FRANCE ET LES PAYS BAS CONCLU À COURTRAY, LE 28 MARS 1820²

ARTICLE VI. La France consent à ce que la Lys appartienne aux deux Etats depuis sa sortie du territoire d'Armentières jusqu'à l'embouchure de la Deule.

D'après cette cession, la Lys devient mitoyenne depuis sa sortie du territoire d'Armentières jusqu'au territoire du Menin, et les charges et profits qui en résultent demeureront réglés sur les bases ci-après, se conformant pour les détails à ce qui est marqué dans le procès-verbal de la délimitation de la première section de la frontière:

1^o Libre navigation avec les précautions réciproques pour qu'elle ne favorise pas la fraude sur l'un ou l'autre Etat;

2^o Le curage et l'entretien du lit de la rivière supporté par les deux Etats, chacun sur sa rive;

3^o La propriété des écluses et les droits de navigation conservés tels qu'ils se trouvent maintenant fixés et établis;

4^o Tous les ponts établis sur la Lys appartiendront par égale portion aux deux Etats; ils seront entretenus à frais communs et leurs manœuvres resteront telles qu'elles existent maintenant;

5^o La pêche de la rivière sera divisée en deux parties: la première, depuis Armentières jusqu'à la Deule, appartiendra à la France; la seconde, depuis la Deule jusqu'à Menin, appartiendra aux Pays-Bas.

ARTICLE XLI. L'Article XXX du Traité du 18 Novembre, 1779, conclu entre l'Impératrice-Reine de Hongrie et de Bohême et le Roi très-Chrétien, concernant les limites de leurs Etats respectifs aux Pays-Bas et d'autres objets relatifs aux frontières, devant recevoir son exécution et étant conçu en ces termes: « Pour faciliter aux sujets de l'Impératrice-Reine, la communication par la Semoy avec la Meuse, le Roi très-Chrétien consent de faire lever les obstacles que les fermiers des pêcheries domaniales ou ses autres sujets peuvent avoir mis au libre usage de ladite rivière de la Semoy. Les commissaires pour l'exécution de la présente Convention seront chargés d'arrêter de concert les mesures nécessaires pour faire cesser ces empêchements. Les procès-verbaux qu'ils auront tenus pour cet effet seront censés faire partie de cette Convention. »

Il est convenu que pour faire cesser dorénavant et pour toujours les empêchements qui peuvent exister actuellement et mettent de nouveau des entraves au libre cours et usage de la rivière de la Semoy, les administrateurs des eaux et forêts des deux Etats dans le ressort desquels se trouve la rivière de la Semoy seront chargés de procéder de concert d'abord, après la ratification du présent Traité de Limites, à l'enlèvement des différents barrages

¹ Les instruments de ratification ont été échangés le 14 juin 1820.

² *British and Foreign State Papers*, vol. 55, p. 395.

et autres travaux qui pourraient exister et mettre empêchement au libre cours de ladite rivière de la Semoy et de la régler de manière qu'au milieu du courant du gros volume d'eau ou du thalweg il soit établi dans la largeur normale du courant une ouverture de 8 mètres; que le bras navigable à l'embouchure de la rivière sera rétabli comme il se trouvait et devait se trouver conformément au procès-verbal du 29 Mars, 1780, et qu'il ne sera permis, à l'avenir, d'exécuter aucune jetée ou autre ouvrage de quelque nature que ce soit qui pourrait retenir le passage ou entraver le libre usage de la Semoy, et la largeur du courant établie à 8 mètres, ainsi que cela a été indiqué plus haut; qu'en conséquence les administrations seront chargées d'entretenir lesdites ouvertures et la conservation de l'état de choses rétabli, et enfin que les agents principaux desdites administrations seront tenus de faire rapport, une fois par an, au mois d'Avril, à leurs préfetures ou Gouvernements respectifs, de l'état du libre cours de la Smoy.

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France-Spain

183. TRAITÉ¹ ENTRE LA FRANCE ET L'ESPAGNE POUR DÉTERMINER LA FRONTIÈRE DEPUIS L'EMBOUCHURE DE LA BIDASSOA JUSQU'AU POINT OÙ CONFINENT LE DÉPARTEMENT DES BASSES-PYRÉNÉES, L'ARAGON ET LA NAVARRE, SIGNÉ À BAYONNE, LE 2 DÉCEMBRE 1856²

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ARTICLE XII. La ligne divisoire déterminée dans les Articles précédents, suivant, dans plusieurs parties de son tracé, soit des cours d'eau, soit des chemins, et passant sur quelques fontaines, il est convenu que ces eaux, ces fontaines et ces chemins seront communs, et que l'usage en sera libre pour les troupeaux et les habitants des deux côtés de la frontière.

. . .

ARTICLE XXII. Ils pourront également les uns et les autres, et en se servant de toute espèce d'embarcation, pêcher [dans tout le cours de la Bidassoa] avec des filets ou de toute autre manière, dans la rivière, à son embouchure et dans la rade, mais en se conformant aux règlements qui seront établis, d'un commun accord, et avec l'approbation des autorités supérieures, entre les délégués des municipalités des deux rives, dans le but de prévenir la destruction du poisson dans la rivière et de donner aux frontaliers respectifs des droits identiques et des garanties pour le maintien du bon ordre et de leurs bonnes relations.

ARTICLE XXIII. Tout barrage quelconque, fixe ou mobile, qui serait de nature à gêner la navigation dans la Bidassoa est interdit dans le cours d'eau principal de la rivière où se trouve la limite des deux pays. La nasse qui existe aujourd'hui en amont du pont de Béhobie sera enlevée au moment où le présent Traité sera mis à exécution.

¹ Les instruments de ratification ont été échangés à Paris le 12 août 1857.

² *British and Foreign State Papers*, vol. 47, p. 765.

ARTICLE XXIV. Le Gouvernement de Sa Majesté Impériale s'engage à faire remettre à la municipalité de Fontarabie, qui jouit de la nasse dont il est question dans l'Article précédent, une somme une fois payée, représentant, à cinq pour cent d'intérêt, le capital du prix moyen qui lui a été payé pendant les dix dernières années pour le fermage de cette nasse. Le paiement de ce capital précédera l'enlèvement du barrage de la nasse prescrit par l'Article précédent: cet enlèvement devra avoir lieu immédiatement après le paiement effectué.

ARTICLE XXV. Toute embarcation naviguant, passant ou pêchant dans la Bidassoa, demeurera soumise exclusivement à la juridiction du pays auquel elle appartiendra, et ce ne sera que sur les îles et sur le territoire ferme soumis à leur juridiction, que les autorités de chaque Etat pourront poursuivre les délits de fraude, de contravention aux règlements, ou de toute autre nature que commettraient les habitants de l'autre pays: mais, pour prévenir les abus et les difficultés qui pourraient résulter de l'application de cette clause, il est convenu que toute embarcation touchant à l'une des rives, y étant amarrée ou s'en trouvant assez rapprochée pour qu'il soit possible d'y entrer directement du rivage, sera considérée comme se trouvant déjà sur le territoire du pays auquel appartient cette rive.

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184. TRAITÉ DE DÉLIMITATION¹ ENTRE L'ESPAGNE ET LA FRANCE, FIXANT D'UNE MANIÈRE DÉFINITIVE LA FRONTIÈRE COMMUNE AINSI QUE LES DROITS, USAGES ET PRIVILÈGES APPARTENANT AUX POPULATIONS LIMITOPHES DES DEUX PAYS ENTRE LE DÉPARTEMENT DES PYRÉNÉES-ORIENTALES ET LA PROVINCE DE GIRONE, DEPUIS LE VAL D'ANDORRE JUSQU'À LA MÉDITERRANÉE, AFIN DE COMPLÉTER D'UNE MER À L'AUTRE L'OEUVRE COMMENCÉE ET POURSUIVIE DANS LES TRAITÉS DE BAYONNE DES 2 DÉCEMBRE 1856 ET 14 AVRIL 1862, SIGNÉ À BAYONNE, LE 26 MAI 1866²

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ARTICLE XX. Le canal conduisant les eaux de l'Aravo à Puycerda, et situé presque entièrement en France, continuera d'appartenir avec ses rives, telles que les a modifiées le passage de la route impériale allant en Espagne, et avec le caractère de propriété privée, à la ville de Puycerda, comme avant le partage de la Cerdagne entre les deux Couronnes.

Les relations entre le propriétaire et ceux qui ont le droit d'arroser seront fixées par la commission internationale d'ingénieurs qui sera nommée pour le règlement de tout ce qui se rapporte à l'usage des eaux, conformément à l'Acte additionnel concernant les dispositions applicables à toute la frontière et portant la même date que le présent Traité.

¹ Les instruments de ratification ont été échangés à Paris, le 12 juillet 1866.

² *British and Foreign State Papers*, vol. 56, p. 212.

ARTICLE XXVII. Aurent droit d'arrosage avec les eaux du canal d'Angoustrine, tant les habitants de la commune de ce nom que ceux de Llivia. Les Français les prendront chaque semaine, à partir du dimanche au lever du soleil jusqu'au mercredi au coucher du soleil, et les Espagnols depuis ce moment jusqu'au dimanche suivant au lever du soleil. L'établissement des règles pour le régime de ces arrosages et pour la police du canal sera confié à la commission internationale d'ingénieurs qui sera nommée pour régulariser l'usage des eaux sur la frontière.

185. ACTE ADDITIONNEL¹ AUX TRAITÉS DE DÉLIMITATION DES 2 DÉCEMBRE 1856, 14 AVRIL 1862 ET 26 MAI 1866, CONCLU ENTRE L'ESPAGNE ET LA FRANCE APPLICABLE SUR TOUTE LA FRONTIÈRE DANS L'UN ET L'AUTRE PAYS, ET RELATIF À LA CONSERVATION DE L'ABORNEMENT, AUX TROUPEAUX ET PÂTURAGES, AUX PROPRIÉTÉS COUPÉES PAR LA FRONTIÈRE ET À LA JOUISSANCE DES EAUX D'UN USAGE COMMUN, SIGNÉ À BAYONNE, LE 26 MAI 1866²

Régime et jouissance des eaux d'un usage commun entre les deux Pays

ARTICLE VIII. Toutes les eaux stagnantes et courantes, qu'elles soient du domaine public ou privé, sont soumises à la souveraineté du pays où elles se trouvent, et, par suite, à sa législation, sauf les modifications convenues entre les deux Gouvernements.

Les eaux courantes changent de juridiction du moment où elles passent d'un pays dans l'autre, et quand les cours d'eau servent de frontière, chaque Etat y exerce sa juridiction jusqu'au milieu du courant.

ARTICLE IX. Pour les cours d'eau qui passent d'un pays dans l'autre ou qui servent de frontière, chaque Gouvernement reconnaît, sauf à en faire, quand il y aura utilité, une vérification contradictoire, la légalité des irrigations, des usines et des jouissances pour usages domestiques existantes actuellement dans l'autre Etat, en vertu de concession, de titre, ou par prescription, sous la réserve qu'il n'y sera employé que l'eau nécessaire à la satisfaction des besoins réels, que les abus devront être supprimés, et que cette reconnaissance ne portera point atteinte aux droits respectifs des Gouvernements d'autoriser des travaux d'utilité publique à condition des indemnités légitimes.

ARTICLE X. Si, après avoir satisfait aux besoins réels des usages reconnus respectivement de part et d'autre comme réguliers, il reste à l'étiage des eaux disponibles au passage de la frontière, on les partagera d'avance entre les deux pays, en proportion de l'étendue des fonds arrosables appar-

¹ Les instruments de ratification ont été échangés à Paris, le 12 juillet 1866.

² *British and Foreign State Papers*, vol. 56, p. 226.

tenant aux riverains respectifs immédiats, défalcation faite des terres déjà irriguées.

ARTICLE XI. Lorsque, dans l'un des deux Etats, on se proposera de faire des travaux ou de nouvelles concessions susceptibles de changer le régime ou le volume d'un cours d'eau dont la partie inférieure ou opposée est à l'usage des riverains de l'autre pays, il en sera donné préalablement avis à l'autorité administrative supérieure du département ou de la province de qui ces riverains dépendent, par l'autorité correspondante dans la juridiction de laquelle on se propose de tels projets, afin que, s'ils doivent porter atteinte aux droits des riverains de la souveraineté limitrophe, on puisse réclamer en temps utile à qui de droit et sauvegarder ainsi tous les intérêts qui pourraient se trouver engagés de part et d'autre; si les travaux et concessions doivent avoir lieu dans une commune contiguë à la frontière, les ingénieurs de l'autre pays auront la faculté, sur avertissement régulier à eux donné en temps opportun, de concourir à la visite des lieux avec ceux qui en seront chargés.

ARTICLE XII. Les fonds inférieurs sont assujettis à recevoir des fonds plus élevés du pays voisin les eaux qui en découlent naturellement avec ce qu'elles charrient, sans que la main de l'homme y ait contribué. On n'y peut construire ni digue ni obstacle quelconque susceptible de porter préjudice aux riverains supérieurs, auxquels il est également défendu de rien faire qui aggrave la servitude des fonds inférieurs.

ARTICLE XIII. Quand les cours d'eau servent de frontière, tout riverain pourra, sauf l'autorisation qui serait nécessaire d'après la législation de son pays, faire sur sa rive des plantations, des travaux de réparation et de défense, pourvu qu'ils n'apportent au cours des eaux aucun changement préjudiciable aux voisins, et qu'ils n'empiètent pas sur le lit, c'est-à-dire sur le terrain que l'eau baigne dans les crues ordinaires.

Quant à la rivière de la Raour qui sert de frontière entre les territoires de Bourg-Madame et de Puycerda, et qui, par des circonstances particulières, n'a point de bords naturels bien déterminés, on procédera à la démarcation de la zone où il sera interdit de faire des plantations et des ouvrages, en prenant pour base ce qui a été convenu entre les deux Gouvernements en 1750 et renouvelé en 1820, mais avec la faculté d'y apporter des modifications, si on le peut, sans nuire au régime de la rivière ni aux terrains contigus, afin que, lors de l'exécution du présent Acte Additionnel, on cause le moins de préjudice possible aux riverains, en débarrassant le lit qui sera fixé des obstacles qu'ils auraient élevés.

ARTICLE XIV. Si, par des éboulements de berges, par des objets charriés ou déposés, ou par d'autres causes naturelles, il peut résulter quelque altération ou embarras dans le cours de l'eau, au détriment des riverains de l'autre pays, les individus lésés pourront recourir à la juridiction compétente pour obtenir que les réparations et déblaiements soient exécutés par qui il appartiendra.

ARTICLE XV. Quand, en dehors des questions contentieuses du ressort exclusif des tribunaux ordinaires, il s'élèvera entre riverains de nationalité différente des difficultés ou des sujets de réclamation touchant l'usage des eaux, les intéressées s'adresseront, de part et d'autre, à leurs autorités respectives, afin qu'elles s'entendent entre elles pour résoudre le différend, si c'est de leur juridiction, et dans le cas d'incompétence ou de désaccord, comme

dans celui où les intéressés n'accepteraient pas la solution prononcée, on aura recours à l'autorité administrative supérieure du département et de la province.

ARTICLE XVI. Les administrations supérieures des départements et provinces limitrophes se concerteront dans l'exercice de leur droit de réglementation des intérêts généraux et d'interprétation ou de modification de leurs règlements, toutes les fois que les intérêts respectifs seront engagés, et dans le cas où elles ne pourraient pas s'entendre; le différend sera soumis aux deux Gouvernements.

ARTICLE XVII. Les préfets et les gouverneurs civils des deux côtés de la frontière pourront, s'ils le jugent convenable, instituer de concert, avec l'approbation des Gouvernements, des syndicats électifs, mi-partie de riverains Français et de riverains Espagnols, pour veiller à l'exécution des règlements et pour déférer les contrevenants aux tribunaux compétents.

ARTICLE XVIII. Une Commission Internationale d'Ingénieurs constatera où elle le jugera utile, sur la frontière du département des Pyrénées-Orientales avec la province de Girone, et sur tous les points de la frontière où il y aura lieu, l'emploi actuel des eaux dans les communes frontalières respectives et autres, s'il est besoin, soit pour irrigation, soit pour usines, soit pour usages domestiques, afin de n'accorder dans chaque cas que la quantité d'eau nécessaire, et de pouvoir supprimer les abus; elle déterminera pour chaque cours d'eau, à l'étiage et au passage de la frontière, le volume d'eau disponible et l'étendue des fonds arrosables appartenant aux riverains respectifs immédiats qui ne sont pas encore irrigués; elle procédera aux opérations concernant la Raour, indiquées à l'Article XIII; elle proposera les mesures et précautions propres à assurer, de part et d'autre, la bonne exécution des règlements et à prévenir, autant que possible, toute querelle entre riverains respectifs; elle examinera enfin, pour le cas où on établirait des syndicats mixtes, qu'elle serait l'étendue à donner à leurs attributions.

ARTICLE XIX. Aussitôt que le présent Acte aura été ratifié, on pourra nommer la Commission d'Ingénieurs dont il est parlé à l'Article XVIII, pour qu'elle procède immédiatement à ses travaux, en commençant par la Raour et la Vanera, où c'est le plus urgent.

ARTICLE XX. Les dispositions précédentes seront applicables à toute la frontière d'une mer à l'autre, aussi bien qu'à l'enclave de Llivia, et auront la même force et valeur que si elles étaient insérées textuellement dans les deux premiers Traités de Bayonne des 2 décembre, 1856, et 14 avril, 1862, et dans le troisième qui les complète sous la date de ce jour, restant abrogées toutes stipulations différentes ou contraires des deux premiers Traités précités.

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186. ACTE FINAL¹ DE LA DÉLIMITATION DE LA FRONTIÈRE INTERNATIONALE DES PYRÉNÉES ENTRE LA FRANCE ET L'ESPAGNE, SIGNÉ À BAYONNE, LE 11 JUILLET 1868²

¹ Les instruments de ratification ont été échangés à Paris, le 11 janvier 1869.

² *British and Foreign State Papers*, vol. 59, p. 430, et M. de Clercq, *Recueil des Traités de la France*, vol. X, p. 79.

. . .

Sa Majesté l'Empereur des Français et Sa Majesté la Reine des Espagnes, voulant régler d'une manière définitive l'exécution du Traité de Limites conclu à Bayonne, le 26 mai, 1866, modifier certaines dispositions de cet Acte pour les mettre en harmonie avec les aspirations plus clairement formulées des intéressés, compléter l'énumération des chemins libres, consacrer certains usages existants ou convenus de part et d'autre et sanctionner les règlements par la Commission Internationale d'Ingénieurs dont il est parlé à l'Art. XVIII de l'Acte Additionnel signé à Bayonne, le 26 mai, 1866, ont nommé pour leurs Plénipotentiaires . . . lesquels, après s'être communiqué leurs pleins pouvoirs respectifs, trouvés en bonne et due forme, ont dressé et réuni dans la première partie du présent Acte final les 5 annexes suivantes au Traité signé à Bayonne, le 26 mai, 1866, et ont inséré dans la seconde les règlements pour le régime des eaux préparés par la Commission d'Ingénieurs précitée.

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Seconde Partie : Règlements relatifs à la jouissance des eaux d'un usage commun entre les deux pays :

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I. Démarcation du lit de la Raour

. . . En ce qui concerne la police de la rivière, on est convenu des dispositions suivantes :

1. Il est interdit d'établir des plantations ou des ouvrages quelconques dans la zone comprise entre les alignements définis ci-dessus. Toutes les parties d'ouvrages et de plantations qui empiètent aujourd'hui sur cette zone, devront être détruites par les riverains, chacun en droit soi, dans le délai de 3 mois, à dater de la mise à exécution de l'Acte général d'Abornement de la frontière. Passé ce délai, il sera procédé à cette opération d'office et aux frais des contrevenants.

2. Il est permis aux riverains d'entretenir, de réparer et de consolider les digues existantes, à la seule condition de prévenir les riverains du côté opposé, afin que, par cet avertissement, ceux-ci soient en mesure d'empêcher l'exécution d'ouvrages offensifs ou qui pénétreraient dans la zone réservée au lit de la rivière.

3. Pour l'établissement de digues nouvelles, soit dans les parties de la rivière qui en sont dépourvues, soit en avant des digues existantes qui se trouvent situées en arrière des nouveaux alignements, les riverains seront tenus de se pourvoir d'une autorisation régulière des autorités compétentes de leur pays respectif, et, dans ce cas, les propriétaires de la rive opposée devront être appelés à présenter leurs observations.

4. Tous les ouvrages qui seront exécutés, de part et d'autre, pour la fixation ou la conservation des berges, ne pourront être établis que parallèlement ou perpendiculairement à l'axe de la rivière, ainsi que le prescrit la Convention de 1820.

5. Pour prévenir des difficultés qui se sont produites quelquefois entre les riverains des deux pays, il est entendu, conformément à une stipulation de

l'Acte de 1750, que chacun d'eux ne pourra prendre des pierres ou du sable dans le lit de la Raour qu'en face de sa propriété et jusqu'au milieu de ladite rivière.

6. Il est fait défense expresse aux propriétaires riverains et autres de pratiquer dans les digues ou berges des coupures ou autres moyens de dérivation, sans autorisation préalable. Ceux qui possèdent des dérivations de ce genre seront tenus de faire régulariser leur situation par les autorités compétentes de leur pays respectif, et ce, dans le délai de 3 mois, à dater de la mise à exécution du Traité général d'Abornement de la frontière. Il est également défendu aux riverains et autres de faire écouler dans le lit de ladite rivière des eaux infectes ou nuisibles.

7. Tous les 5 ans, au mois d'août, les autorités supérieures du département des Pyrénées-Orientales et de la Province de Gironne s'entendront à l'effet de nommer des délégués qui procéderont à la vérification des alignements des berges de la Raour. Toutes les parties de plantations et d'ouvrages quelconques qui seront reconnues empiéter sur le lit de la rivière devront être immédiatement détruites par les contrevenants, et, en cas de refus de leur part, il sera procédé d'office et à leurs frais à cette destruction.

II. *Font-Bovedo*

La Commission Mixte d'Ingénieurs ayant pensé que la réglementation d'une prise d'eau située dans une localité, d'un accès aussi difficile, serait sans doute complètement illusoire, de même qu'une distribution par le temps serait inapplicable à cause de la grande distance qui sépare la prise des habitations, et ayant, en conséquence, été d'avis de ne rien décider à ce sujet, il a été convenu que la solution serait réservée aux deux Gouvernements, s'il était reconnu, par la suite, qu'elle fût indispensable pour prévenir des conflits entre les intéressés des deux pays.

III. *Règlement pour l'usage des eaux du riu Tort et du riu Tartarès*

ARTICLE I. Les habitants de Guils ne pourront dériver les eaux du riu Tort que par des rigoles ayant leur prise à 550 mètres au moins à l'amont du point où ce ravin est coupé par la ligne frontière, entre les bornes 440 et 441.

II. Les habitants de Guils ne pourront prendre les eaux de la fontaine Talabart, du riu Tartarès, ni celles de ses affluents, et tous les ouvrages construits dans ce but devront être détruits, ainsi que les rigoles ouvertes à l'aval du point défini à l'Article I, et ce, dans le délai de 3 mois, à dater de la promulgation du présent règlement.

III. Si, après la suppression de ces ouvrages, les habitants des communes frontières de la Tour et de Sanéja ne parvenaient pas à s'entendre à l'amiable pour la répartition des eaux du riu Tort et du riu Tartarès, en partie dérivées par le canal du hameau de Saint-Pierre, il serait pourvu à cette réglementation, conformément aux droits des usagers des deux pays, par le Préfet des Pyrénées-Orientales et le Gouverneur de Gironne, sur la proposition des ingénieurs des deux pays qui seront désignés à cet effet.

IV. Passé le délai défini à l'Article II, le Gouverneur de Gironne, après avoir prévenu le Préfet des Pyrénées-Orientales, ordonnera immédiatement l'exécution d'office des travaux prescrits par ledit article. La suppression

des ouvrages sera effectuée en présence du maire de la Tour-de-Carol et de l'alcade de Sanéja.

IV. *Règlement pour l'usage des eaux du canal de Puycerda*

ARTICLE I. La répartition des eaux du canal de Puycerda entre les usagers Français et Espagnols sera réglée comme il suit : Toutes les eaux du canal seront affectées aux usages de tout genre de la ville de Puycerda et à l'irrigation de son territoire, chaque jour pendant 12 heures, de 4 heures du matin à 4 heures du soir. Toutes les eaux de ce canal seront affectées à l'arrosage des terres situées sur le territoire Français, chaque nuit pendant 12 heures, de 4 heures du soir à 4 heures du matin.

II. Le débit minimum du canal à l'origine est fixé à 300 litres. Si, par suite de pénurie d'eau dans la rivière en amont du barrage, le débit du canal descend au-dessous de ce minimum, le nombre d'heures réservé à Puycerda sera augmenté de telle sorte que le volume d'eau attribué en 24 heures aux usagers Espagnols soit à peu près égal à celui que donnerait un débit continu de 150 litres par seconde. A cet effet, le débit du canal sera constaté par un déversoir de jauge établi à environ 20 mètres à l'aval de l'origine. Ce déversoir aura 3 mètres de largeur et sera construit en pierres de taille : son seuil et ses bords verticaux seront profilés suivant une partie droite de 5 centimètres parallèle au fil de l'eau et suivant un chanfrein de 35 centimètres de longueur sur 20 centimètres de hauteur, formant évasement vers l'amont. Les bords seront distants de 40 centimètres au moins des rives du canal et du plafond du bief d'amont. Le seuil sera arasé à 60 centimètres au moins en contre-haut du plafond du bief d'aval. A un mètre en amont du déversoir, on gravera dans une pierre de taille encastrée dans un des bajoyers une échelle de jauge graduée comme l'indique le tableau ci-dessous. (Suit le détail.) Quand le niveau du bief d'amont atteindra ou dépassera le Trait n° 12, la répartition aura lieu entre les usagers des deux nations conformément à l'Article I. Si le débit du canal, par suite de pénurie de la rivière, diminue d'une assez grande quantité pour que le Trait n° 16 apparaisse au-dessus de l'eau pendant 3 jours consécutifs, la période de temps attribuée à Puycerda sera portée de 12 à 16 heures et commencera à minuit. Si le Trait n° 20 apparaît dans les mêmes conditions, la période de temps réservé à Puycerda sera portée à 20 heures, en commençant à 8 heures du soir précédent, et ainsi de suite jusqu'au Trait n° 24, à partir duquel toute l'eau du canal appartiendra aux usagers Espagnols.

III. Chacune des communes Françaises de la Tour-de-Carol et d'Entweigt pourra dériver d'une manière continue un volume d'eau de 5 litres par seconde pour la satisfaction de ses besoins de tout genre. Les habitants des territoires traversés par le canal pourront, en outre, user de l'eau en tout temps pour les usages domestiques, l'abreuvement des bestiaux et le cas d'incendie.

IV. Tous les œils de prise d'eau établis en France sur le canal devront être percés dans des pierres de taille encastrées dans des murettes en maçonnerie dont les fondations feront saillie de 20 centimètres du côté du canal, et seront arasés au niveau du plafond de ce canal. Ils seront construits aux frais des usagers qui s'en servent et munis de vannes pouvant fermer aussi hermétiquement que possible pendant le temps réservé aux usagers Espagnols. Le

nombre actuel des œils, qui est de 148 sur le territoire Français, ne pourra être augmenté sans l'autorisation de la ville de Puycerda, propriétaire du canal.

V. Dans les règlements qui pourront être faits ultérieurement pour la répartition des eaux entre les usagers Français, on aura soin, autant que possible, de disposer les arrosages de l'amont à l'aval.

VI. Il est interdit d'obstruer ou d'encombrer le canal; mais les usagers Français pourront établir des barrages mobiles dans le canal pour faire refluer les eaux dans leurs prises pendant le temps qui leur est attribué. Ces barrages devront être complètement ouverts pendant le temps réservé à l'Espagne et offrir un débouché égal à celui du canal lui-même.

VII. La largeur normale de la zone de terrain à occuper par le canal et ses francs-bords est fixée à 6 mètres 50 centimètres; dans le cas où la bande de terrain appartenant à la ville de Puycerda serait en certains points, inférieure à ce chiffre, elle pourra acquérir à ses frais, sur les propriétés privées, le terrain nécessaire pour compléter l'emprise, en se conformant à la loi Française du 3 Mai, 1841.

VIII. Les frais d'entretien et de réparation de la prise d'eau en rivière et de toute la partie du canal située sur le territoire Français seront répartis par portions égales entre les usagers Français et Espagnols. L'entretien de la partie comprise dans le territoire Espagnol sera exclusivement à la charge des usagers Espagnols.

IX. Les Français et les Espagnols auront la faculté, chacun de leur côté, d'établir à leurs frais les banniers ou gardes d'eau pour veiller à l'exécution des Articles III et VI ci-dessus et dresser des procès-verbaux contre toute personne qui porterait atteinte aux droits des usagers. Ces gardes, pourvus du titre qui les accredité, prêteront serment devant l'autorité compétente, en France, sur le territoire de laquelle leur surveillance doit s'exercer. S'il y a lieu aussi d'exercer une surveillance en Espagne, les gardes nommés à cet effet par les usagers des deux pays et pourvus du titre qui les accreditera devront prêter serment devant l'autorité Espagnole compétente. Les gardes adresseront leurs procès-verbaux à la Commission mentionnée à l'Article ci-après, qui les transmettra à qui de droit.

X. Une Commission administrative internationale, dont l'organisation et les attributions sont déterminées par le règlement qui suit, sous le n^o 5, fera respecter les droits des deux nations et prendra les mesures d'administration et de police dont les clauses ci-dessus définies rendront l'exécution nécessaire. Elle fera exécuter l'ouvrage régulateur décrit à l'Article II, et on répartira la dépense par parties égales entre les usagers des deux nation. Elle fera, en outre, exécuter d'office, aux frais des usagers, les ouvrages prescrits par l'Article IV ci-dessus, si les arrosants ne les ont pas établis eux-mêmes dans le délai défini par l'Article XII ci-après.

XI. Le récolement de l'ouvrage régulateur prescrit dans l'Article II, sera effectué par un ingénieur Français et un ingénieur Espagnol, en présence des autorités locales des deux pays et des parties intéressées dûment convoquées. Le procès-verbal de récolement sera dressé en 4 expéditions, dont l'une sera déposée à la mairie de Puycerda, la seconde à la Commission administrative, et les deux autres respectivement aux archives de la préfecture des Pyrénées-Orientales et de la province de Girone.

XII. Les dispositions du présent règlement seront appliquées le plus tôt possible, et, au plus tard, dans le délai de deux ans, à dater de sa promulgation.

V. *Règlement pour l'Organisation de la Commission administrative internationale du Canal de Puycerda*

CHAPITRE I. COMPOSITION DE LA COMMISSION

ARTICLE I. La Commission administrative internationale sera composée de 3 délégués Français et de 3 délégués Espagnols.

II. L'alcade de Puycerda sera toujours membre et président de la Commission. Le second membre de la Commission sera le maire de la Tour-de-Carol pendant les années de millésime pair, et le maire d'Entweigt pendant les années de millésime impair. Il remplira les fonctions de vice-président.

III. Les 4 autres membres, pris parmi les intéressés, seront nommés, les membres Français, par les usagers Français, conformément au mode d'élection qui sera défini par un arrêté ultérieur du Préfet des Pyrénées-Orientales, et les membres Espagnols, par les usagers Espagnols, conformément au mode de nomination qui sera arrêté par le Gouverneur de Gironne. Si l'élection reste sans résultat, la Commission sera complétée d'office par le Préfet des Pyrénées-Orientales et le Gouverneur de Gironne.

IV. Au 31 Décembre de chaque année, il sera pourvu au remplacement d'un des membres Français et d'un des membres Espagnols nommés par élection. Les membres sortants ne seront pas immédiatement rééligibles, et ceux qui devront sortir la première année seront désignés par le sort.

V. Les membres de la Commission ne pourront pas se faire remplacer par des mandataires de leur choix. En cas d'absence, ils seront remplacés par des membres suppléants, qui seront au nombre de deux pour chaque nation et élus comme les membres titulaires.

VI. Dans le cas de décès ou de démission d'un membre titulaire suppléant, il sera pourvu à son remplacement, et la durée des fonctions du membre élu n'excédera pas l'époque qui limitait les fonctions du membre remplacé.

VII. La Commission sera convoquée à Puycerda et présidée par l'alcade de Puycerda, ou à son défaut, par le vice-président. Elle pourra être réunie sur la demande de deux membres ou sur l'invitation du Préfet des Pyrénées-Orientales ou du Gouverneur de Gironne.

VIII. Les usagers qui auront commis une contravention seront rayés de la liste d'éligibilité pour l'année pendant laquelle la contravention aura été commise.

IX. Les délibérations seront prises à la majorité des membres présents. En cas de partage, il en sera référé aux autorités départementales et provinciales des deux nations. La Commission ne pourra délibérer qu'au nombre de 4 membres, dont deux Français et deux Espagnols; toutefois, la délibération sera valable, quel que soit le nombre des membres présents, lorsque les

membres ne se seront pas réunis en nombre suffisant après deux convocations régulières faites à 8 jours d'intervalle.

X. Tout membre qui, sans motif légitime, aura manqué à 3 convocations pourra être déclaré démissionnaire et immédiatement remplacé.

XI. Les délibérations seront inscrites par ordre de date sur un registre coté et paraphé par le président et seront signées par tous les membres présents.

XII. Le président portera à la connaissance du Préfet des Pyrénées-Orientales et du Gouverneur de Gironne le nom des membres de la Commission.

CHAPITRE II. FONCTIONS DE LA COMMISSION

La Commission est chargée:

ARTICLE I. De veiller à l'exécution du règlement international;

II. D'apprécier l'opportunité des travaux d'entretien dont la dépense doit être supportée par les usagers des deux pays, d'approuver les projets et le mode d'exécution de ces ouvrages et d'en surveiller l'exécution;

III. De faire dresser les rôles pour la répartition de la dépense et de les soumettre à l'homologation du Préfet des Pyrénées-Orientales, pour les usagers Français, et du Gouverneur de Gironne, pour les usagers Espagnols;

IV. De poursuivre devant les tribunaux compétents les contraventions et délits régulièrement constatés par les procès-verbaux des banniers;

V. D'accepter les amendes que les contrevenants pourront consentir à verser dans la caisse commune, à titre de transaction pour arrêter les poursuites dirigées contre eux;

VI. De contrôler et de vérifier les comptes administratifs du président et la comptabilité du receveur caissier;

VII. De faire établir l'ouvrage régulateur prescrit par l'Article II du règlement;

VIII. D'interdire l'usage des prises particulières, prescrites par l'Article IV du règlement, des eaux du canal, aux intéressés qui ne les auraient pas fait établir eux-mêmes dans le délai spécifié à l'Article XII du même règlement.

CHAPITRE III. RECouvreMENT DES RÔLES

ARTICLE I. Le recouvrement des rôles sera fait par un caissier nommé par la Commission administrative internationale.

II. Ce receveur caissier fournira un cautionnement proportionné au montant des rôles et recevra une indemnité dont la quotité sera déterminée par la Commission.

III. Les rôles, affichés pendant 8 jours dans chacune des 3 communes intéressées, seront rendus exécutoires par le Préfet des Pyrénées-Orientales et le Gouverneur de Gironne.

IV. La perception sera faite, en France, comme en matière de contributions directes, et en Espagne de la même manière.

V. Le receveur sera responsable du défaut de paiement des taxes dans les délais fixés par les rôles, à moins qu'il ne justifie des poursuites faites contre les contribuables en retard. Il acquittera les dépenses mandatées par le président et présentera, avant le 1^{er} Février de chaque année, le compte de sa gestion. Les réclamations relatives à la confection des rôles seront portées, pour les intéressés Français, devant le Conseil de Préfecture des Pyrénées-Orientales, et pour les usagers Espagnols, devant le Gouverneur de Gironne.

VI. *Règlement pour l'usage des eaux de la rivière de Vanera*

ARTICLE I. La répartition des eaux de la Vanera entre les communes Françaises de Valcebollère, d'Osséja et de Palau, d'une part, et les communes Espagnoles d'Aja, de Vilalloquent, de las Pareras et Caixans, d'autre part, sera réglée comme il suit, du 1^{er} Juillet au 1^{er} Octobre de chaque année:

II. Toutes les eaux de la rivière seront à la disposition des usagers Français du lundi à 6 heures du matin au vendredi à 6 heures du matin de chaque semaine.

III. Les usagers Espagnols jouiront des eaux de la rivière du vendredi à 6 heures du matin au lundi à 6 heures du matin. Pendant ce temps: 1. Toutes les prises d'eau Françaises situées en aval de la prise du canal d'Osséja devront être fermées. 2. Les propriétaires des fonds situés en amont de la prise d'eau du canal d'Osséja conserveront la faculté d'arroser à volonté comme par le passé. Il en sera de même pour les usagers des affluents de la Vanera, lesquels ne sont point assujettis au présent règlement. 3. Le canal d'Osséja concédé par Décret Impérial du 14 janvier, 1852, continuera à dériver de la rivière un volume d'eau de 40 litres par seconde en remplissant les conditions de ladite concession. 4. Les moulins et usines des communes d'Osséja et de Palau pourront dériver toute l'eau qui leur est nécessaire, d'une manière continue; mais ils devront la rendre à la rivière par leurs canaux de fuite, sans qu'elle puisse être employée à l'irrigation. 5. Chacune des communes Françaises pourra dériver de la rivière, d'une manière continue, un volume d'eau de 4 litres par seconde pour la satisfaction de ses besoins de tout genre. 6. Les habitants de ces communes pourront, en outre, user de l'eau de la rivière et des canaux des moulins, comme par le passé, pour les usages domestiques, l'abreuvement des bestiaux et le cas d'incendie.

IV. Les usagers d'amont ne pourront faire aucun ouvrage ni mettre aucun obstacle au libre cours des eaux de la rivière au préjudice des usagers inférieurs.

V. Les Français et les Espagnols auront la faculté, chacun de leur côté, d'établir à leurs frais respectifs des banniers ou gardes d'eau pour veiller à l'exécution des Articles II, III et IV ci-dessus et dresser des procès-verbaux contre toute personne qui porterait atteinte aux droits des usagers. Ces gardes, pourvus du titre qui les accrédite, prêteront serment devant l'autorité compétente, en France, où leur surveillance doit s'exercer. S'il y a lieu d'exercer aussi une surveillance en Espagne, les gardes nommés à cet effet et pourvus du titre qui les accrédite, devront prêter serment devant l'autorité Espagnole compétente. Les gardes adresseront leurs procès-verbaux à qui de droit.

VI. La réglementation horaire entre les Français et les Espagnols ne fera point obstacle à ce que le Gouvernement Français autorise, s'il y a lieu, de

nouvelles dérivations d'eau continues ayant leur prise en amont de celle du canal actuel d'Osséja, sous la réserve que ces dérivations ne pourront fonctionner toutes les fois que le débit de la rivière descendra au-dessous de 220 litres par seconde, savoir: 40 litres pour desservir la concession du canal d'Osséja et 180 litres pour les besoins des usagers inférieurs, tant Français qu'Espagnols. A cet effet, les nouvelles prises d'eau devront être pourvues d'ouvrages régulateurs qui permettent d'apprécier le volume d'eau débité par ces prises et celui qui coule dans la rivière. Le récolement de ces ouvrages sera fait par un ingénieur Français et un ingénieur Espagnol, désignés respectivement par le Préfet du département des Pyrénées-Orientales et par le Gouverneur Civil de Gironne, et en présence des autorités locales et des parties intéressées dûment convoquées à cet effet.

VII. Le présent règlement sera mis à exécution dans le délai de deux ans, à dater de sa promulgation.

VII. *Règlement pour l'usage des eaux du canal d'Angoustrine et de Llivia*

ARTICLE I. Le débit du canal d'Angoustrine est limité à 76 litres par seconde depuis le 1^{er} Juillet jusqu'au 1^{er} Octobre de chaque année. Ce débit sera constaté au moyen d'un régulateur établi à 25 mètres à l'aval de l'origine et formé: 1. D'un orifice de jauge à mince paroi, de 15 centimètres de hauteur et 45 centimètres de largeur. 2. D'un déversoir régulateur de niveau, dont le seuil sera arasé à 25 centimètres en contre-haut du bord inférieur de l'orifice de jauge et qui aura deux mètres de largeur. Le bord inférieur de l'orifice de jauge sera placé à 25 centimètres au moins en contre-haut du niveau de l'eau dans le canal, à l'aval du régulateur, et la hauteur du barrage de prise d'eau sera disposée de telle sorte que l'épaisseur de la lame d'eau passant par le déversoir régulateur de niveau n'excède jamais 5 centimètres.

II. Conformément à l'Article XXVII du Traité de Délimitation conclu, le 26 Mai, 1866, entre la France et l'Espagne, la totalité des eaux du canal sera affectée aux arrosages de la commune d'Angoustrine, chaque semaine pendant 4 jours et 3 nuits, depuis le dimanche au lever du soleil jusqu'au mercredi au coucher du soleil, et aux arrosages de Llivia, aussi chaque semaine pendant 3 jours et 4 nuits, depuis le mercredi au coucher du soleil jusqu'au dimanche suivant au lever du soleil. Les arrosages sur le territoire Français auront lieu, autant que possible, de l'amont à l'aval.

III. Pendant le temps attribué aux Français, le canal sera barré par une vanne en amont de la frontière, pour intercepter complètement l'écoulement de l'eau sur le territoire Espagnol. Une vanne de décharge sera placée en amont de ce barrage, à l'effet de rejeter le trop-plein du canal dans la rivière d'Angoustrine. Pendant le temps affecté aux Espagnols, toutes les prises d'eau situées sur le territoire Français devront être fermées aussi hermétiquement que possible par des vannes glissant entre des montants en bois ou en maçonnerie.

IV. Les frais d'entretien de toute la partie du canal située sur le territoire Français seront répartis entre les usagers Français et Espagnols proportionnellement aux surfaces actuellement soumises à l'arrosage dans les deux pays, et qui sont de 14 hectares en France et de 76 hectares dans l'enclave de Llivia. L'entretien de la partie située sur le territoire Espagnol sera exclusivement à la charge des usagers Espagnols.

V. Il est défendu d'obstruer le canal et d'y faire aucun ouvrage qui serait de nature à gêner le libre cours des eaux et à porter préjudice aux usagers inférieurs.

VI. Les Français et les Espagnols auront la faculté, chacun de leur côté, d'établir à leurs frais respectifs des banniers ou gardes d'eau pour veiller à l'exécution des Articles II, III et V ci-dessus, et dresser des procès-verbaux contre toute personne qui porterait atteinte aux droits des usagers. Ces gardes, pourvus du titre qui les accrédite, prêteront serment devant l'autorité compétente; en France, où leur surveillance doit s'exercer. S'il y a lieu aussi d'exercer une surveillance en Espagne, les gardes nommés à cet effet par les usagers et pourvus du titre qui les accrédite, devront prêter serment devant l'autorité Espagnole compétente. Les gardes adresseront leurs procès-verbaux à la Commission mentionnée ci-après, qui les transmettra à qui de droit.

VII. Une Commission administrative internationale, dont l'organisation et les attributions sont déterminées par le règlement qui suit, sous le n^o 8, fera respecter les droits des deux nations et prendra les mesures d'administration ou de police dont les clauses ci-dessus définies rendront l'exécution nécessaire. Elle sera chargée notamment de faire exécuter, aux frais des usagers, l'ouvrage régulateur et les vannes de fermeture et de décharge du canal mentionnés à l'Article III.

VIII. Le présent règlement sera mis à exécution le plus tôt possible, et, au plus tard, dans le délai d'un an, à dater de sa promulgation, et les ouvrages indiqués à l'Article VII devront être établis dans le même délai. Passé ce délai, le Préfet des Pyrénées-Orientales, après avoir prévenu le Gouverneur de Girone, pourra faire exécuter les travaux d'office aux frais des usagers des deux pays, dans la proportion déterminée par l'Article IV.

IX. Le récolement des travaux sera effectué par un ingénieur Français et un ingénieur Espagnol, en présence des autorités locales des deux pays et des parties intéressées dûment convoquées. Le procès-verbal de récolement sera dressé en 4 expéditions, dont l'une sera déposée à la mairie d'Angoustrine, la seconde à la mairie de Llivia, et les deux autres respectivement aux archives de la préfecture des Pyrénées-Orientales et de la Province de Girone.

X. Les Conventions écrites ou verbales existant aujourd'hui entre les frontières des deux pays, qui seraient contraires au présent règlement, sont annulées.

VIII. *Règlement pour l'organisation de la Commission administrative internationale du canal d'Angoustrine et de Llivia*

CHAPITRE I. COMPOSITION DE LA COMMISSION

ARTICLE I. La Commission administrative internationale sera composée de 3 délégués Français et de 3 délégués Espagnols.

II. Le maire d'Angoustrine et l'alcade de Llivia seront membres nés de la Commission. Ils présideront à tour de rôle par année.

III. Les 4 autres membres, pris parmi les intéressés, seront nommés, les Français par les usagers Français, conformément au mode d'élection qui sera défini par un arrêté ultérieur du Préfet des Pyrénées-Orientales, et les

membres Espagnols, par les usagers Espagnols conformément au mode de nomination qui sera arrêté par le Gouverneur de Gironne. Si l'élection reste sans résultat, la Commission sera complétée d'office par le Préfet des Pyrénées-Orientales et le Gouverneur de Gironne.

IV. Au 31 Décembre de chaque année, il sera pourvu au remplacement d'un des membres Français et d'un des membres Espagnols nommés par élection. Les membres sortants ne seront pas immédiatement rééligibles, et ceux qui devront sortir la première année seront désignés par le sort.

V. Les membres de la Commission ne pourront pas se faire remplacer par des mandataires de leur choix. En cas d'absence, ils seront remplacés par des membres suppléants, qui seront au nombre de deux pour chaque nation et élus comme les membres titulaires.

VI. Dans le cas de décès ou de démission d'un membre titulaire ou suppléant, il sera pourvu à son remplacement, et la durée des fonctions du membre élu n'excédera pas l'époque qui limitait les fonctions du membre remplacé.

VII. La Commission sera convoquée dans la commune dont le maire ou l'alcade aura la présidence. Elle pourra être réunie sur la demande de deux membres ou sur l'invitation du Préfet des Pyrénées-Orientales ou du Gouverneur de Gironne.

VIII. Les usagers qui auront commis une contravention seront rayés de la liste d'éligibilité pour l'année pendant laquelle la contravention aura été commise.

IX. Les délibérations seront prises à la majorité des membres présents. En cas de partage, il en sera référé aux autorités départementales et provinciales des deux nations. La Commission ne pourra délibérer qu'au nombre de 4 membres, dont deux Français et deux Espagnols; toutefois, la délibération sera valable, quel que soit le nombre des membres présents, lorsque les membres ne se seront pas réunis en nombre suffisant après deux convocations régulières faites à 8 jours d'intervalle.

X. Tout membre qui sans motif légitime, aura manqué à 3 convocations, pourra être déclaré démissionnaire et immédiatement remplacé.

XI. Les délibérations seront inscrites par ordre de date sur un registre coté et paraphé par le président et seront signées par tous les membres présents.

XII. Le président portera à la connaissance du Préfet des Pyrénées-Orientales et du Gouverneur de Gironne le nom des membres de la Commission.

CHAPITRE II. FONCTIONS DE LA COMMISSION

La Commission est chargée:

ARTICLE I. De veiller à l'exécution du règlement international.

II. D'apprécier l'opportunité des travaux d'entretien dont la dépense doit être supportée par les usagers des deux pays, d'approuver les projets et le mode d'exécution de ces ouvrages et d'en surveiller l'exécution.

III. De faire dresser les rôles pour la répartition de la dépense et de les soumettre à l'homologation du Préfet des Pyrénées-Orientales, pour les usagers Français, et du Gouverneur de Gironne pour les usagers Espagnols.

IV. De poursuivre devant les tribunaux compétents les contraventions et délits régulièrement constatés par les procès-verbaux des banniers.

V. D'accepter les amendes que les contrevenants pourront consentir à verser dans la caisse commune, à titre de transaction, pour arrêter les poursuites dirigées contre eux.

VI. De contrôler et de vérifier les comptes administratifs du président et la comptabilité du receveur caissier.

VII. De faire construire l'ouvrage régulateur mentionné dans les Articles III et VII du règlement.

CHAPITRE III. RECOUVREMENT DES RÔLES

ARTICLE I. Le recouvrement des rôles sera fait par un caissier nommé par la Commission administrative internationale.

II. Ce receveur caissier fournira un cautionnement proportionné au montant des rôles et recevra une indemnité dont la quotité sera déterminée par la Commission.

III. Ces rôles, affichés pendant 8 jours dans chacune des deux communes intéressées, seront rendus exécutoires par le Préfet des Pyrénées-Orientales et le Gouverneur de Gironne.

IV. La perception sera faite, en France, comme en matière de contributions directes, et, en Espagne, de la même manière.

V. Le receveur sera responsable du défaut de paiement des taxes dans les délais fixés par les rôles, à moins qu'il ne justifie des poursuites faites contre les contribuables en retard. Il acquittera les dépenses mandatées par le président et présentera, avant le 1^{er} Février de chaque année, le compte de sa gestion. Les réclamations relatives à la confection des rôles seront portées, pour les intéressés Français, devant le Conseil de Préfecture des Pyrénées-Orientales, et pour les usagers Espagnols, devant le Gouverneur de Gironne . . .

187. CONVENTION¹ ENTRE L'ESPAGNE ET LA FRANCE RELATIVE À L'EXERCICE DE LA PÊCHE DANS LA BIDASSOA, SIGNÉE À BAYONNE LE 18 FÉVRIER 1886²

Le Président de la République française et S.M. la Reine régente d'Espagne, désirant modifier l'Acte Additionnel conclu à Bayonne, le 31 mars 1859,

¹ Les instruments de ratification ont été échangés à Madrid le 11 octobre 1886. Les articles 1, 3, 4, 7, 8, 9, 10, 11, 13, 16, 17, 26 et 29 ont été modifiés en tout ou en partie par le Protocole du 19 janvier 1888, les Déclarations du 4 octobre 1894, du 6 avril 1908 et du 2 juin 1924, l'Avenant du 24 septembre 1952 et l'Échange de lettres du 11 mai et 8 juin 1954 (Voir *infra*, traités nos. 188, 189, 190, 191, 192 et 193).

² De Martens, *Nouveau Recueil Général de Traités*, 2^e série, tome XII, p. 687.

entre la France et l'Espagne, pour sanctionner le règlement international sur l'exercice de la pêche et les divers arrangements relatifs à la Bidassoa, ont résolu de conclure, à cet effet, une convention . . .

Droit de pêche

ARTICLE 2. Les riverains des deux pays pourront, à leur convenance, retirer et assécher leurs filets, soit sur la rive française, soit sur la rive espagnole, mais dans aucun cas sur une propriété particulière sans l'autorisation du propriétaire, et, selon l'usage existant, tous les produits de la pêche pourront être introduits en franchise dans chacun des deux pays.

Epoques pour les différentes pêches — Dimensions des diverses espèces de poissons et de coquillages

ARTICLE 5. Il est interdit de pêcher ou de recueillir, de quelque manière que ce soit, les œufs de tous les poissons et ceux des crustacés, et de les employer comme appâts.

ARTICLE 6. Il est interdit de pêcher les poissons qui n'ont pas la longueur suivante entre l'œil et la naissance de la queue: le saumon qui n'a pas la longueur de 27 centimètres; la truite saumonée qui n'a pas la longueur de 27 centimètres; l'anguille qui n'a pas la longueur de 21 centimètres d'un bout à l'autre; l'alose, qui n'a pas la longueur de 27 centimètres; le turbot qui n'a pas la longueur de 20 centimètres, et tous les autres poissons qui n'ont pas atteint la longueur de 16 centimètres. Mais les poissons qui n'atteignent jamais la longueur de 16 centimètres pourront être pris en tout temps et quelle que soit leur grandeur. Il est aussi interdit de recueillir les huîtres qui n'ont pas 5 centimètres de diamètre dans leur plus grande largeur et les moules qui n'ont pas 3 centimètres de diamètre.

L'interdiction de la pêche des huîtres pourra être temporairement ordonnée pour une année au moins, si cette mesure est commandée par l'intérêt de la conservation des fonds. Tous les autres coquillages pourront être pêchés, quelle que soit leur dimension.

ARTICLE 7. Les pêcheurs seront tenus de jeter en rivière les poissons désignés dans l'article précédent et qui n'ont pas atteint la longueur voulue et de laisser les huîtres et les moules qui n'ont pas le diamètre fixé, au même lieu où ils les ont recueillis.

Amendements marins

ARTICLE 8. Selon l'usage existant, tous les riverains indistinctement continueront à prendre, sur tous les points du cours de la Bidassoa baignés par la haute marée, toutes les herbes marines, excepté celles qui sont adhérentes aux baradaux des terres labourées et qui appartiennent exclusivement aux propriétaires de ces terres.

Ils continueront aussi à prendre les sables, coquilliers et autres amendements marins sur ces mêmes points qui resteront à découvert aux basses eaux;

mais ils ne pourront les enlever qu'à une distance de dix mètres des baradaux, des digues et des berges et à huit mètres des parcs à huîtres et à moules, des dépôts quelconques de coquillages et des viviers à poissons, dont il sera fait mention dans un des articles suivants.

Filets, instruments, procédés et modes de pêche permis

. . .

ARTICLE 10. Le droit exclusif de la pêche du saumon dans toute l'étendue de la Bidassoa, à son embouchure et dans la rade du Figuiér, appartiendra successivement, pendant vingt-quatre heures, de midi à midi, heure de l'horloge de l'église d'Irun, aux communes riveraines françaises ou espagnoles.

Huit jours avant l'ouverture de la pêche du saumon, les maires de ces communes ou leurs délégués se réuniront pour tirer au sort la commune à laquelle appartiendra le premier tour et l'ordre dans lequel les autres communes seront appelées à exercer leur droit.

En même temps, ils dresseront une liste nominative des pêcheurs qui, dans chaque commune, possèdent des filets réglementaires.

Les tours de pêche résultant du tirage au sort par commune, ainsi que la liste nominative précitée, seront communiqués aux gardes-pêche et autres préposés à la surveillance et à l'exécution du présent règlement désignés dans l'article 15 ci-après.

Le nombre des filets mis à l'eau pourra être illimité, sous condition qu'ils soient à mailles réglementaires.

. . .

ARTICLE 12. Sous quelque prétexte que ce soit, il est défendu de crocher ou de soulever les filets ou autres instruments de pêche appartenant à autrui.

Dépôts de coquillages. Viviers à poissons

. . .

ARTICLE 14. Pour le repeuplement des eaux de la Bidassoa, les pêcheurs français et espagnols pourront établir sur l'une ou l'autre rive de ladite rivière, mais seulement d'un commun accord et à frais communs, des viviers qui ne pourront servir qu'à la propagation du poisson et ne devront, dans aucun cas, gêner la navigation.

Police et surveillance de la pêche

ARTICLE 15. Pour assurer le maintien de l'ordre et l'exécution des dispositions du présent règlement, la surveillance sera exercée et les contraventions seront constatées en la forme prescrite à l'article 16 ci-après :

1° Par les commandants des forces maritimes de chaque Etat dans la Bidassoa ou par leurs délégués, ou par les maîtres patrons des annexes des stationnaires ;

2° Par quatre gardes-pêche, dont deux nommés par les municipalités d'Urrugue, d'Hendaye et de Biriadou, et deux par les municipalités de

Fontarabie et d'Irun. Ces gardes, dont le salaire sera à la charge des municipalités qui les auront nommés, seront assermentés et revêtus d'une bandoulière avec plaque indiquant leur qualité.

Ces gardes seront placés sous la surveillance directe du commandant du stationnaire et devront se conformer à ses instructions pour tout ce qui concerne la police de la pêche.

Les autorités subalternes désignées ci-dessus transmettront les procès-verbaux aux commandants des forces maritimes de chaque Etat.

Dispositions pénales

. . .

ARTICLE 18. Dans tous les cas de récidive, l'infracteur sera condamné au double de l'amende ou de l'emprisonnement qui aura déjà été prononcé contre lui; mais cette double peine ne pourra jamais dépasser le maximum établie dans le paragraphe 2 de l'article précédent. Il y a récidive lorsque, dans les douze mois précédents, il a été rendu contre l'infracteur un premier jugement pour contravention aux dispositions du présent règlement. Si, dans les douze mois précédents, il a été rendu contre l'infracteur deux jugements pour contraventions aux dispositions du règlement, l'amende et l'emprisonnement pourront être portés au double du maximum fixé dans l'article précédent.

ARTICLE 19. Le tribunal ou les magistrats compétents ordonneront, lorsqu'il y aura lieu, en sus de la peine infligée pour fait de contravention au présent règlement, le paiement de dommages-intérêts en faveur de qui de droit, et ils en détermineront le montant.

ARTICLE 20. Tout riverain qui pêchera le saumon en dehors de son tour de pêche, sans l'autorisation de celui à qui il revient, sera passible de l'amende ou de l'emprisonnement établis dans le paragraphe 2 de l'article 17 et, de plus, devra restituer le poisson pris en contravention ou sa valeur au pêcheur dont il aura pris le tour. En cas de récidive, il pourra être condamné à l'amende ou à l'emprisonnement et, de plus, la confiscation des filets pourra être prononcée.

ARTICLE 21. Le poisson saisi en contravention aux dispositions du présent règlement sera immédiatement distribué aux pauvres de la commune riveraine dans laquelle la saisie aura été faite.

. . .

ARTICLE 23. Les pères, mères, maris et maîtres pourront être déclarés responsables des amendes prononcées pour contraventions commises par leurs enfants mineurs, leurs femmes ou leurs serviteurs.

ARTICLE 24. Tout riverain qui aura outragé dans l'exercice de ses fonctions un des préposés mentionnés à l'article 15 ou tout officier de police judiciaire instrumentant comme il est dit au dernier paragraphe de l'article 16, ou qui leur aura résisté avec violence et voies de fait, sera puni des peines édictées en pareil cas par les lois de son pays.

ARTICLE 25. Le garde qui, dans l'exercice de ses fonctions, fera preuve de négligence, sera immédiatement révoqué, et s'il a agréé des promesses ou reçu des présents pour manquer à ses devoirs, il sera poursuivi d'après les dispositions prévues pour ce cas dans la législation de son pays.

Répression des contraventions

. . .

ARTICLE 27. Les procès-verbaux autres que ceux dressés par des officiers de police judiciaire devront être remis au commandant des forces maritimes sous la juridiction duquel se trouve le contrevenant. Cet officier, après les avoir visés, devra, sans délai, les envoyer avec son avis au tribunal compétent.

Avis du jugement qui interviendra sera donné à l'autorité qui aura dressé le procès-verbal.

ARTICLE 28. Les préposés à l'exécution du présent règlement mentionné à l'article 15 pourront constater les contraventions de tous les riverains quelle que soit leur nationalité; mais les contrevenants ne pourront être jugés que par le tribunal compétent de leur pays.

. . .

ARTICLE 30. Sans préjudice des droits appartenant au ministère public, la poursuite résultant de dommages ou de pertes éprouvées par des pêcheurs du fait d'autres pêcheurs se fera à la diligence des maires ou des alcades ou sur la plainte de la partie civile.

ARTICLE 31. L'action publique et l'action civile résultant des contraventions prévues dans le présent règlement seront prescrites après soixante jours révolus à compter du jour où le fait aura eu lieu.

Dispositions transitoires

ARTICLE 32. Le présent règlement sera exécutoire à partir du 1^{er} janvier de l'année qui suivra celle où il aura été promulgué.

Jusque-là, on continuera à se conformer à tous les usages existants; seulement, les dispositions relatives aux époques de pêche, aux dimensions que doivent avoir les différents poissons et aux prohibitions faites par les paragraphes 3, 4 et 5 de l'art. 11, seront exécutoires depuis le jour où la promulgation aura eu lieu.

Un an sera accordé à partir du jour de la promulgation de ce règlement pour se conformer aux dispositions de l'article 9, qui indique les dimensions des mailles des différents filets autorisés.

ARTICLE 33. Les hautes parties contractantes s'engagent à n'apporter aucun changement au présent règlement sans avoir pris l'avis préalable d'un nombre égal de délégués des municipalités des deux rives de la Bidassoa.

. . .

188. PROTOCOLE¹ ENTRE L'ESPAGNE ET LA FRANCE EN VUE DE MODIFIER CERTAINS ARTICLES DE LA CONVENTION DU 18 FÉVRIER 1886 RELATIVE À L'EXERCICE DE LA PÊCHE DANS LA BIDASSOA, SIGNÉ À MADRID, LE 19 JANVIER 1888²

Les soussignés dûment autorisés par leurs Gouvernements respectifs pour donner le caractère d'un accord international aux modifications introduites par la Commission internationale des Pyrénées dans certains articles de la Convention de pêche, arrêtée entre la France et l'Espagne, le 18 février 1886, sont convenus d'insérer dans le présent protocole les articles modifiés, lesquels auront la même force et valeur que ceux mentionnés dans la susdite Convention.

Les articles modifiés sont les suivants :

. . .

ART. 10. Le droit exclusif de la pêche du saumon dans toute l'étendue de la Bidassoa, à son embouchure et dans la rade du Figuié, appartiendra alternativement aux deux nations riveraines, pendant 24 heures, de midi à midi, heure de l'horloge de l'église d'Irun, chaque nation jouissant ainsi du droit exclusif de pêche par jours successifs.

Quinze jours avant le 1^{er} février, les maires des communes riveraines ou leurs délégués se réuniront pour tirer au sort la nation à laquelle appartiendra le premier tour, chaque nation devant régler ensuite ainsi qu'il va être dit ci-dessous, comme elle le jugera convenable, l'exercice de son droit. Huit jours plus tard les maires ou leurs délégués tant en France qu'en Espagne se réuniront, chaque groupe national de son côté, pour régler l'emploi des 24 heures de pêche dévolues à chaque nation.

Les délégués décideront librement s'ils veulent pêcher soit par commune à tour de rôle, soit toutes les communes ensemble dans un même jour ou suivant tout autre mode qui leur conviendra.

Une fois ce point fixé, les délégués auront le devoir de communiquer le résultat de leurs délibérations aux commandants respectifs et le mode de pêche ainsi arrêté devra être obéi sous peine de contravention.

Si les maires ne communiquaient pas en temps utile le résultat de leurs délibérations, chacune des délégation de la Commission internationale prendra l'initiative de fixer le mode d'exercice de la pêche pour ses nationaux. Cette fixation sera opérée dès les premiers jours de février.

Les maires ou leurs délégués dresseront une liste nominative des pêcheurs qui, dans chaque commune, possèdent des filets réglementaires. La liste nominative, ainsi déterminée, sera communiquée à tous les préposés à la surveillance et à l'exécution du présent règlement désignés dans l'article 15 ci-après. Le nombre des filets mis à l'eau pourra être illimité, sous condition qu'il soit à mailles réglementaires.

ART. 16. Les contraventions au présent règlement seront prouvées soit par témoins, soit à l'aide des procès-verbaux dressés et signés par les autorités ci-dessus désignées.

¹ Les ratifications ont été échangées à Madrid, le 20 septembre 1888.

² De Martens, *Nouveau Recueil Général des Traités*, troisième série, tome III, p. 253.

Les commandants des forces navales françaises et espagnoles dans la Bidassoa sont autorisés à saisir les filets et autres instruments de pêche prohibés, ainsi que le poisson pêché en contravention. Ils peuvent aussi faire opérer la saisie immédiate des filets même non prohibés des délinquants nationaux, quand la nature de la contravention le rendra nécessaire.

Les gardes-pêche auront le droit de requérir directement la force publique pour la répression des contraventions au présent règlement, ainsi que pour la saisie des engins prohibés, du poisson et des coquillages pêchés en contravention.

Les contraventions en matière de vente et de colportage du poisson, des coquillages et du frai, pris en temps prohibé ou au-dessous des dimensions prescrites, pourront également être constatées par tout officier de police judiciaire, qui pourra transmettre directement son procès-verbal au tribunal compétent.

. . .

ART. 26. Le jugement de toute contravention au présent règlement sera placé dans l'un ou l'autre pays, dans les attributions exclusives du tribunal compétent, et les contrevenants ne pourront être poursuivis que devant le tribunal de leur pays respectif, c'est-à-dire en Espagne, devant le tribunal civil de Saint-Sébastien, en France, devant le tribunal correctionnel de Bayonne.

. . .

189. DÉCLARATION¹ FRANCO-ESPAGNOLE PORTANT MODIFICATION DE L'ARTICLE 4 DE LA CONVENTION DU 18 FÉVRIER 1886, POUR L'EXERCICE DE LA PÊCHE DES HUITRES DANS LA BIDASSOA, SIGNÉE À BAYONNE, LE 4 OCTOBRE 1894²

ARTICLE 1. (Date de clôture de la période d'interdiction de la pêche des huîtres dans la Bidassoa. Voir l'article 4 de la Convention du 18 février 1886, modifié par la Déclaration du 6 avril 1908.)

ARTICLE 2. Il est défendu, pendant la période d'interdiction de la pêche des huîtres, de draguer aux abords des bancs et à une distance d'au moins cent mètres de chaque côté du pont international du chemin de fer entre Hendaye et Irun.

ARTICLE 3. Sont applicables, dans les cas prévus par les articles précédents, les stipulations contenues dans les articles 15 à 31 de la Convention du 18 février 1886, amendée par le Protocole signé à Madrid le 19 janvier 1888.

¹ L'échange des instruments de ratification a eu lieu le 17 décembre 1898.

² J. Basdevant, *Traité et Conventions en vigueur entre la France et les puissances étrangères*, tome deuxième, p. 174.

190. DÉCLARATION¹ FRANCO-ESPAGNOLE RELATIVE À L'EXERCICE DE LA PÊCHE DANS LA BIDASSOA SIGNÉE À BAYONNE, LE 6 AVRIL 1908²

. . .

ARTICLE III. La pêche à la ligne flottante continuera, par exception, comme par le passé, à être libre pour tous, à la réserve de l'époque du frai: chaque pêcheur ne pourra se servir que de trois lignes à la fois, chaque ligne ne pouvant porter plus de deux hameçons.

. . .

191. DÉCLARATION³ FRANCO-ESPAGNOLE RELATIVE À L'EXERCICE DE LA PÊCHE DANS LA BIDASSOA, PORTANT MODIFICATION DE LA CONVENTION DU 18 FÉVRIER 1886, MODIFIÉE PAR LE PROTOCOLE DU 19 JANVIER 1888 ET PAR LA DÉCLARATION DU 6 AVRIL 1908, SIGNÉE À MADRID LE 2 JUIN 1924⁴

ARTICLE 1. 1) Le droit de pêche dans le cours principal de la Bidassoa, depuis Chapitelaco-Arria ou Chapiteco-Erreca, jusqu'à la ligne fictive Penon-Cantabrico-Pointe des Dunes, et dans la partie de la rade du Figuier comprise entre la ligne cap Figuier-Tombeau, la ligne fictive Penon-Cantabrico-Pointe des Dunes et les rives espagnole et française, appartient exclusivement et indistinctement, en Espagne, aux habitants d'Irun et de Fontarable et, en France, aux habitants de Biriadou, Urrugne et Hendaye;

2) Les riverains espagnols ont le droit exclusif de pêche dans leurs canaux; deux balises marquent, en aval du pont de Béhobie, la limite de ces canaux dans cette partie;

3) Les riverains des deux pays pourront pêcher avec toutes sortes d'embarcations. Toutefois, les embarcations employées pour la pêche, soit aux filets, soit à ligne, devront porter les signes distinctifs suivants, peints sur le bois même de l'embarcation:

a) Un liston allant de bout en bout et des deux bords, jaune pour les Espagnols, bleu pour les Français;

b) Le nom de la commune à laquelle appartient l'embarcation;

c) Le numéro d'inscription de l'embarcation.

Ces deux marques seront placées sur les deux bords, à l'avant.

La hauteur de ces différentes marques sera au minimum de 10 centimètres.

Lesdits habitants continueront, sans être tenus de justifier de leur inscription sur les matricules maritimes de leurs pays respectifs, à exercer, sur tous les points de la rivière couverts par la haute marée, des droits identiques pour la pêche et pour tous les amendements marins, sans être soumis à d'autres dispositions ou restrictions qu'à celles résultant du présent règlement.

¹ Les instruments de ratification ont été échangés, le 12 août 1909.

² De Martens, *Nouveau Recueil Général de Traités*, 3^e série, tome III, p. 256.

³ L'échange des instruments de ratification a eu lieu le 25 mai 1926.

⁴ *Journal officiel de la République française*, 4 juin 1926, p. 6202.

ARTICLE 2. Les riverains des deux pays pourront, à leur convenance, entre Alunda et la ligne fictive Penon-Cantabrico-Pointe des Dunes, retirer et assécher leurs filets, soit sur la rive française, soit sur la rive espagnole, mais dans aucun cas, sur une propriété particulière, sans l'autorisation du propriétaire.

Selon l'usage existant, tous les produits de la pêche pourront être introduits en franchise dans chacun des deux pays.

Au delà de la ligne fictive Penon-Cantabrico-Pointe des Dunes, en baie du Figuier, il est interdit aux Français sur le rivage espagnol, aux Espagnols sur le rivage français (étant entendu par « rivage » la portion de côte s'étendant jusqu'à la limite des plus basses mers) de pratiquer la pêche, de retirer ou assécher leurs engins de pêche.

Les infractions à ce dernier paragraphe relèveront des juridictions des Etats sur le territoire desquels elles se seront produites.

. . .

ARTICLE 13. Sous les réserves prévues aux articles 4, 6 et 7 du présent règlement, les riverains peuvent pêcher indistinctement dans toutes les parties de la Bidassoa que couvrent les hautes marées, toutes espèces de coquillages; mais ils ne pourront construire des établissements de pêcherie à demeure ou temporaires, des parcs à huîtres ou à moules et des dépôts quelconques de coquillages, sans l'autorisation de la municipalité dans la juridiction de laquelle il s'agirait de les faire et sans se soumettre aux conditions qui leur seront imposées.

L'autorisation ainsi donnée sera révocable et ne pourra jamais être considérée comme une concession, et si elle est retirée pour inexécution des conditions imposées, l'établissement sera toujours détruit aux frais du contrevenant.

Ces parcs ou dépôts ne devront, dans aucun cas, gêner la navigation ni servir de pêcheries à poissons et devront avoir au moins une distance de 100 mètres de l'un à l'autre.

ARTICLE 15 *bis*. Les commandants des forces maritimes de chaque Etat dans la Bidassoa pourront, d'un commun accord, ordonner, sous la réserve ci-dessous, telle mesure non prévue au présent règlement qu'il paraîtra convenable de prendre dans l'intérêt de la pêche dans la Bidassoa et la baie du Figuier.

Chacun des commandants devra en référer sans délai au président de la délégation de sa nationalité à la commission internationale des Pyrénées. La mesure ne sera agissante qu'après approbation des deux présidents. La Commission internationale des Pyrénées, à la première réunion qui suivra, statuera sur ladite mesure.

ARTICLE 17. Afin qu'il y ait identité effective de droits pour tous les riverains, il faut qu'il y ait identité de répression pour les contrevenants des deux pays qui auront violé les mesures adoptées pour réglementer, conformément aux traités, la jouissance en commun de la Bidassoa.

Dans les deux pays, le tribunal compétent sera, en conséquence, appelé à prononcer, pour les faits de contravention au présent règlement, contre les pêcheurs soumis à sa juridiction :

1) La confiscation et la destruction des filets ou autres instruments de pêche défendus;

2) L'amende depuis 400 francs jusqu'à 500 francs ou l'emprisonnement pendant six jours au moins et un mois au plus.

Dans tous les cas prévus par la présente convention, si les circonstances paraissent atténuantes, les tribunaux compétents des deux pays seront autorisés à réduire l'emprisonnement même au-dessous de six jours et l'amende même au-dessous de 16 francs.

Ils pourront aussi prononcer l'une ou l'autre de ces peines sans qu'en aucun cas l'amende puisse descendre au-dessous de 1 franc et l'emprisonnement au-dessous de vingt-quatre heures.

ARTICLE 22. Le produit des amendes prononcées en vertu du présent règlement sera versé, dans l'un et l'autre pays, dans les caisses municipales, et la moitié en sera attribuée au garde-pêche ou agent de la police municipale qui aura constaté la contravention.

192. AVENANT FRANCO-ESPAGNOL À LA CONVENTION DU
18 FÉVRIER 1886 RELATIVE À L'EXERCICE DE LA PÊCHE
DANS LA BIDASSOA, SIGNÉ À PARIS, LE 24 SEPTEMBRE
1952¹

Le Gouvernement de la République française et le Gouvernement espagnol,

Désireux de modifier certaines dispositions de la convention sur l'exercice de la pêche dans la Bidassoa, du 18 février 1886, en vue de l'adapter aux conditions actuelles de la pêche, compte tenu des aménagements déjà apportés à cette convention, notamment par la déclaration franco-espagnole du 2 juin 1924, et en conformité avec les propositions faites dans ce sens par la sous-commission chargée de l'étude des problèmes de la pêche dans la Bidassoa qui ont été adoptées par la commission des Pyrénées lors de sa réunion à Paris au mois de décembre 1950, ont décidé d'adopter les modifications suivantes :

Article 1^{er}

Un nouveau paragraphe 3 ainsi conçu sera inséré :

« 3. Le droit de pêche, au filet ou à la ligne, sera constaté par une carte remise et visée chaque année par les commandants des stations navales, la procédure à suivre étant laissée à leur diligence ».

L'ancien 3 devient 4, mais au paragraphe a) lire :

« a) Un liston allant de bout en bout et des deux bords, jaune pour les Espagnols et bleu ou blanc pour les Français ».

Article 3

Un paragraphe 2, nouveau, ainsi conçu sera inséré :

« 2. La pêche au lancer est autorisée. Cette pêche se fera toujours du rivage, sans utiliser une embarcation. La pêche au lancer ne pourra pas être pratiquée par un pêcheur ayant déjà disposé des lignes flottantes ».

¹ *Revue générale de droit international public*, 1956, vol. LX, p. 147.

Article 4

Cet article sera remplacé par les dispositions suivantes :

« La pêche de l'anguille, de la lamproie, de la plie et du muge est permise en tout temps. Elle est interdite : pour le saumon et la truite saumonée, du 31 juillet au 15 février ; pour la truite, du 20 octobre au 31 janvier ; pour l'alose, du 31 mars au 1^{er} juin ; pour les poissons dont il n'est pas fait mention, du 15 mars au 1^{er} mai ; pour le homard et la langouste, du 1^{er} août au 1^{er} mars ; pour la crevette (sauf la crevette grise), du 1^{er} mars au 1^{er} juin. Cependant, on pourra, exceptionnellement pendant cette période, pêcher la crevette destinée à servir d'appât pour la pêche et qui se prend avec une « pandaretta » (corbeille en filets sans couvercle). Pour toutes les espèces de coquillages, du 1^{er} mai au 1^{er} octobre et, pour raisons d'hygiène, à toutes autres époques, sous réserve des autorisations prévues à l'article 15 *bis*. Toutefois, dans les zones ci-après définies :

« a) La zone maritime côtière limitée au Nord par la ligne Cap Figuiier - Pointe-du-Tombeau, à l'Ouest par une ligne joignant le sanatorium d'Hendaye-Plage à un point de la première ligne distant de 700 mètres de la Pointe-du-Tombeau.

« b) L'estuaire de la Bidassoa jusqu'à une limite Nord, constituée par une ligne prolongeant dans l'Ouest l'axe de la presqu'île d'Hendaye-Plage.

« L'interdiction est permanente, sauf dérogations individuelles accordées à titre exceptionnel par chacun des commandants des stations navales lorsque ces autorités auront la certitude que les coquillages recueillis sont destinés à être parqués, consommés cuits ou à servir d'appâts. »

Article 7

Cet article contiendra, dans un deuxième paragraphe, les dispositions suivantes :

« Tous les pêcheurs de saumon sont dans l'obligation de faire connaître à leurs stations navales respectives, à la demande des commandants, le nombre de saumons capturés, leur poids et le lieu de leur pêche ainsi que le procédé de pêche utilisé. »

Article 8

Un troisième paragraphe ainsi conçu sera ajouté à cet article :

« Ces dispositions s'étendent en particulier à tout le périmètre de l'île des Faisans ou de la Conférence, située au centre de la rivière, dans les eaux internationales.

« Les commandants des stations navales chargés de la garde et de la surveillance de l'île pendant les périodes de six mois où ces droits reviennent à chaque nation en accord avec les traités en vigueur, seront chargés de constater les infractions pendant les périodes où l'île est sous leur juridiction. »

Article 9

Cet article sera remplacé par les dispositions suivantes :

« 1. La pêche du saumon, de la truite saumonée et de l'alose est interdite, avec toute sorte de filet, pour permettre le repeuplement de ces espèces dans la rivière.

« L'emploi de filets pourra être autorisé suivant la procédure prévue à

l'article 15 *bis*, dès que les circonstances seront favorables et dans la seule zone maritime qui sera alors précisée.

« Dans ce cas, le filet employé sera le filet simple dont on se sert actuellement et dont les mailles du milieu ont au moins 52 mm. au carré, dont les mailles de côté ont au moins 60 mm. et dont la longueur sera au plus de 160 mètres.

« 2. Pour la pêche des poissons autres que le saumon, la truite saumonée, l'alose, la sardine et l'anchois, le filet ayant au moins 20 mm. de maille, dont la longueur maximum est fixée à 160 mètres, et dont les bouts de halage ont chacun 60 mètres au maximum, pourra être utilisé uniquement dans la partie de la baie du Figuier comprise entre le rivage français et la ligne joignant l'angle Nord-Ouest du casino d'Hendaye et la face Nord-Ouest de l'îlot Est des Jumeaux, à l'exclusion de toute autre partie de la zone internationale.

« L'usage de ce filet est autorisé les lundi et jeudi pour les habitants des communes riveraines espagnoles, les mercredi et samedi pour les habitants des communes riveraines françaises.

« 3. Les mailles des filets autorisés devront présenter les dimensions fixées pour chaque espèce lorsque ces filets seront mouillés.

« 4. Les filets qui servent à prendre les crevettes (bouquet ou crevette grise) ne devront pas avoir plus de trois brasses d'ouverture. On ne pourra pas s'en servir en amont du pont de Behobie.

« 5. Le filet à sardines dit bolinche sera autorisé en baie du Figuier, de la pointe du jour à la tombée de la nuit pendant la saison de la sardine et de l'anchois, quand la présence de ces poissons sera constatée dans la baie.

« 6. Les casiers ou nasses à homard ou à langouste en usage dans chaque pays sont autorisés dans la baie du Figuier.

« 7. Le filet dit carrelet à mailles de 14 mm. au minimum est autorisé sur le cours international de la Bidassoa, en amont de la ligne Penon-Cantabrico - Pointe-des-Dunes, seulement pour la pêche de l'éperlan. »

Article 10

A la quatrième ligne, au lieu de: « midi à midi », lire: « minuit à minuit ».

Un dernier paragraphe nouveau sera ainsi conçu:

« En vue d'une autorisation éventuelle de la pêche du saumon au filet, à laquelle il est fait allusion à l'article 9, paragraphe 1^{er}, les maires ou leurs délégués dresseront la liste nominative des pêcheurs qui, dans chaque commune, possèdent les filets prévus audit article. La liste nominative ainsi déterminée sera communiquée à tous les préposés à la surveillance et à l'exécution du présent règlement désignés à l'article 15 ci-après. »

Article 11

Cet article sera remplacé par les dispositions suivantes:

« Il est expressément défendu:

« 1. De faire usage dans la Bidassoa et en baie du Figuier de filets, d'engins de pêche et de procédés de pêche autres que ceux mentionnés aux articles 3 et 9, en particulier des filets appelés chaluts en français et *arrastra* en espagnol, des trémaills et des berteaux de toute nature;

« 2. De se servir des filets ou casiers mentionnés sans qu'ils soient revêtus du plomb ou de la marque qui sera adoptée par les autorités respectives et de les employer pour d'autres pêches que celles pour lesquelles l'usage de ces filets est permis;

« 3. De jeter dans la rivière ou la baie du Figuiet des drogues, matières explosives ou appâts qui seraient de nature à enivrer ou à détruire le poisson. En particulier, les usines qui déversent des eaux usées, en quelque point que ce soit du cours tant espagnol qu'international de la Bidassoa, devront être munies d'un procédé de filtrage rendant ces eaux inoffensives pour les diverses espèces de poissons;

« De le faire fuir soit en battant l'eau, soit en l'épouvantant de toute manière;

« De l'attirer au moyen de foyers lumineux pour qu'il donne dans les filets ou instruments de pêche. Toutefois, une lumière portative est autorisée pour la pêche de la piballe. »

Les alinéas 5, 6, 7, 8, 9 et 10 de l'ancien article deviennent 4, 5, 6, 7, 8 et 9, sans autre changement.

10 (nouveau), ainsi conçu:

« 10. De pêcher sur toute l'étendue de la zone internationale au fouet (cette pêche se pratique au moyen d'une ligne montée à gros hameçons à une ou plusieurs branches, placés au-dessus du plomb avec ferrage à l'épaule ou à la volée). En conséquence et pour faciliter la mise en application et la surveillance, les mesures suivantes seront appliquées:

« a) Il est interdit d'utiliser les hameçons à une branche dont l'ouverture mesurée perpendiculairement de pointe à tige est supérieure à 9 mm. et les hameçons à deux ou plusieurs branches dont l'ouverture de pointe est supérieure à 10 mm.

« b) Les hameçons à plusieurs branches autorisés sur les lignes flottantes doivent être montés au-dessous du plomb; ils doivent être régulièrement munis d'appât. Seules, les lignes de fond composées d'hameçons à une branche peuvent porter le plomb de lancer au delà des hameçons.

11 (nouveau), ainsi conçu:

« 11. Toute action de pêche est interdite la nuit, c'est-à-dire depuis 45 minutes après le coucher du soleil jusqu'à 45 minutes avant le lever du soleil, sur toute l'étendue de la zone internationale. Toutefois, cette interdiction est levée pour la seule pêche de la piballe qui se fait de nuit; mais les pêcheurs spécialisés devront se munir d'un permis spécial comportant une photographie d'identité et délivrée par les commandants des stations navales respectives. »

Article 15

Les dispositions suivantes figureront au dernier paragraphe:

« 3. La police et la surveillance de la baie du Figuiet et du cours international de la Bidassoa seront exercées exclusivement par les agents espagnols sur le rivage espagnol et par les agents français sur le rivage français. »

Article 17

Les alinéas 2 et 3 du deuxième paragraphe seront modifiés comme suit:

« 2. L'amende depuis 2.000 fr. jusqu'à 12.000 fr. ou l'emprisonnement pendant six jours au moins et un mois au plus.

« 3. Dans les cas prévus par la présente convention, si les circonstances paraissent atténuantes, les tribunaux compétents des deux pays sont autorisés à réduire l'emprisonnement même au-dessous de six jours et l'amende même au-dessous de 2.000 fr. Ils peuvent aussi prononcer l'une ou l'autre de ces peines sans qu'en aucun cas l'amende puisse descendre au-dessous de 250 fr. et l'emprisonnement au-dessous de 24 heures. »

193. ÉCHANGE DE LETTRES¹ ENTRE L'ESPAGNE ET LA FRANCE AMÉNAGEANT L'ARTICLE 17 DE L'AVENANT À LA CONVENTION DU 18 FÉVRIER 1886 SUR LA PÊCHE EN BIDASSOA SIGNÉ À PARIS LE 24 SEPTEMBRE 1952. PARIS LES 11 MAI ET 8 JUIN 1954²

Paris, le 11 mai 1954.

*Monsieur le Comte de Casa Rojas,
Ambassadeur d'Espagne.*

Monsieur l'Ambassadeur,

Par lettre du 31 mars 1954, n° 173, Votre Excellence a bien voulu me proposer un paragraphe libellé comme suit au sujet du montant des amendes prévues par l'Avenant à la Convention sur la pêche dans la Bidassoa, signé le 24 septembre 1952 :

« Les amendes appliquées en Espagne seront de 240 pesetas (deux cent quarante pesetas) au minimum et de 1.440 pesetas (mille quatre cent quarante pesetas) au maximum.

« Si des fluctuations intervenaient dans le cours du change entre les deux monnaies, les Hautes Parties Contractantes se consulteraient afin de réviser les chiffres-limite fixés par le présent Accord, en vue de maintenir la parité obligatoire en ce qui concerne la répression des infractions en matière de pêche dans la Bidassoa, sur les deux territoires nationaux ».

Cette suggestion a fait l'objet d'un examen attentif des Autorités compétentes qui, en admettant le principe même énoncé par Votre Excellence, souhaiteraient que les alinéas 2 et 3 du deuxième paragraphe fussent modifiés comme suit :

« 2. L'amende depuis 2.000 fr. (240 pesetas) jusqu'à 12.000 fr. (1.440 pesetas) ou l'emprisonnement pendant six jours au moins et un mois au plus.

« 3. Dans tous les cas prévus par la présente Convention, si les circonstances paraissent atténuantes, les Tribunaux compétents des deux pays son autorisés à réduire l'emprisonnement même au-dessous de six jours et l'amende au-dessous de 2.000 fr. (240 pesetas). Ils peuvent aussi prononcer l'une ou l'autre de ces peines sans qu'en aucun cas l'amende puisse descendre au-dessous de 250 fr. (30 pesetas) et l'emprisonnement au-dessous de vingt-quatre heures.

« Si des fluctuations interviennent en ce qui concerne le cours du change entre les deux monnaies, le taux des amendes prévu aux alinéas ci-dessus pourra être révisé sur la demande de l'une ou l'autre des Hautes Parties

¹ Entré en vigueur par l'échange desdites Notes.

² *Revue générale du droit international public*, vol. LX, 1956, p. 152.

Contractantes et le nouveau taux pourra être fixé par simple échange de lettres entre ces Hautes Parties Contractantes ».

Je serais reconnaissant à Votre Excellence de bien vouloir soumettre ces propositions à l'agrément de Son Gouvernement, et je saisis cette occasion pour Lui renouveler les assurances de ma très haute considération.

(Signé) SERRES

Paris, le 8 juin 1954

*Monsieur Serres, Ministre Plénipotentiaire,
Directeur des Affaires Administratives et Sociales*

Excellence,

En vue de réparer l'oubli qui avait été commis dans l'Accord signé le 24 septembre 1952, qui ne stipulait que le montant en francs des amendes susceptibles d'être infligées en cas de violation du Règlement franco-espagnol relatif à la pêche dans la Bidassoa, vous me proposez, par votre lettre en date du 11 mai 1954, la rédaction suivante pour les alinéas 2 et 3 du paragraphe 2 de l'article 17 de l'Acte additionnel.

« 2. L'amende depuis 2.000 fr. (240 pesetas) jusqu'à 12.000 fr. (1.440 pesetas) ou l'emprisonnement pendant six jours au moins et un mois au plus.

« 3. Dans tous les cas prévus par la présente Convention, si les circonstances paraissent atténuantes, les Tribunaux compétents des deux pays sont autorisés à réduire l'emprisonnement même au-dessous de six jours et l'amende au-dessous de 2.000 fr. (240 pesetas). Ils peuvent aussi prononcer l'une ou l'autre de ces peines sans qu'en aucun cas l'amende puisse descendre au-dessous de 250 fr. (30 pesetas) et l'emprisonnement au-dessous de vingt-quatre heures.

« Si des fluctuations interviennent en ce qui concerne le cours du change entre les deux monnaies, le taux des amendes prévu aux alinéas ci-dessus pourra être révisé sur la demande de l'une ou l'autre des Hautes Parties Contractantes et le nouveau taux pourra être fixé par simple échange de lettres entre ces Hautes Parties Contractantes ».

Au nom de mon Gouvernement, j'ai le plaisir de vous faire savoir que ce dernier accepte ce texte.

Je saisis cette occasion pour vous renouveler l'assurance de ma plus haute considération.

(Signé) Comte DE CASA ROJAS.

France-Switzerland

194. CONVENTION¹ CONCLUE ENTRE LE ROI DE FRANCE ET LE PRINCE-ÉVÊQUE DE BÂLE, CONCERNANT LES LIMITES DE LEURS ÉTATS RESPECTIFS, SIGNÉE À VERSAILLES LE 20 JUIN 1780²

¹ Ce traité a été ratifié par les Parties et les instruments de ratification échangés conformément à l'article XIV. Le Traité a été ratifié par le Roi de France le 11 juillet 1780. Conformément à l'article XIII, le Prince-Evêque a dû requérir et obtenir le consentement de l'Empereur et de l'Empire en ce qui concerne certaines dispositions du Traité qui a été ratifié de la part de l'Empire en 1785.

² De Martens, *Recueil des Traités*, tome III, p. 319.

. . .

ARTICLE I. La ligne de séparation des souveraineté et ressort du royaume de France et de la principauté de Bâle, depuis le point extrême où finit le territoire de Valengin jusqu'au moulin de Teusseret, dépendant de la terre de Franquemont, continuera d'être désignée, comme par le passé, et sera invariablement formée par la rivière du Doubs, de manière que le lit entier et tout le cours de l'eau, demeurent sous la domination de la France, et que cette couronne y puisse exercer sans gêne et sans empêchements tous les droits et toutes les prérogatives de la souveraineté; bien entendu qu'il ne sera dérogé en rien aux droits seigneuriaux et autres qui peuvent appartenir aux propriétaires riverains, tant sur le cours d'eau, tel que les droits de pêche et de bac, que sur les terrains contigus à ladite rivière: les commissaires chargés de l'exécution de la présente convention le seront aussi de vérifier exactement ces droits, de les constater par des procès verbaux, et de proposer aux deux souverains les règlements qu'ils jugeront convenables pour en assurer à jamais la jouissance et l'exercice aux propriétaires.

. . .

ARTICLE VI. Le Prince-Evêque de Bâle conservera, avec la souveraineté absolue de la rive droite du Doubs, la possession, la jouissance et la libre exploitation des usines qui y sont établies, ainsi que la propriété des isles qui ont fait anciennement partie de sa principauté. Il ne pourra être construit, ni sur la rive gauche, ni dans le lit même de cette rivière, aucunes jetées, ni autres œuvres dont l'effet médiat ou immédiat seroit de changer le cours de l'eau, d'en augmenter la surface ou de submerger une partie de la rive droite; les meuniers et les propriétaires des usines de la rive droite conserveront pareillement l'usage des barques et nacelles nécessaires pour la conservation de leurs canaux et écluses et pour l'exploitation desdites usines: enfin le Prince Evêque de Bâle et ses successeurs à perpétuité jouiront de la libre faculté de faire flotter en tout temps sur le Doubs les bois qu'ils feront conduire à leurs forges et usines, sans que lesdits bois puissent en aucun temps être soumis à aucune sorte de droits ou d'acquits de quelque nature qu'ils puissent être, à condition seulement de justifier leur destination, au moyen des déclarations et passeports de la chambre des finances dudit prince, qui devront être produits et contrôlés sans frais et sans difficulté au premier bureau où ces bois aborderont.

. . .

195. PROCÈS-VERBAL DE LA DÉLIMITATION ENTRE LA FRANCE ET LE CANTON DE NEUFCHÂTEL DRESSÉ À NEUFCHÂTEL LE 4 NOVEMBRE 1824¹

Les eaux de la rivière du Doubs, dans la partie où son cours fait la limite,² servent comme moyen de transport et comme moteur d'usines. La jouissance de ces eaux ayant été jusqu'ici assujettie à des droits plus ou moins contestés

¹ De Clercq, *Recueil des Traités de la France*, publié sous les auspices du Ministère des affaires étrangères, Paris, 1816-1830, tome troisième, p. 332.

² Dans toute la partie de la rivière du Doubs qui sépare la France de la principauté et canton de Neufchâtel, la limite de la souveraineté est au milieu de la largeur des eaux. (Article 1.)

qui ont fréquemment donné lieu à des discussions et altercations entre les sujets respectifs, nous, les Commissaires susdits, dans l'intention de prévenir tout ce qui pourrait troubler la bonne intelligence entre eux, sommes convenus que la jouissance des eaux du Doubs serait réglée à l'avenir d'après les articles suivants :

ARTICLE 5. La faculté d'user du cours d'eau pour les moulins et autres usines et pour les irrigations, n'est point subordonnée à la limite de la Souveraineté. Elle appartient à chaque rive jusqu'à la concurrence de la moitié de la masse des eaux courantes dans l'Etat des plus basses eaux. L'effet des retenues et barrages établis pour le service des usines et des irrigations ne peut aller au delà; les parties intéressées ont toujours le droit de demander que ces ouvrages soient réduits à la forme et aux dimensions propres à assurer et maintenir l'égalité du partage des eaux et la garantie des rives. Cependant, lorsque la dérivation de plus de la moitié de la masse des eaux courantes ne privera, ni les propriétés, ni les usines de l'autre rive, de la quantité d'eau dont elles ont besoin ni de la vitesse qui lui est nécessaire, elle pourra être effectuée avec l'autorisation de l'un et l'autre gouvernement. En cas de contestation entre les propriétaires des usines des deux rives ou des possesseurs de prises d'eau pour irrigations, soit pour la jouissance des eaux, soit pour trop grande hauteur de retenue, ou manœuvres illégales des eaux, les ingénieurs de l'un ou l'autre gouvernement pourront visiter les deux rives et les usines et prises d'eau pour irrigations, faire toutes les opérations de nivellement, levées de plans et manœuvres d'eau qu'ils jugeront nécessaires, afin de pouvoir éclairer l'autorité qui aura à prononcer sur les faits dont il s'agira.

ARTICLE 6. Les deux Gouvernements s'engagent à empêcher que, sous aucun prétexte, il soit apporté des changements à la forme ou à la position du lit naturel du Doubs par des travaux tels que jetées, éperons, barrages et autres quelconques. Les travaux qui ne peuvent produire que la protection de la rive, ne sont pas compris dans cette prohibition.

Lorsque des travaux ou constructions utiles à une rive tendraient à opérer un déplacement du lit du Doubs sans nuire à l'autre rive, ils pourront être exécutés du consentement unanime des deux Gouvernements.

196. CONVENTION¹ ENTRE LA RÉPUBLIQUE FRANÇAISE ET LA CONFÉDÉRATION SUISSE POUR RÉGLEMENTER LA PÊCHE DANS LES EAUX FRONTIÈRES. SIGNÉE À PARIS, LE 9 MARS 1904²

Reconnaissant l'utilité de régler à nouveau, d'un commun accord, la pêche dans le lac Léman, le Rhône, l'Arve et leurs affluents, ainsi que dans les autres cours d'eau empruntant le territoire des deux Etats, et,

¹ L'échange des instruments de ratification a eu lieu à Paris, le 1^{er} février 1905.

² De Martens, *Nouveau Recueil Général de Traités*, 2^e série, tome 33, p. 501.

notamment dans la partie du cours du Doubs formant frontière, ont résolu de conclure une convention spéciale.

TITRE I

Dispositions concernant le lac Léman

ARTICLE 1. Nul ne peut pêcher autrement qu'à la ligne tombante ou flottante, tenue à la main, s'il n'est porteur d'un permis de pêche délivré par l'autorité compétente.

Ne peuvent obtenir de permis de pêche ceux qui, ayant été punis pour contravention de pêche, n'ont pas satisfait aux pénalités encourues.

ARTICLE 2. Est interdit l'usage de tout filet, quel qu'en soit le genre ou la dénomination, dont les mailles, après leur séjour dans l'eau, n'auraient pas au moins 3 centimètres dans toutes les dimensions mesurées de nœud à nœud.

Cette limite de dimension, qui s'étend aussi à l'espacement des verges de tous autres engins employés à la pêche, ne s'applique pas à la goujonnière non contremaillée, seul engin autorisé pour la pêche du poisson devant servir d'amorce. La longueur de la goujonnière n'excédera pas 50 mètres et sa hauteur 2 mètres.

Toutefois, le ménier à mailles de 26 à 28 millimètres sans contremailles pourra être employé pour la pêche de la lotte dans les grands fonds, pendant les mois de décembre, janvier et jusqu'au 14 février inclusivement, et du 6 mars à la fin de mars. Mais il est entendu que tout pêcheur qui aura été reconnu s'être servi de ce filet à petites mailles pour une pêche autre que celle de la lotte, aura son permis retiré immédiatement par voie administrative pendant deux ans, sans préjudice des poursuites judiciaires qui pourront être dirigées contre lui. Ce retrait de permis ne pourra du reste jamais donner lieu à une demande d'indemnité ni à un recours contentieux quelconque.

Par exception également l'engin dénommé « nasse » pourra être monté à l'espacement de mailles de 25 millimètres.

Les filets appelés « grands pics », à mailles de 5 centimètres au moins, pourront être utilisés dans les parties profondes du lac, au delà du Mont, à la condition que la hauteur de ces engins n'excède pas 15 mètres, la longueur 120 mètres et que la distance entre les flotteurs et le sommet du pic soit au minimum de 4 mètres.

Les grands pics ne pourront être accouplés ni en longueur ni en hauteur et les dimensions indiquées par le paragraphe précédent (n° 5) ne pourront être dépassées sous aucun prétexte. Si deux ou plusieurs grands pics étaient trouvés reliés les uns aux autres, ils seraient saisis et les détenteurs de ces filets seraient poursuivis pour délit de pêche avec engins prohibés.

ARTICLE 3. Sont en outre interdits :

- a) Les lacets;
- b) Les harpons, les tridents et autres engins analogues, les plombées et les brillants, à l'exception des cuillers;
- c) Les armes à feu;
- d) Les branches et racines (bouquets) pour attirer le poisson.

ARTICLE 4. Il est interdit de faire usage d'appareils ayant pour objet de rassembler le poisson dans les noues, mares ou fossés dont il ne pourrait

plus sortir, ainsi que de le contraindre à passer par une issue garnie de pièges.

ARTICLE 5. Il est interdit de faire usage de noix vomique, de coque du Levant, de substances explosibles, de chaux, et de toute autre matière pouvant engourdir le poisson ou le faire périr.

Des pénalités sévères seront fixées par chacun des deux pays.

ARTICLE 6. Il est interdit aux fabriques, usines ou établissements quelconques placés dans le voisinage du lac, d'abandonner aux eaux les résidus ou matières nuisibles au poisson.

Ces établissements sont tenus d'organiser, à leurs frais, l'écoulement de ces matières dans le sol.

ARTICLE 7. Il est défendu de pêcher au filet aucun menu poisson.

Est considéré comme menu poisson celui dont la longueur n'atteint pas les dimensions suivantes : pour la truite, 25 centimètres, pour l'omble-chevalier, 20 centimètres, pour le goujon, 10 centimètres, pour toute autre espèce, 15 centimètres.

La longueur du poisson est mesurée depuis la pointe de la tête à l'extrémité de la queue.

Tout poisson pêché au filet, qui n'a pas la dimension prescrite, doit être immédiatement rejeté à l'eau, à l'exception du poisson devant servir d'amorce, lequel ne doit pas être débarqué à terre.

ARTICLE 8. La pêche de toute espèce de poisson est interdite du 15 février au 5 mars inclusivement.

b) La pêche de la truite est interdite du 1^{er} octobre au 31 décembre inclusivement et la pêche de l'omble-chevalier du 1^{er} au 31 décembre inclusivement.

Du 1^{er} octobre à fin décembre, les filets dormants, étoles, tramails et tous autres engins autorisés, qui demeurent fixés dans l'eau, ne doivent pas être placés à moins de 3 mètres de profondeur d'eau mesurés du sommet du filet à la surface du lac.

Durant la même période, il est interdit de faire usage de filets dormants, tels que tramails, étoles, pics, etc., ayant une dimension en hauteur supérieure à 2 mètres.

c) La pêche de la perche est interdite du 1^{er} mai au 31 mai inclusivement.

Pendant cette même période du 1^{er} au 31 mai, les seuls engins autorisés pour la pêche des espèces autres que la perche sont :

La ligne tombante ou flottante tenue à la main ;

La ligne traînante ;

Le fil dormant ;

La goujonnière, mais seulement pour la pêche des amorces, en se conformant aux prescriptions des articles 2 et 7 de la présente convention.

Toutefois, dans les grandes profondeurs du lac, au delà du mont, à 800 mètres au moins de la rive, il pourra être fait usage des filets non accouplés visés à l'article 2, alinéas 5 et 6 ci-dessus, pourvu que lesdits filets soient employés comme filets flottants, tendus avant le coucher du soleil et relevés après le lever du jour.

d) L'emploi de toute espèce de filet et de la nasse est interdit du 1^{er} septembre au 31 décembre inclusivement, dans un rayon de 300 mètres

autour de l'embouchure des principaux affluents du lac, savoir: en France la Dranse et l'Hermandance; en Suisse, le Rhône, le canal Stockalper, le Grand canal, la Chamberonne, la Venoge, l'Aubonne, la Dulive, la Promenthouse et la Versoie, ainsi qu'à l'entrée du port de Genève, à l'extrémité nord des jetées, suivant une ligne tirée du phare des Paquis à celui des Eaux-Vives.

e) Les filets, fils dormants et autres engins placés dans le lac, devront toujours être munis de flotteurs en bois d'au moins 0 m. 30 de longueur, marqués au fer rouge des nom et prénoms de leur propriétaire. Les agents chargés de la surveillance auront toujours le droit, après avoir avisé le propriétaire, de s'assurer, en ramenant le cordeau, que les engins sont conformes au règlement. Les engins dont l'emploi est interdit, ainsi que ceux que ne seraient pas marqués au nom d'un permissionnaire, pourront être saisis.

ARTICLE 9. La défense de pêcher comporte celle d'exporter le poisson du lac, de le colporter, de l'exposer en vente, de l'acheter, de l'expédier ou de le servir dans les auberges, restaurants, hôtels, etc.

Toutefois, dans l'intérêt de la pisciculture et sous réserve d'un contrôle suffisant, l'autorité compétente de chaque Etat pourra donner, en temps prohibé, des autorisations spéciales pour la pêche et la vente du poisson, après que les éléments de reproduction auront été utilisés.

ARTICLE 10. Les deux hautes parties contractantes s'engagent respectivement à poursuivre ceux de leurs ressortissants qui auraient commis, sur le territoire de l'autre Etat, l'une des infractions visées dans la présente convention, comme si l'infraction avait été commise sur leur propre territoire, et en appliquant les peines prévues par la législation du pays du délinquant pour la répression desdites infractions.

Toutefois, aucune poursuite n'aura lieu si le délinquant prouve qu'il a été définitivement jugé par le pays où l'infraction a été commise, et, en cas de condamnation, qu'il a exécuté ou prescrit sa peine, ou obtenu sa grâce.

La transmission des procès-verbaux se fera par l'intermédiaire des commissaires délégués, désignés par les deux gouvernements en vertu de la présente convention. Ces commissaires saisiront, chacun dans leur pays, les autorités compétentes et ils feront connaître à leur collègue le résultat des poursuites.

L'Etat où la poursuite sera exercée percevra seul l'amende et les frais, sauf à remettre à l'agent verbalisateur la part d'amende à laquelle il a droit.

Les procès-verbaux régulièrement dressés par les gardes assermentés feront foi, jusqu'à preuve du contraire, devant les tribunaux de l'autre pays.

Les engins ou poissons saisis resteront dans le pays de l'agent verbalisateur.

Les gardes-pêche de chaque pays pourront suivre les délinquants et saisir les engins et poissons prohibés, dans un rayon de 5 kilomètres au delà de la frontière de leurs Etats respectifs.

Ils ne pourront toutefois s'introduire dans les maisons, bâtiments, cours adjacentes et enclos, qu'assistés d'un fonctionnaire de la police locale ayant lui-même ce pouvoir.

Les commissaires des deux gouvernements sont autorisés à dénoncer directement aux gardes-pêche du pays voisin les contraventions qu'ils constateraient dans les eaux ou sur le territoire de ce pays.

Les fonctionnaires de la police locale seront tenus d'assister le garde

étranger dans ses recherches, sans en référer à une autorité supérieure.

Les deux gouvernements se feront connaître réciproquement les noms des gardes-pêche.

TITRE II

Dispositions concernant les affluents du lac Léman, le Rhône dès sa source en Valais à la frontière française, en aval de Chancy, l'Arve et ses affluents ainsi que les autres cours d'eau empruntant le territoire des deux Etats, à l'exception de la partie du Rhône formant frontière et du Doubs

ARTICLE 11. Les deux Etats contractants s'engagent à prévenir la destruction du poisson et à en favoriser la reproduction.

Ils s'engagent notamment à prendre les mesures prévues dans leur législations respectives pour empêcher la souillure des eaux, et assurer la libre circulation du poisson dans toute l'étendue des cours d'eau ci-dessus énumérés.

TITRE III

Dispositions concernant les parties du Doubs et du Rhône formant frontière

1. Doubs

ARTICLE 12. Nul ne peut pêcher dans les eaux frontières, s'il n'y est autorisé par l'autorité cantonale, en Suisse, et par le propriétaire riverain, en France.

ARTICLE 13. Est interdit l'usage de tout filet, quel qu'en soit le genre ou la dénomination, dont les mailles, après leur séjour dans l'eau, n'auraient pas au moins trois centimètres dans toutes les dimensions, mesurées de nœud à nœud.

Cette limite de dimension s'étend aussi à l'espacement des verges de tous autres engins employés à la pêche.

ARTICLE 14. Sont en outre interdits :

- a) Les lacets;
- b) Les harpons, les tridents, les plombées et les brillants, à l'exception des cuillers;
- c) Les armes à feu;
- d) Les branches et racines (bouquets) pour attirer le poisson;
- e) La trouble.

ARTICLE 15. Il est interdit de faire usage d'appareils ayant pour objet de rassembler le poisson dans les noues, mares ou fossés dont il ne pourrait plus sortir, ainsi que de le contraindre à passer par une issue garnie de pièges.

ARTICLE 16. Il est interdit de faire usage de noix vomique, de coque du Levant, de substances explosibles, de chaux ou de toute autre matière pouvant engourdir le poisson ou le faire périr.

ARTICLE 17. Il est interdit aux fabriques, usines ou établissements quelconques, placés dans le voisinage du Doubs, d'abandonner aux eaux les résidus ou matières nuisibles au poisson.

Ces établissements sont tenus d'organiser, à leurs frais, l'écoulement de ces matières dans le sol.

ARTICLE 18. Les filets fixes ou mobiles, ainsi que tous autres appareils de pêche ne peuvent excéder en longueur ni en largeur la moitié de la largeur mouillée de la rivière.

Les filets fixes et les appareils permanents de pêche, employés simultanément sur la même rive ou sur les deux rives opposées, doivent être à une distance au moins double du développement du plus long de ces appareils.

ARTICLE 19. Sont prohibés tous les filets traînants, à l'exception du petit épervier jeté à la main et manœuvré par un seul homme.

Sont réputés traînants tous filets coulés à fond au moyen de poids, et promenés sous l'action d'une force quelconque.

ARTICLE 20. Toute pêche, sauf celle à la ligne, est interdite à une distance moindre de 30 mètres en amont et en aval des écluses, barrages, chutes naturelles, pertuis, vannages, coursiers d'usines et échelles à poisson.

ARTICLE 21. Il est interdit de pêcher dans les parties de la rivière ou de ses canaux de dérivation dont le niveau serait accidentellement abaissé, soit pour y opérer des travaux quelconques, soit par suite du chômage des usines. L'interdiction de pêcher s'applique également pendant les sécheresses exceptionnelles qui seront assez fortes ou prolongées pour qu'il se produise une interruption dans l'écoulement des eaux, sur un ou plusieurs points de la rivière ou de ses canaux de dérivation.

ARTICLE 22. Toute pêche est interdite depuis le coucher jusqu'au lever du soleil.

ARTICLE 23. Il est défendu de pêcher au filet aucun menu poisson.

Est considéré comme menu poisson celui dont la longueur n'atteint pas les dimensions suivantes: pour la truite et l'omble-chevalier, 20 centimètres pour toute autre espèce, 15 centimètres.

La longueur du poisson est mesurée de la pointe de la tête à l'extrémité de la queue.

L'écrevisse ne peut être pêchée que si sa longueur, mesurée de l'œil à l'extrémité de la queue déployée, atteint 8 centimètres.

La pêche de l'écrevisse est interdite du 1^{er} octobre au 30 juin.

Tout poisson pêché au filet ou écrevisse qui n'a pas les dimensions prescrites doit être immédiatement rejeté à l'eau.

ARTICLE 24. Est interdite, du 20 octobre au 20 janvier inclusivement, la pêche de toute espèce de poisson et, du 15 avril au 31 mai, celle de tous les poissons autres que la truite.

ARTICLE 25. La défense de pêcher comporte celle d'exporter le poisson, de le colporter, de l'exposer en vente, de l'acheter, de l'expédier, de le servir dans les auberges, restaurants, hôtels, etc.

Toutefois, dans l'intérêt de la pisciculture, et sous réserve d'un contrôle

suffisant, l'autorité compétente de chaque Etat pourra donner, en temps prohibé, des autorisations spéciales pour la pêche et la vente du poisson, après que les éléments de reproduction auront été utilisés.

ARTICLE 26. Les contraventions aux dispositions qui précèdent seront poursuivies et réprimées par les autorités compétentes, conformément à la législation de l'Etat dans lequel elles auront été commises.

Si, pour la même contravention, deux ou trois territoires ont été empruntés, ou s'il y a doute, la contravention est réprimée par l'autorité compétente de l'Etat à laquelle elle a été dénoncée.

2. Rhône

ARTICLE 27. Nul ne peut pêcher dans la partie du Rhône formant frontière entre les deux Etats, s'il n'y est autorisé par l'autorité compétente du pays sur le territoire duquel il pêche.

ARTICLE 28. La pêche de la truite est interdite du 1^{er} octobre au 31 décembre inclusivement; celle de l'ombre de rivière (*thymallus vulgaris Nills*) du 1^{er} mars au 30 avril.

La pêche de l'écrevisse est interdite du 1^{er} octobre au 30 juin.

ARTICLE 29. Les dispositions des articles 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 25, et 26 ci-dessus sont applicables à la partie du Rhône formant frontière.

TITRE IV

Dispositions générales et transitoires

ARTICLE 30. Chacun des deux Etats contractants désignera un commissaire spécial pour la surveillance de la pêche dans la partie des eaux soumise à sa juridiction et déterminée aux titres premier et deuxième de la présente convention.

Les commissaires se réuniront chaque année pour former une commission mixte qui sera chargée d'adresser aux gouvernements des deux Etats intéressés un rapport sur la manière dont les dispositions convenues sont observées, et de leur soumettre les observations et propositions qu'elle jugerait convenable de faire dans l'intérêt de la pêche et de la propagation du poisson.

ARTICLE 31. Deux commissaires spéciaux seront pareillement nommés pour la surveillance de la pêche dans les eaux déterminées au titre troisième.

Leurs attributions sont les mêmes que celles des commissaires prévus à l'article précédent.

En outre, quatre agents spéciaux (gardes-pêche) dont deux nommés par le Gouvernement français, un par le Gouvernement de Neuchâtel et un par le Gouvernement de Berne, seront chargés d'assurer la police de la pêche, sous la direction de leurs commissaires respectifs.

Le service sera organisé en vue d'une surveillance simultanée des deux rives.

ARTICLE 32. De nouvelles espèces de poissons ne peuvent être introduites dans les eaux limitrophes qu'avec l'autorisation expresse et conforme des Etats contractants.

Les autorités compétentes des deux Etats s'accorderont sur les prohibitions ou autres mesures à prendre pour la conservation des espèces nouvellement introduites dans lesdites eaux.

ARTICLE 33. Chacun des deux Etats contractants prendra les mesures nécessaires pour l'exécution, sur son territoire, dispositions de la présente convention. Chacun d'eux conserve d'ailleurs la faculté de prescrire des dispositions plus sévères, s'il le juge convenable, dans l'intérêt de la pêche et de la reproduction du poisson.

ARTICLE 34. La présente convention restera en vigueur pendant cinq années, à dater du jour de l'échange des ratifications. A l'expiration de ce terme elle continuera d'être obligatoire pendant une année à partir du jour où l'une ou l'autre des hautes parties contractantes l'aura dénoncée.

ARTICLE 35. La présente Convention sera ratifiée et les ratifications en seront échangées aussitôt que faire se pourra.

Elle sera mise à exécution, dès que la promulgation en aura été faite d'après les lois particulières à chacun des deux Etats.

ARTICLE 36. Sont et demeurent abrogées :

1. La convention signée à Paris le 28 décembre 1880 ;
2. La déclaration du 12 mars 1891 ;
3. La convention additionnelle du 30 juillet 1891.

197. CONVENTION¹ ENTRE LA FRANCE ET LA SUISSE POUR L'AMÉNAGEMENT DE LA PUISSANCE HYDRAULIQUE DU RHÔNE ENTRE L'USINE PROJETÉE DE LA PLAINE ET UN POINT À DÉTERMINER EN AMONT DU PONT DE POUIGNY-CHANCY, SIGNÉE A BERNE LE 4 OCTOBRE 1913²

Le Gouvernement de la République Française et le Gouvernement de la Confédération Suisse, simultanément saisis par MM. Janin et Emile Crépel, en France, et par la Ville de Genève, en Suisse, d'une demande de concession de la force hydraulique disponible sur le Rhône, dans la partie où le fleuve forme frontière entre les deux pays, ainsi que dans la partie à l'amont jusqu'au débouché du canal de fuite de l'usine projetée de la Plaine, ont reconnu que l'Etat français et le canton de Genève avaient des droits égaux sur les eaux et la pente du fleuve dans la première section et que le canton de Genève avait des droits exclusifs dans la seconde section, mais que l'aménagement de cette force hydraulique et son utilisation dans une usine unique devaient faire l'objet d'une Convention internationale tenant compte des différences de législation des deux Etats.

Ils ont, en conséquence, convenu qu'il y avait lieu pour les deux Gouvernements d'établir ou de faire établir de concert les ouvrages nécessaires à la création de la chute et de procéder, entre eux, à un partage de la puissance

¹ Entrée en vigueur le 14 juin 1915 par l'échange des instruments de ratification.

² Basdevant, *Traité et Conventions en vigueur entre la France et les Puissances étrangères*, tome troisième, p. 551.

hydraulique disponible, laissant ensuite chacun libre d'utiliser à son gré et suivant les principes de sa propre législation la puissance qui lui serait ainsi dévolue:

A cet effet, ils ont arrêté les dispositions suivantes:

ARTICLE 1. Les concessionnaires des deux Gouvernements établiront sur le Rhône, en un point à déterminer en amont du pont de Pougny-Chancy, un barrage mobile susceptible de créer une retenue dont le remous ne pourra pas dépasser le débouché du canal de fuite de l'usine projetée de la Plaine.

ARTICLE 2. Le barrage sera établi aussi en aval que la constitution géologique du sol le permettra; il sera disposé dans les conditions les plus avantageuses pour l'aménagement de l'usine hydro-électrique.

Il présentera un débouché libre suffisant pour que les plus grandes crues puissent s'écouler sans produire aucune surélévation en amont du point fixé à l'article précédent comme limite du remous.

Le radier sera établi à un niveau voisin du fond moyen du lit de manière à assurer l'écoulement des graviers dont la retenue provoquerait le dépôt.

Le barrage comportera à l'une de ses extrémité une amorce d'écluse permettant éventuellement d'établir sans difficulté une navigation commode.

ARTICLE 3. Le projet d'exécution des ouvrages sera dressé par les soins des concessionnaires; il sera soumis avec toutes justifications utiles à l'acceptation des deux Gouvernements, qui se réservent expressément le contrôle des travaux, ainsi que le droit d'autoriser de concert, s'il y a lieu, toutes modifications au projet précédemment approuvé.

ARTICLE 4. Le barrage sera entretenu et manœuvré par les concessionnaires. La manœuvre sera faite suivant un règlement concerté entre les deux Gouvernements en vue d'éviter, en amont, tout danger d'inondation et tout dommage à l'usine supérieure et d'atténuer, en aval, dans la mesure du possible, les inconvénients pouvant résulter des variations de l'écoulement des eaux.

ARTICLE 5. Chacun des deux Etats riverains aura droit à une partie de la force motrice ainsi créée, proportionnelle à la chute du fleuve au droit des portions de rives qui lui appartiennent, c'est-à-dire que le canton de Genève aura droit à toute la force correspondant à la chute dans la région où il possède les deux rives, et que chacun des deux Etats aura droit à la moitié de la force correspondant à la chute dans la région où la rive gauche est suisse et la rive droite française.

Chacun des deux Etats pourra disposer de cette force, soit en l'utilisant lui-même, soit en la concédant ou en l'affermant à un tiers dans telle forme ou sous telle condition qu'il jugera utiles.

Dans le cas où une partie de l'énergie attribuée à l'un des Etats ne pourrait être, pendant un certain temps, utilisée sur son territoire, l'énergie ainsi disponible pourra être employée sur le territoire de l'autre Etat, sous réserve de la possibilité de résilier les contrats conclus après avertissement donné au moins cinq ans d'avance.

En vue du contrôle du partage de la force, les deux Gouvernements se communiqueront réciproquement tous documents statistiques sur la création et l'utilisation de l'énergie.

ARTICLE 6. Les deux Gouvernements se communiqueront leurs décisions au sujet des actes de concession et ceux-ci n'auront leur effet que lorsque les deux pays se seront déclarés d'accord sur les conditions imposées.

La limitation ultérieure ou le retrait de la concession ne pourront être décrétés qu'à la suite d'une entente commune.

ARTICLE 7. A l'expiration de la concession, de nouveaux pourparlers seront engagés entre les deux Gouvernements en vue de fixer les nouvelles conditions d'exploitation.

ARTICLE 8. En cas de non-achèvement de l'usine, d'interruption de l'exploitation ou de toute autre cause de déchéance prévue aux actes de concession, les deux Gouvernements prendront d'un commun accord les mesures qu'ils jugeront les mieux appropriées à la situation et éventuellement à l'octroi d'une nouvelle concession.

ARTICLE 9. Les deux Gouvernements s'entendront sur les dispositions à appliquer pour la protection du poisson, ainsi que pour l'exercice de la navigation et du flottage sur le Rhône.

Ils réservent expressément leur liberté pour les mesures à prendre dans l'intérêt de la défense nationale et du service des douanes.

. . . .

198. CONVENTION¹ POUR LE RÈGLEMENT DES RAPPORTS ENTRE LA SUISSE ET LA FRANCE AU SUJET DE CERTAINES CLAUSES DU RÉGIME JURIDIQUE DE LA FUTURE DÉRIVATION DU RHIN À KEMBS, SIGNÉE À BERNE, LE 27 AOÛT 1926²

LE CONSEIL FÉDÉRAL SUISSE ET LE PRÉSIDENT DE LA RÉPUBLIQUE FRANÇAISE, vu la résolution adoptée par la commission centrale pour la navigation du Rhin, le 10 mai 1922³, relativement au projet de dérivation du Rhin à Kembs présenté par le gouvernement de la République française, en exécution de l'article 358 du traité de paix de Versailles⁴, ainsi que l'accord intervenu, à la même date, entre les représentants allemands, français et suisses à ladite commission, à la suite des recommandations proposées à cette commission, désireux de régler en conséquence les rapports entre la Suisse et la France, ont résolu de conclure une convention à cet effet . . .

. . . .

Article premier

L'accord intervenu à Strasbourg, le 10 mai 1922, entre les représentants allemands, français et suisses à la commission centrale du Rhin, ayant eu pour objet de stipuler notamment que le remous produit par le barrage de Kembs sera étendu en amont jusqu'à la Birse et que la concession de la chute

¹ Entrée en vigueur le 29 décembre 1927 par l'échange des instruments de ratification.

² Société des Nations, *Recueil des Traités*, vol. 71, p. 63.

³ *Actes du Rhin, Traités, Conventions, Lois et Règlements principaux concernant la navigation sur le Rhin*, Strasbourg, 1947, p. 19.

⁴ Voir *supra*, Traité n° 115.

correspondant au remous sur le territoire suisse sera accordée au bénéficiaire désigné par le gouvernement français dans les formes et sous les conditions fixées par la législation suisse, la concordance nécessaire entre les actes de concession octroyés par chacun des deux Etats contractants sera assurée ainsi qu'il est prévu par la présente convention.

Article 2

La part de l'énergie électrique produite par l'usine de Kembs revenant à la Confédération suisse est fixée, d'un commun accord, à vingt pour cent (20 pour cent) de cette énergie, en représentation de l'énergie de la chute correspondant au remous sur le territoire suisse.

L'énergie électrique revenant à la Suisse sera exemptée par la France pendant la durée de la concession de toutes taxes, redevances ou restrictions de droit public quelconques, de telle sorte que cette énergie puisse être librement transportée en Suisse et soit, à tous égards, dans la même situation que si elle était produite sur territoire suisse.

Article 3

Le gouvernement français communiquera au gouvernement suisse les principaux plans et calculs relatifs au projet d'exécution de l'ensemble de l'usine de Kembs. Le gouvernement suisse pourra présenter ses observations avant l'exécution des travaux; le gouvernement français en tiendra équitablement compte, après avis de la commission prévue à l'article 4 ci-après.

Toutefois, les dimensions du débouché, les conditions de stabilité et de sécurité du barrage, ainsi que les prescriptions pour le service du barrage et de l'usine concernant la tenue des eaux sur le territoire suisse, feront l'objet d'une approbation concertée entre les deux gouvernements.

Les mêmes dispositions seront applicables au cas où des modifications ou additions viendraient à être apportées, soit aux installations, soit aux prescriptions de service.

Article 4

Les deux Etats contractants constitueront une commission de quatre membres, composée de deux ingénieurs désignés par le gouvernement suisse et de deux ingénieurs désignés par le gouvernement français.

En période de construction, cette commission contrôlera l'exécution des travaux de l'usine de Kembs et présentera ses observations sous forme de rapport aux autorités compétentes française et suisse.

En période d'exploitation, elle aura compétence pour examiner et résoudre toutes les questions intéressant à la fois l'exercice des deux concessions française et suisse. Elle surveillera l'exécution de ses décisions.

Les deux gouvernements s'engagent à mettre à exécution, sur leurs territoires respectifs, les décisions qui seront prises dans le cadre des actes de concession par la commission à l'égard de la société concessionnaire.

Article 5

Les concessions entreront en vigueur dès que la présente convention aura acquis force obligatoire et que les deux gouvernements auront constaté, par déclarations réciproques, que les clauses et conditions de ces concessions concordent sur tous les points où cela est nécessaire.

Article 6

Les deux gouvernements sont convenus de fixer dans leurs actes de concession les délais suivants :

- a) les plans de construction doivent être déposés dans le délai de six mois à partir de l'entrée en vigueur des actes de concession ;
- b) la société concessionnaire devra commencer les travaux dans le délai de six mois à compter de l'approbation desdits plans ;
- c) les travaux devront être achevés, au plus tard, cinq ans après l'approbation des plans ;
- d) les concessions prendront fin le 31 décembre de la soixante-quinzième année, comptée à partir de la date fixée par la présente convention pour l'achèvement des travaux.

Article 7

En cas de changement du bénéficiaire de la concession française, le gouvernement suisse transférera la concession suisse au nouveau bénéficiaire désigné par le gouvernement français.

Article 8

Quinze ans avant l'expiration des concessions, les deux gouvernements s'entendront sur la question de savoir :

- a) si les concessions doivent être renouvelées et à quelles conditions ;
- b) si et à quelles conditions les deux Etats, en commun, ou l'un d'eux, doivent user de leur droit de reprendre la concession ;
- c) si le service de l'usine doit être suspendu.

Les droits de retour du gouvernement français sont ceux définis par l'article 37 du cahier des charges de la concession française et ils s'appliquent à la totalité des installations établies sur territoire français.

Dans les cas visés sous a) et b) du premier alinéa de cet article, les parts de l'énergie de la chute revenant à la France et à la Suisse seront maintenues respectivement à quatre-vingts pour cent (80 pour cent) et à vingt pour cent (20 pour cent) et les conditions du nouveau régime seront déterminées de manière à en assurer aux deux Etats les avantages dans la même proportion.

Article 9

Les deux gouvernements pourront aussi s'entendre en vue d'un rachat dont les conditions seront réglées d'après le cahier des charges français.

Si, d'entente avec le gouvernement suisse, le gouvernement français vient à exercer seul le droit de rachat, il s'engage à prendre à sa charge et à respecter toutes les conditions de la concession suisse jusqu'à l'expiration de la durée de cette dernière. Après l'expiration de cette concession, les questions relatives au droit de reprise et à la continuation du service seront régies d'après les stipulations de l'article 8 de la présente convention.

Article 10

En cas de non-achèvement de l'usine, d'interruption de l'exploitation ou de toute autre cause de déchéance prévue aux actes de concession, les deux gouvernements prendront, d'un commun accord, les mesures qu'ils jugeront les mieux appropriées à la situation et, éventuellement, à l'octroi d'une nouvelle concession.

Article 11

En cas d'extinction des concessions par suite d'expiration de leur durée ou pour toute autre cause, les conditions créées sur territoire suisse par le remous ne pourront être modifiées que du consentement des deux gouvernements.

Article 12

Si un litige vient à s'élever entre les deux Etats contractants au sujet de l'application ou de l'interprétation de la présente convention ou de l'une des concessions visées par cette convention, il sera soumis, au cas où il n'aurait pu être réglé dans un délai raisonnable par la voie diplomatique, à la chambre de la Cour permanente de justice internationale appelée, aux termes de l'article 29 du statut de la Cour, à statuer en procédure sommaire. Toutefois, à la requête de l'une des parties, le litige sera soumis à la Cour de justice siégeant en séance plénière.

Les parties pourront également convenir de soumettre le litige à un tribunal arbitral, constitué conformément à l'article 45 de la convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

Article 13

Les stipulations de la présente convention seront maintenues en temps de guerre.

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 PROTOCOLE ADDITIONNEL

Au moment de procéder à la signature de la convention, conclue en date de ce jour, pour le règlement des rapports entre la Suisse et la France au sujet de certaines clauses du régime juridique de la future dérivation de Kembs, les soussignés, dûment autorisés à cet effet, déclarent qu'il est entendu que la commission prévue à l'article 4 de la convention prendra ses décisions à l'unanimité. Dans le cas où les membres français et suisses ne pourraient se mettre d'accord sur une des questions qui sont de leur compétence en vertu dudit article 4 et qui ne concernent ni l'application, ni l'interprétation de la convention ou de l'une des concessions visées par cette convention, le litige, s'il n'a pu être réglé dans un délai raisonnable par la voie diplomatique, sera tranché par un arbitre désigné d'un commun accord par les deux gouvernements.

Il est entendu, d'autre part, que l'article 12 de la convention demeurera applicable à tout litige qui, de l'avis de l'une des deux parties, concernerait l'application ou l'interprétation de la convention ou de l'une des concessions visées par cette convention.

Berne, le vingt-sept août mil neuf cent vingt-six (27 août 1926).

199. CONVENTION¹ ENTRE LA FRANCE ET LA SUISSE CONCERNANT LA CONCESSION DE LA CHUTE DU CHATELOT SUR LE DOUBS, SIGNÉE À PARIS LE 19 NOVEMBRE 1930²

Le président de la République française et le Conseil fédéral suisse.
 Simultanément saisis, en France, par la Compagnie générale d'Electricité

¹ Entrée en vigueur le 12 juillet 1932 par l'échange des instruments de ratification.

² *British and Foreign State Papers*, vol. 133, p. 487.

à Paris, en Suisse, par la Banque suisse des Chemins de Fer, aujourd'hui Société suisse d'Electricité et de Traction, à Bâle, au nom et pour le compte d'un groupement international, d'une demande de concession de la force hydraulique disponible sur le Doubs, dans la partie de la rivière comprise entre le Saut-du-Doubs et les Gravières.

Ont reconnu que l'Etat français et la Confédération suisse avaient des droits égaux sur les eaux et la pente du fleuve dans cette section, mais que l'aménagement de cette force hydraulique et son utilisation réalisables seulement dans une usine unique, devaient faire l'objet d'une convention internationale tenant compte des différences de législation des deux Etats.

Ils ont, en conséquence, convenu qu'il y avait lieu pour les deux Gouvernements d'établir de concert, ou de faire établir par un concessionnaire unique, les ouvrages nécessaires à l'aménagement de la chute, et de procéder entre eux à un partage de l'énergie disponible, laissant ensuite chacun d'eux libre d'utiliser à son gré, et d'après les principes de sa propre législation, l'énergie qui lui serait ainsi dévolue.

. . .

ARTICLE 1^{er}. Le concessionnaire des deux Gouvernements établira sur le Doubs un barrage susceptible de créer une retenue à la cote 716.00 (R.P.N. = 373.600 mètres) et à la cote 715.98 (N.G.F.) dont le remous s'étendra jusqu'au pied du Saut-du-Doubs.

ARTICLE 2. Le barrage sera établi au lieu dit la Grande-Beuge. Il sera disposé de manière à offrir aux eaux un débouché libre suffisant pour que les plus grandes crues puissent s'écouler sans produire une surélévation au-dessus de la cote fixée à l'article précédent.

L'usine sera construite aux abords du Moulin-Delachaux et l'eau sera rendue intégralement à son lit naturel environ à la cote 618.40.

ARTICLE 3. Le projet d'exécution des ouvrages sera dressé par les soins du concessionnaire. Il sera soumis, avec toutes justifications utiles, aux deux Gouvernements et il ne pourra être exécuté qu'après que les deux Gouvernements se seront déclarés d'accord pour son approbation.

Les deux Gouvernements se réservent expressément d'exercer de concert le contrôle des travaux et le droit d'autoriser ou de prescrire d'un commun accord, s'il y a lieu, toutes modifications au projet précédemment approuvé.

ARTICLE 4. Tous les ouvrages seront entretenus et manœuvrés par le concessionnaire.

La manœuvre des ouvrages de décharge et de prise sera faite suivant un règlement concerté entre les deux Gouvernements, en vue, d'une part, de satisfaire à l'amont à la condition prescrite par le premier paragraphe de l'article 2 ci-dessus et, d'autre part, de régler le mode d'écoulement des eaux en aval de manière à en atténuer les variations dans la mesure du possible et, en tous cas, de manière à ne pas compromettre les intérêts généraux et, en particulier, l'exploitation normale des usines d'aval.

ARTICLE 5. Chacun des deux Etats riverains aura droit à la moitié de l'énergie produite par l'usine. Il pourra en disposer, soit en l'utilisant lui-même, soit en la concédant ou en l'affermant à un tiers, dans telles formes et sous telles conditions qu'il jugera utiles.

L'énergie revenant à l'un des deux Etats qui serait produite sur le territoire de l'autre Etat sera exemptée par ce dernier de toutes taxes, redevances ou restrictions de droit public quelconque, de telle sorte que cette énergie puisse être librement transportée dans le premier pays et soit, à tous égards, dans la même situation que si elle était produite sur son territoire.

L'énergie attribuée à chacun des deux Etats pourra être exportée dans l'autre Etat, conformément aux dispositions légales sur l'exportation de l'énergie électrique en vigueur dans l'Etat qui a droit à cette énergie. Il est entendu que celui des deux Etats qui n'aurait pas emploi sur son territoire de l'énergie qui lui est attribuée ne mettra pas obstacle à l'exportation sur le territoire de l'autre Etat de l'énergie ainsi disponible.

ARTICLE 6. Les deux Gouvernements se communiqueront leurs décisions au sujet des actes de concession et ceux-ci n'auront leur effet que lorsque les deux pays se seront déclarés d'accord sur les conditions imposées.

Les actes de concession contiendront, notamment, des prescriptions relatives aux délais pour le commencement des travaux et la mise en service de l'usine. Les concessions prendront fin le 31 décembre de la 75^e année, comptée à partir de la date fixée par les actes de concession pour la mise en service de l'usine.

ARTICLE 7. En cas de non-achèvement de l'usine, d'interruption de l'exploitation ou de toute autre cause de déchéance prévue aux actes de concession, les deux Gouvernements prendront, d'un commun accord, les mesures qu'ils jugeront les mieux appropriées à la situation et, éventuellement, à l'octroi d'une nouvelle concession.

ARTICLE 8. 15 ans avant l'expiration des concessions, des pourparlers seront engagés entre les deux Gouvernements en vue de fixer les nouvelles conditions d'exploitation.

Les parts de l'énergie produite par la chute revenant à chacun des deux Etats seront maintenues égales et les conditions du nouveau régime seront déterminées de manière à assurer aux deux Etats des avantages égaux.

ARTICLE 9. Les deux Gouvernements pourront aussi s'entendre en vue d'un rachat dont les conditions seront réglées par les cahiers des charges des concessions.

ARTICLE 10. Pour la période de construction, les deux Etats contractants se réservent de constituer une commission de surveillance de 4 membres, dont deux membres seront désignés par le Gouvernement français et deux membres désignés par le Gouvernement suisse.

Cette commission contrôlera l'exécution des travaux et présentera ses observations sous forme de rapport aux autorités compétentes françaises et suisses.

Les deux Gouvernements s'engagent à mettre en exécution, sur leurs territoires respectifs, les décisions qui seront prises à l'unanimité, dans le cadre des actes de concession, par la commission à l'égard du concessionnaire.

ARTICLE 11. Pendant la période d'exploitation, le contrôle sera exercé dans les conditions prévues aux actes de concession. Chaque Gouvernement donnera toutes facilités pour l'accomplissement de leur mission aux fonctionnaires de l'autre Etat chargés de ce contrôle. Les noms de ces fonctionnaires seront réciproquement communiqués.

ARTICLE 12. Si un litige vient à s'élever entre les deux Etats contractants au sujet de l'interprétation ou de l'application de la présente convention ou de l'une des concessions visées par cette convention, il sera soumis, au cas où il n'aurait par été réglé dans un délai raisonnable, par la voie diplomatique ou par d'autres voies amiables, à la chambre de la Cour permanente de Justice internationale appelée, aux termes de l'article 29 du statut de la Cour, à statuer en procédure sommaire. Toutefois, à la requête de l'une des parties, le litige sera soumis à la Cour de Justice siégeant en séance plénière.

Les parties pourront également convenir de soumettre le litige à un tribunal arbitral, constitué conformément à l'article 45 de la convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

Germany-Luxembourg

200. CONVENTION BETWEEN THE GRAND DUCHY OF LUXEMBOURG AND PRUSSIA CONCERNING THE REGULATION OF FISHERIES IN BOUNDARY WATERS, SIGNED AT LUXEMBOURG ON 5 NOVEMBER 1892¹

The State Governments of the Grand Duchy of Luxembourg and the Kingdom of Prussia, having agreed to conclude a convention concerning the regulation of fisheries in boundary waters — with due regard, at the same time, to article 6, paragraph 2, of the Convention between Germany, the Netherlands and Switzerland for the Regulation of the Salmon Fishery in the Rhine of 30 June 1885² . . . have agreed upon the following provisions, which shall be subject to ratification:

Article 1

The Grand Duchy of Luxembourg accedes to the Convention between Germany, the Netherlands and Switzerland, of 30 June 1885, for the Regulation of the Salmon Fishery in the Rhine, provided that:

1. The Convention shall not apply to the Sauer river from the weir of the Erpelding mill onwards, to the Alzette river from the weir near the Dagois mill at Ettlebrück, or to the Wark river above the Linden weir;

2. Article 1 of the Convention shall be replaced by the following provision:

“It shall be unlawful to obstruct the course of the river completely by permanent fishing installations; in the Moselle and Sauer rivers, a channel of a minimum width of nine metres, measured along the shortest straight line at normal low water level, must be kept free in the river-bed alongside such installations for navigation and the passage of migratory fish”;

3. The weekly closed period laid down in the aforesaid Convention shall be changed to the period from Friday 6 p.m. to Saturday 6 p.m.

¹ De Martens, *Nouveau Recueil Général de Traités*, 2nd Serie, tome XXIV, 1899, p. 153. (Translated from German by the Secretariat of the United Nations.)

² See *supra*, treaty No. 112, p. 393.

Article 2

With respect to the waters under joint sovereignty, the following agreement is concluded between the Kingdom of Prussia and the Grand Duchy of Luxembourg:

§ 1. 1. Spawn fishing shall be prohibited.

2. It shall be unlawful to take fish of the following species whose lengths, as measured from the tip of the head to the end of the tail fin, are less than the lengths stated below:

Salmon (<i>Salmo salar</i> L.)	35 cm
Barbel (<i>Barbus fluviatilis</i> Ag.) — bream (<i>Abramis brama</i> L.) — salmon trout (<i>Salmo trutta</i> L.) — shad (“Alse” — <i>Clupea alosa</i> L., “Finte” — <i>Clupea finta</i> Cos.) — carp (<i>Cyprinus carpio</i> L.) — pike (<i>esox lucius</i> L.)	28 cm
Tench (<i>Tinca vulgaris</i> Cuv.) — chub (<i>Leuciscus cephalus</i> L.) — dace (<i>squalius leuciscus</i>) — trout (<i>Salmo fario</i> L.) — “Nase” (“Mackrele”, Redfisch, Mundfish, <i>Chondrostoma nasus</i> L.) — grayling (<i>Thymallus vulgaris</i> Nisson)	20 cm
Crucian (<i>Carassius vulgaris</i> Nordmann) — rudd (<i>Leuciscus erythrophthalmus</i> L.) — perch (<i>Perca fluviatilis</i> L.) — roach (<i>Leuciscus rutilus</i> L.)	15 cm
Crayfish (“Flusskrebs” — <i>Astacus fluviatilis</i>)	10 cm
Crayfish (“Steikrebs” — <i>Astacus fluviatilis</i> Rondeler and <i>Astacus fluviatilis</i> Var. <i>nobilis</i> Schrank)	6 cm;

in the case of the last-named two species, the length to be measured from the tip of the head to the tip of the tail.

By agreement between the two Governments, the size limit for salmon trout may be raised and size limits may be prescribed for species of fish other than those enumerated above.

3. Spawn, as well as fishes and crayfish of any of the species enumerated in sub-paragraph No. 2 shall, if they are below the sizes prescribed therein, be immediately returned to the water with the care required to ensure their survival.

4. The provisions of this paragraph shall not apply to fry in fish hatcheries. Furthermore, each of the Governments may, in the interest of pisciculture, of scientific research and of experimentation of general utility, grant to individual holders of fishing rights temporary and revocable permits for the taking of fish and crayfish below the sizes prescribed in sub-paragraph No. 2.

§ 2. The holders of fishing rights shall be authorized to kill, without the use of firearms to take and to keep for themselves, otters, divers, kingfishers, herons, cormorants, and ospreys.

§ 3. The following provisions shall apply to the operation of fisheries in the Moselle, Sauer and Our rivers, to the extent to which these rivers are under joint sovereignty:

1. In the Moselle, Sauer and Our rivers, below Gemünd, the period from 25 March to 25 June inclusive shall be a closed season (closed spring season).

2. In the upper reaches of the Our river, upstream from Gemünd, the period from 15 October to 1 April shall be a closed season (closed winter season).

The point in the Our river above which a closed winter season shall be observed shall be indicated by local marks to be established at the joint expense of the two Governments.

The two Governments reserve the right, by mutual agreement and, where necessary, by the issue of police regulations, to prohibit all fishing in certain waters or certain sections thereof for extended periods or subject it to restrictions more stringent than those specified above, and to prohibit the taking of certain species of fish or the use of specified types of fishing gear.

§ 4. Salmon fishing shall be prohibited:

1. from Friday 6 p.m. to Saturday 6 p.m. (weekly closed period);
2. from 20 November to 31 December inclusive.

Notwithstanding this provision, each of the Governments shall be authorized to permit fishing for salmon and trout by individual holders of fishing rights among its nationals provided that the use for piscicultural purposes of the reproductive elements (eggs and milt) of any fish taken at the spawning stage or approaching the spawning stage is ensured.

During the period from 1 October to 19 November inclusive, salmon fishing shall be permitted in the upper reaches of the Our river, above Gemünd, subject to observance of the weekly closed period.

§ 5. Each of the two Governments shall be authorized exceptionally to grant permission for shad fishing during the annual closed period. However, the prohibition of the taking of these fish during the period from Friday 6 p.m. to Saturday 6 p.m. shall continue in force.

For the purpose of promoting research or experimentation of general utility, or for piscicultural purposes, or, finally, to protect other species against predatory fish, each Government may, where necessary, under appropriate measures of control, exceptionally permit the taking of individual species of fish not specified above.

Whenever permission is granted for fishing during the closed season, the use of fishing tackle which, though normally permitted, is particularly liable to destroy young fish, shall be excluded.

§ 6. During the annual closed periods and during the prohibition of salmon fishing, all permanent fishing appliances must be removed or put out of operation.

So far as is compatible with considerations of fish conservation, each Government may grant exemptions from the foregoing provision, in particular in cases where salmon fishing permits have been exceptionally granted subject to the use of the reproductive elements for piscicultural purposes.

§ 7. The provisions of §§ 3 and 4 shall not apply to fishing for crayfish.

It shall be unlawful to take crayfish during the period from 25 October to 25 June inclusive.

If crayfish are taken during the aforesaid closed period, they shall be immediately returned to the water with the care required to ensure their survival.

§ 8. In fishing it shall be unlawful

1. to use harmful or explosive substances (poisoned bait, narcotics, or substances intended to destroy the fish, explosive cartridges or other explosive devices, etc.);
2. to use tackle designed to injure the fish, such as spring traps, fishing forks, fishgigs, fish-spears, pikes, poles, firearms, etc.

The use of fishing rods and lines shall be permitted.

3. To drive fish together in shoals at night by means of lights and torches.

4. Salmon fishing at night with torches, but without the use of spears and pikes, shall continue to be permitted during the years 1892, 1893 and 1894.

All previous provisions relating to fishing tackle and fishing methods, in particular those contained in the Ordinance of 1669, shall cease to have effect in respect of the waters concerned and for the duration of this Convention.

§ 9. The waters to which the present Convention applies shall not be dammed up, diverted or drained for fishing purposes.

§ 10. Except in cases of existing licences, it shall be unlawful to set up new fish-weirs, fish-crawls and so-called *Selbstfänge* (automatic catching devices) attached thereto for salmon and eel.

Except where existing conduits are protected by legislation in force in the territories of the two Contracting States, it shall be unlawful for agricultural or industrial enterprises to cast or eject into the waters concerned, or to permit to be emptied into them, substances of such nature and in such quantities as may be injurious to fish stocks or as may damage the fishing rights of others.

In the event of overriding agricultural or industrial interest, the casting or ejection of such substances into the waters concerned may be permitted by agreement between the two Governments, provided that the owner of the enterprise is directed to provide such installations as may be necessary to reduce damage to fishing as far as possible.

§ 12. The retting of flax and hemp shall be prohibited in the waters to which this Convention applies.

Exemptions from this prohibition, which shall be revocable in each case, may, by agreement between the two Governments, be granted to municipal districts or territorial divisions where local conditions do not lend themselves to the installation of suitable retting pits and the use of the rivers for the processing of flax and hemp cannot at present be dispensed with.

§ 13. After three years from the entry into force of this Treaty, it shall be unlawful, subject to the exemptions listed below, to use for fishing purposes any fishing gear (nets, hurdles, etc.), of whatever type and designation, whose openings (meshes), when wet, have a width of less than 3 cm on every side (as measured from the centre of one knot to the centre of the next knot).

This provision shall apply to all parts and divisions of fishing implements, in particular also to stakes, etc., attached to permanent fishing installations (stake nets [“*Thalfänge*”], fish weirs, etc.).

However, the width of the meshes may be reduced to 12 mm in the case of hoop nets measuring 1.25 m square, and of bag nets with a diameter of 0.25 m at the far end.

From 15 July to 31 August, it shall be permitted, exclusively for purposes of eel-fishing, to set the stakes of stake nets [Thalfänge] at distances of 2 cm.

With respect to fishing tackle (made of wicker work) exclusively designed and suitable for the taking of eel and river lamprey, no restrictions shall be imposed regarding the width of the openings between stakes.

Each Government agrees that the other Government shall be authorized, where necessary, to grant exemptions from the provisions regulating the

width of meshes in respect of certain types of fishing tackle and for the taking of certain species of fish.

Where such a measure is imperative in the interest of the conservation of fish stocks or of a valuable species of fish, the use of certain harmful types of fishing tackle may, by means of identically worded police regulations to be agreed upon, be entirely excluded or be subjected to more stringent restriction than those laid down above, either in all or in some of the water courses concerned, or in certain sections thereof.

§ 14. It shall be unlawful in fishing to obstruct water courses by permanent fishing installations or by fishing gear anchored in or made fast to the river banks or the river bed (eel-baskets, *Sperrnetze*) over a distance exceeding one-half of the width of such water course as measured at normal water level along the shortest straight line from bank to bank.

Where several such fishing devices are laid out or fastened simultaneously, either on the same bank or on opposite banks, the minimum distance between them shall be not less than three times the length of the largest net.

The provisions of paragraph 1 shall not apply to fish weirs in the Sauer river.

§ 15. Fishing operations shall not be carried out in such a way as to hinder or interfere with navigation.

All fishing installations, whether fastened or floating, and all other fishing gear, shall be set up or laid out in such a manner as not to impede the free passage of ships and ferries or the free flow of the waters. In particular, a channel of a minimum width of 9 metres, as measured at normal low water level, must also be kept open next to the fish weirs in the Sauer river for the passage of vessels.

§ 16. Any person desiring to engage in fishing in any of the waters subject to this Treaty shall carry a permit issued by the appropriate authority, which permit he shall produce whenever required to do so by the law-enforcement officers of either country.

§ 17. Auxiliary personnel employed in fishing in the presence of the holder of fishing rights, of the lessee of such rights or of the holder of a fishing permit shall not be required to carry a permit.

§ 18. All persons shall be authorized to engage in fishing with hand rods and lines in the Moselle river and the sections of the Sauer river under joint sovereignty. No permit shall be required.

§ 19. Any tackle laid out in the water for fishing purposes in the absence of the fisherman shall be provided with a mark or sign by which his identity can be established. Detailed provisions concerning such marking shall be issued by means of an identically worded police ordinance.

§ 20. All persons engaged in fishing shall, by virtue of identically worded police ordinances to be agreed upon by the two Governments, be required, immediately upon order by any officer of either State exercising fisheries police functions, which officers shall be identified by their uniforms or badges, to land their boats and to allow them to be inspected, or, if the boats are on the bank, to leave them in position and not to move until expressly permitted to do so.

§ 21. The Contracting Governments agree to take all requisite measures for the implementation of this Treaty, in particular to ensure that all violations of the provisions of this Treaty, as well as of the police ordinances concerned, shall be subject to penalties.

Fines shall not exceed the sum of 125 francs or 100 marks, respectively; they shall, as far as possible, be equalized in the two States.

Where a fine is irrecoverable, a sentence of imprisonment shall be awarded.

§ 22. In every case of conviction, the confiscation of the fishing tackle and implements shall be ordered. The sentence may also order the destruction of any illicit gear.

§ 23. The prosecution of offences against the provisions of this Treaty or of the police ordinances concerned shall be barred after the expiration of three months reckoned from the day on which the offence was committed.

§ 24. Each of the Governments undertakes to recruit the necessary supervisory personnel to ensure the application of the Convention and of the regulations issued under it.

§ 25. During the operation of this Treaty, all provisions, whether based on law or on ordinance, which relate to the subject-matter of this Treaty, shall, to the extent to which they are inconsistent with the provisions here agreed upon, cease to have effect in respect of the waters concerned as from the date on which the penal provisions to be issued under this Treaty shall have come into force in both States concerned.

§ 26. Each of the Governments concerned shall notify the Government of the other State of any authorization or permission exceptionally granted by it in accordance with the foregoing provisions.

. . .

Germany (Federal Republic of)-Luxembourg

201. STATE TREATY¹ BETWEEN THE GRAND DUCHY OF LUXEMBOURG AND THE *LAND* RHINELAND-PALATINATE IN THE FEDERAL REPUBLIC OF GERMANY CONCERNING THE CONSTRUCTION OF A HYDRO-ELECTRIC POWER-PLANT ON THE SAUER (SÛRE) AT ROSPORT/RALINGEN, SIGNED AT TRIER, 25 APRIL 1950²

The following Treaty is hereby concluded between the Government of the Grand Duchy of Luxembourg and the Government of the *Land* Rhineland-Palatinate in the Federal Republic of Germany:

Article 1

The Government of the Grand Duchy of Luxembourg shall have the right to construct and operate on the Sauer (Sûre) at Rosport/Ralingen, in accordance with the general plans attached hereto, a hydroelectric power-plant having a maximum water-level equal to mean sea level t 151.50 metres, the cost of such construction and operation to be borne by the said Government or by the power-plant undertaking, and it shall have the

¹ Came into force on the date of its signature.

² *Mémorial du Grand-Duché de Luxembourg*, No. 46, 24 July 1953. (Translated from German by the Secretariat of the United Nations.)

further right to utilize for this purpose all the water resources of the Sauer (Sûre).

Article 2

This Treaty shall remain in force for a period of ninety-nine years from the date on which the power-plant is put into operation. A new contractual agreement between the two Contracting States shall be required for the purpose of extending the Treaty.

Article 3

Legal relationships and supervisory rights with respect to the power-plant shall be governed by the provisions of this Treaty.

Article 4

The Government of the *Land* Rhineland-Palatinate undertakes to transfer to the Government of the Grand Duchy of Luxembourg as private property, within three months after the signature of this Treaty, such land situated on the German side of the Sauer (Sûre) as may be required for the construction and operation of the power-plant. The said land shall be bounded by the contour line corresponding to the maximum water-level (151.50 metres) and shall include, in addition, a protective strip three metres wide. The Government of the Grand Duchy of Luxembourg undertakes to refund to the Government of the *Land* Rhineland-Palatinate the purchase price together with costs.

Article 5

The power-plant undertaking shall be entitled to construct, for the purpose of utilizing water-power, the installations provided for in the attached plans and computations and in particular:

1. A dam with movable locking-mechanisms on the Sauer (Sûre), approximately 975 metres below the ruined Rosport bridge;
2. A lock for the passage of shipping at the dam;
3. A fish ladder at the dam.

The aforementioned installations, as well as any supplementary works, shall be constructed in accordance with accepted engineering practice and shall be kept in good condition at all times.

Article 6

1. When high water is expected, the power-plant undertaking shall open the dam locking-mechanisms in good time to an extent sufficient to ensure that the maximum water-level is not exceeded.

2. The bend in the Sauer (Sûre) below the dam, up to the point where the tail-water conduit of the power-plant empties into the river, shall be continuously supplied from the dam with a minimum quantity of water which shall be determined by agreement between the river-works authorities of the two Contracting Parties. In the event that unsanitary or other undesirable conditions arise in the tail-water of the dam, the Government

of the Grand Duchy of Luxembourg shall supply such larger quantities of water as are required for purposes of scouring.

3. In the event that the subsoil in the river-bed below the dam or that the left bank of the river proves to be of insufficient strength, the power-plant undertaking shall construct a suitable apron or bank lining.

Article 7

The removal of water on the German side of the river above the dam shall be permitted only if an equivalent quantity of water is introduced above the said dam.

Article 8

The Government of the Grand Duchy of Luxembourg shall permit the Government of the *Land* Rhineland-Palatinate to participate in the acceptance test of the dam and all subsidiary installations (riverlocks, bank linings, dikes and so forth). The dam shall not be put into operation until the said test has been carried out. Adequate advance notice of the date and schedule for the initial storage of water shall be given to the Government of the *Land* Rhineland-Palatinate.

Article 9

1. In the backwater area and for a distance extending downstream from the dam to a point 200 metres below the discharge-water return, the entire length of the left bank of the Sauer (Sûre) shall, subject to agreement between the river-works administrations of the two Contracting Parties, be kept in good repair by the power-plant undertaking and be secured by it, through special measures, against the action of the water if there is reason to anticipate damage to the said bank or if damage is found to have occurred after the plant has been put into operation. The same shall apply to tributary streams in the backwater area.

2. In the event that damage is unlawfully done to the left bank of the Sauer (Sûre), the power-plant undertaking may on its own initiative take civil action against the person causing the damage.

Article 10

1. In the event of damage caused by a rise or fall in the ground-water level on the left side of the Sauer (Sûre) in consequence of the construction of the dam, the Government of the Grand Duchy of Luxembourg undertakes to rectify such damage or pay appropriate compensation.

2. Before and during construction of the dam and after it has been put into operation, the power-plant undertaking shall, with the aid of suitable experts, ascertain the nature of ground-water conditions in the German areas affected by the dam.

Article 11

The power-plant undertaking shall bear the cost of installing, at a suitable new location, a water-gauge to replace the German gauge at Ralingen which will be removed as a result of the construction of the dam.

Article 12

The power-plant undertaking shall bear all costs occasioned by such changes in property lines, roads — including access roads to individual properties — drainage ditches and sewer installations in the German communities affected by the plant as, in the opinion of the Government of the *Land* Rhineland-Palatinate, are necessary for the purposes of the plant. It shall also assume all costs relating to the necessary surveying and boundary-marking operations, to property transfers and to adjustments in the property register.

Article 13

Where the authorities of both Contracting Parties believe that alterations in or additions to the power-plant are required, the measures subsequently ordered by those authorities shall be carried out by the power-plant undertaking at its own expense.

Article 14

1. The two Contracting Parties agree that construction of the lock for the passage of shipping as provided for in article 5, paragraph 2, shall for the time being be deferred. The Government of the Grand Duchy of Luxembourg undertakes to carry out the said construction if, at some future time, regular shipping is initiated on the Sauer (Sûre).

Barge-loading platforms, one above and one below the dam, shall be constructed by the power-plant undertaking on the left bank of the Sauer (Sûre), the approaches to the said platforms to be clearly marked and made readily accessible. The said platforms shall be mechanically operated.

2. In the event that the aforementioned shipping-lock is constructed at some future time, the two Governments shall conclude a special agreement concerning its operation, maintenance and lighting.

Article 15

1. In order to permit the free passage of fish, a fish-ladder shall be installed at the dam and shall be kept constantly supplied with sufficient quantities of water. The operation of the fish-ladder may be temporarily suspended only when the water-level is exceptionally low and prior approval has been obtained from the supervisory authorities of the two Contracting Parties.

2. The power-plant undertaking shall keep the fish-ladder and its entrance and exit free of drifting objects at all times.

3. Access to the fish-ladder shall be denied to unauthorized persons. Fishery-supervision officials of the two Governments may carry out a joint inspection of the fish-ladder at any time.

4. The power-plant undertaking shall also ensure that the passage of fish is possible at all times in the tail-water section of the Sauer (Sûre).

5. Additional fishery-protection measures, to be carried out at the expense of the power-plant undertaking, may be ordered at any time by agreement between the two Contracting Parties.

Article 16

The Contracting Parties agree that all hydroelectric power produced by the power-plant undertaking shall be the property of the Government of the Grand Duchy of Luxembourg.

If, however, additional power-plants are constructed — irrespective of the extent of either country's participation in such construction — the electric power produced by those plants shall be apportioned without reference to the aforementioned arrangement.

Article 17

The power-plant undertaking shall comply with any arrangements which are agreed upon by the competent authorities for purposes of tariff protection and shall provide at its own expense the facilities required in that connexion.

Article 18

Contracts for the construction of the plant shall be let by the power-plant undertaking on the basis of public tenders in accordance with the provisions of the Luxembourg “*Allgemeines Lastenheft* (Conditions of contract or sale) of 1 March 1948 concerning the procedure for letting contracts for services and deliveries requiring the use of public moneys and credits”, it being understood that nationals of the two countries shall have equal rights in so far as invitations for tenders and the award of contracts are concerned and that labour shall, so far as possible, be recruited from both countries.

Article 19

1. The power-plant undertaking shall be liable for any damage or loss affecting the rights or property of third parties which can be proved to have resulted from the construction and operation of the power-plant installations.

2. The power-plant undertaking shall indemnify the *Land* Rhineland-Palatinate for any claims made against the latter by third parties and shall, at its own expense and risk, assume the conduct of any judicial proceedings connected therewith.

Article 20

After the power-plant installations have been completed, the Government of the Grand Duchy of Luxembourg shall transmit copies of the complete final blue prints of the installations to the Government of the *Land* Rhineland-Palatinate. The number and scale of the blue prints shall be determined by agreement between the two Governments.

Article 21

Responsibility for the engineering and supervisory functions set out in this Treaty, including supervision of the left bank of the Sauer (Sûre), shall vest:

(a) In the case of the Grand Duchy of Luxembourg:
In the Minister for Public Works and Communications;

(b) In the case of the Government of the *Land* Rhineland-Palatinate:
In the Ministry of Internal and Economic Affairs (Secretary of State

for Economic Affairs and Communications) and the Ministry of Agriculture, Viniculture and Forestry.

Article 22

Any disputes arising out of this Treaty shall be settled by an arbitral tribunal, and no recourse shall be had to the ordinary courts. The said tribunal shall consist of two arbitrators, of whom each of the Contracting Parties shall appoint one.

Where the arbitrators are unable to agree, they shall be entitled to choose an umpire, whose decision shall be final. If they fail to agree on such a choice, the umpire shall, if one of the Parties so requests, be appointed by the President of the International Court of Justice at The Hague.

The costs occasioned by the proceedings of the arbitral tribunal shall be shared equally by the Contracting Parties.

Germany-Netherlands

202. STATE TREATY BETWEEN THE GRAND DUCHY OF LUXEMBOURG AND THE *LAND* RHINELAND-PALATINATE IN THE FEDERAL REPUBLIC OF GERMANY CONCERNING THE CONSTRUCTION OF HYDROELECTRIC POWER-INSTALLATIONS ON THE OUR (WITH ANNEXES), SIGNED AT TRIER, JULY 10, 1958¹

The following Treaty is hereby concluded between the Grand Duchy of Luxembourg and the *Land* Rhineland-Palatinate in the Federal Republic of Germany:

Article 1

With a view to continuing the process of regulating the water resources in the German-Luxembourg frontier area, which was initiated with the State Treaty of 25 April 1950 concerning the power-plant on the Sauer (Sûre) at Rosport/Ralingen, the two countries hereby agree to authorize the Société Electrique de l'Our of Luxembourg (*Memorial, Recueil Spécial, des Grossherzogtums Luxemburg*. No. 57, 11 July 1951)—hereinafter referred to as the SEO—to construct and operate hydroelectric power-installations for the purpose of utilizing the water of the Our in the vicinity of Vianden. The installations shall, as specified in annex I, consist of a storage lake in the Our, a power-plant on the Our utilizing the water head of the storage lake, an elevated storage basin on the Nikolausberg, and a storage power-plant.

The SEO shall be further entitled to install and use collecting tanks in the Our and/or the Irsen for the purpose of collecting additional water for the undertaking referred to in the first paragraph. It shall for this purpose require the approval of the competent administrative authorities. Any

¹ *Mémorial du Grand Duché de Luxembourg*, No. 25, 11 June 1959. (Translated from German by the Secretariat of the United Nations.)

compensation of third parties shall be made in accordance with annex II.

In the event that it is subsequently found advisable to construct additional installations the matter shall be the subject of new negotiations. The two countries agree to strive for the most effective possible utilization of the power resources available in the frontier area.

Article 2

The Concession granted to the SEO, setting forth its rights and obligations, is attached as annex I. It constitutes an integral part of this Treaty.

Under the terms of the Concession, the SEO shall acquire a vested right which shall also be exercisable with respect to third parties and may not be infringed; it shall be required to fulfil the conditions of the Concession but may not be subjected to any encumbering conditions. Installations built on the river under the terms of the Concession shall remain the property of the concessionaire even though the river and its banks are not its property.

Nothing shall be done to interfere with the water resources of the Our in such a way as to impair the operation, in accordance with article 1, of the power-plants covered by the Concession. Thus, water may not be taken from watercourses in the catchment area of the Our above the installations in such a way as to cause such impairment, nor may the water above the installations be polluted or chemically contaminated in a manner detrimental to the operation of the plants. No claims arising out of offences committed by third parties may be made against the Contracting Countries.

As confirmation of the vested right accorded to it by this Treaty and by the laws enacted for the purpose of ratifying the same, and of the obligations connected with the said right, the SEO shall receive a concession deed consisting of a copy of annex I and the plans attached thereto.

Article 3

The two countries take note of the fact that the installations described in article 1 and the lines carrying power to and from them affect the public interest and general welfare of both countries. They therefore undertake to carry out the measures required to ensure the completion, operation and maintenance of the project.

Article 4

If the use of the river by the SEO under the terms of the Concession causes the rights of other to be impaired, the SEO shall take practical measures to reduce the damage to a minimum, in so far as such measures are economically feasible, and shall, if necessary, make appropriate compensation to the injured parties.

Detailed provisions concerning this matter and the procedure to be followed are contained in annex II.

Compensation proceedings shall not affect the construction and operation of the power-plants.

Article 5

In view of the fact that the installations as a whole are in the nature of a frontier power-plant which, moreover, is not used for primary generation but solely for the storage of power, the pump current fed in from Germany to operate the installations shall not be regarded in Luxembourg as con-

stituting an import and shall therefore be exempt from duties and levies of all kinds. Similarly, the *Land* Rhineland-Palatinate shall, within the limits of its jurisdiction, endeavour to ensure that peak current supplied to Germany is not regarded as an import.

Article 6

Luxembourg, in whose territory the generating installations are to be constructed, shall not hinder or prohibit the export of current but shall, under the terms of the contracts to be concluded by the SEO, facilitate such export and exempt it from duties of all kinds.

Article 7

In view of the recognized beneficial character of the undertaking, the SEO shall in Luxembourg be granted a 50 per cent reduction in all taxes levied on income or assets of any kind. For the same reason, the SEO shall not be subject in Luxembourg to any taxes which are not of general application or are otherwise exceptional.

The lines used to transmit power to and from the installations shall benefit from the same preferential treatment in Luxembourg. In Germany, the *Land* Rhineland-Palatinate shall endeavour to ensure that the said lines benefit from all forms of fiscal and economic relief which are available to power-plants and transmission lines duly recognized as beneficial.

The supplying of pump current to the installations and the supplying, in return, of storage current shall not be regarded in Luxembourg as constituting a commercial transaction.

Article 8

In letting contracts for the construction of the installations covered by the Concession, reasonable consideration shall be given to the Luxembourg and German economies. Nothing shall be done to prevent the SEO from letting its contracts on the basis of commercial and technological considerations or from giving preference to those concerns which are best able to, guarantee completely satisfactory service at competitive prices.

Article 9

The German interested parties shall be given an appropriate voice in the SEO and its organs, particularly as regards the management, security and economic efficiency of the installations covered by the Concession. Further provisions in this regard are contained in annex III, which constitutes an integral part of this Treaty.

Article 10

This Treaty, being a special arrangement regulating the matters in question, shall take precedence over all other legislation of the Contracting Countries and over any articles of association of companies.

Article 11

Any disputes arising out of this Treaty shall be settled by an arbitral tribunal. The said tribunal shall consist of two arbitrators, of whom each of the two countries shall appoint one.

Where the arbitrators are unable to agree, they shall be entitled to choose an umpire, whose decision shall be final. If no agreement can be reached on the choice of the umpire, the two countries shall consult on the matter.

The costs occasioned by the proceedings of the aforementioned arbitral tribunal shall be shared equally by the two countries.

ANNEX I

Concession

The Société Electrique de l'Our—hereinafter referred to as the SEO—whose address is Boulevard Roosevelt 4, Luxembourg, shall have the right, in accordance with the attached plans and explanatory material:

(a) To bank up the Our above Vianden at Lohmühle by means of a masonry dam up to a height of 226.00 metres above mean sea level;

(b) To remove water at a rate not exceeding approximately 170 cubic metres per second from the reservoir created in the Our valley in accordance with paragraph (a), to pump such water into the elevated storage basin situated on the Nikolausberg—the capacity of which is approximately 5.5 million cubic metres—and as a result to lower the level of the backwater in the valley to a height of not less than 219.75 metres above mean sea level;

(c) To remove water at a rate not exceeding approximately 320 cubic metres per second from the elevated storage basin, to feed such water back into the reservoir in the Our valley for the purpose of generating electric power, and as a result to raise the level of the backwater in the valley at Lohmühle once more to a height not exceeding 226.00 metres above mean sea level;

(d) To utilize in a hydroelectric power-plant below the masonry dam, for the purpose of generating electric power, a quantity not exceeding approximately sixteen cubic metres per second of the water banked up in the Our valley, and to feed such water back into the Our immediately.

This Concession shall become effective upon the ratification of the State Treaty. It shall terminate ninety-nine years after the date on which the storage power-plant enters into full operation. The SEO shall inform the supervisory authorities of such date. Article 2 of the State Treaty shall be deemed to be an integral part of this Concession.

Conditions

The aforementioned rights shall be granted subject to the following conditions:

1. The maximum permissible level of the backwater in the Our valley shall be 226.00 metres above mean sea level at the dam and shall be indicated by a water-level marker before the installations enter into operation.

2. The natural movement of water and the bed-load hitherto prevailing in the Our below the dam shall undergo no adverse change by reason of the reservoir (lower basin) being filled and emptied or of water being removed to and fed back from, the elevated storage basin (upper basin).

Self-recording water-gauges shall be installed and maintained by the SEO above Stolzembourg and below the masonry dam for the purpose of observ-

ing the movement of water in the Our. A clearly visible staff gauge shall be installed at each cross-section as a control on the self-recording gauges.

3. A water-level marker indicating the maximum permissible water-level shall be affixed in the elevated storage basin before the installations enter into operation. Water-levels shall be continuously indicated by a self-recording water-gauge; as a control on the self-recording gauge, a staff gauge shall be installed at a place where it can be readily examined.

4. In filling and, where necessary, emptying the reservoir in the Our valley, the movement of water in the Our shall be taken into account. The supervisory authorities shall be notified in good time of the measures contemplated in this regard.

5. The shut-off devices at the lower dam site shall be so designed as to ensure that water is discharged at the rate of 400 cubic metres per second at high water without rising above the water-level marker.

6. The intake structures of the elevated storage basin shall be equipped with automatic locking devices to prevent the basin from running dry where there is danger of its doing so.

7. The outlet opening of the tail-water conduit in the valley shall be so constructed as to prevent erosion of any kind or damage to the river-banks in the Our valley.

8. After the installations enter into operation, the river-banks shall be maintained by the SEO in proper condition in the area of the reservoir and for a distance of fifty metres below the dam.

9. Floating matter which collects in front of the various screening devices shall be removed from the banked-up area.

10. The SEO shall maintain in good condition as prescribed herein all installations which it constructs for the purposes of the Concession.

11. The SEO shall be accorded fishery rights in the reservoir area and shall safeguard all fishery interests in a uniform manner. Any impairment of such rights shall be compensated for as much as possible by annually stocking the river with fry; the same shall apply where the construction of the dam interferes with the migration of fish and this impairs the fishery rights of persons having such rights on the Our above or below the reservoir.

To the extent that the proper operation of the installations so permits, the SEO shall allow persons having fishery rights to engage in regular fishing.

The foregoing provisions shall be without prejudice to State supervision of fisheries.

12. Where public roads are closed to traffic as a result of the construction or operation of the installations covered by the Concession, the SEO shall relocate the said roads or construct equivalent replacement roads.

13. The SEO shall, in accordance with annex II of the State Treaty of 10 July 1958, make compensation to third parties whose rights are impaired by reason of the company's installations.

14. The supervisory authorities shall be empowered to authorize any changes in the installations covered by the Concession which in the course of subsequent planning or during construction appear advisable but are not such as to alter the fundamental character of the entire project.

15. Within the general framework of the foregoing conditions, the construction and management of the storage power-plant shall be left to the SEO. The supervisory authorities shall ensure that the conditions of the Concession are complied with. For the purpose of performing this function, they shall have access to the dam installations and the storage basin at all times. The readings of the self-recording water-gauges at any given time and the results of the discharge measurements in the drains above and below the reservoir shall be transmitted to the supervisory authorities on request, and in any event at monthly intervals. The supervisory authorities may carry out their own measurements.

16. The rights established by this Concession may not be transferred separately by the undertaking; the Concession and the installations may be transferred only in their entirety.

17. The SEO shall be required to begin construction of the installations not later than two years after the Concession becomes effective and to begin operation of the first generator-unit not later than four additional years thereafter. A reasonable extension of these time-limits may be granted by the supervisory authorities if there appear to be valid reasons for doing so. The right to construct and operate the installations shall lapse if the time-limits are not met.

The SEO shall have the right to undertake the construction in two stages. If the SEO exercises this right, it shall so notify the supervisory authorities in writing when construction is begun.

The second stage of construction shall be initiated not later than ten years after the beginning of the first stage and a generator unit comprising part of the second stage shall be put into operation within the following four years. As in the case of the first stage, these time-limits may be extended. The right to carry out the second stage of construction shall lapse in the event that the specified time-limits are not met.

Without regard to the foregoing conditions, the term of the Concession shall commence not later than 1 January of the twentieth year following the entry into force of this Treaty.

18. Five years before the expiry of the Concession, the SEO may apply for a reasonable extension of its rights. Such application shall be granted unless there are overriding reasons of public interest or overriding economic reasons for not doing so.

If an extension of the rights conferred by the Concession is not granted and a change of ownership takes place, the SEO shall be entitled to claim compensation in respect of its installations from the new owner.

The following plans and explanatory material shall constitute an integral part of annex I of the State Treaty of 10 July 1958:

	<i>Scale</i>
Plan 1. General plan of site.	1 : 25,000
Plan 2. Plan of site (general view).	1 : 5,000
Plan 3. Lower basin—longitudinal section	1 : 200/20,000
Plan 4. Pressure conduits and distribution piping— longitudinal section and cross-sections of the grounds.	1 : 2,000
Plan 5. Underground power-plant—ground plan	1 : 400
Plan 6. Cross-section of underground power-plant through generator axis	1 : 200

Plan 7.	Cross-section of underground power-plant through turbine axis	<i>Scale</i> 1 : 200
Plan 8.	Cross-section of underground power-plant through pump axis	1 : 200
Plan 9.	Dam and power-plant of lower basin at Lohmühle	1 : 500
Plan 10.	Cross-sections of upper-basin embankments	1 : 250
Appendix 11.	Explanatory report with technical data (Plans 1-10 in separate folder)	

APPENDIX II

*Explanatory report with technical data**General data (see Plan 1)*

The site of the Vianden pump-fed power installations, which are to be constructed in the Our valley between Vianden and Stolzenbourg, is in the heart of the major western European industrial areas. They will consist of a reservoir in the Our valley, an underground power-plant, an artificial elevated storage basin, and connecting pipes between the upper and lower basins, and they will serve to improve the supply of current; water will be pumped into the upper basin during periods of low power consumption to permit the production of peak current. This daily rotation process will not adversely affect the natural movement of water in the Our below the masonry dam.

Description of the installations(a) *Lower basin (see plans 2, 3, 7 and 9)*

A masonry dam at Lohmühle, above Vianden, will bank up the river for a distance of approximately eight kilometres and permit an effective water withdrawal of approximately five million cubic metres. The natural flow of the Our will be utilized in a small power-plant at the base of the dam. The dam will be equipped with a number of locking devices so as to ensure that water is discharged without hindrance at the rate of 400 cubic metres per second at high water without rising above the maximum water-level fixed by the Concession.

The flooding of residential and other useful areas will be held to a minimum and will necessitate reconstruction only at Bivels. Submerged roads will be replaced by roads situated on higher ground.

(b) *Upper basin and pressure shaft (see plans 2, 4, 8 and 10)*

The elevated storage basin will be constructed approximately 2.6 kilometres south of Stolzenbourg on the Nikolausberg, which rises nearly 300 metres above the river valley, and will be formed by an embankment made of earth and stone and sealed with asphalt. Its useful storage capacity will amount to approximately three million cubic metres in the first stage of construction and approximately 5.5 million in the final stage. Two short pressure shafts will lead from the elevated basin to the power-plant.

(c) *Power-plant (see plans 4, 5 and 6)*

In the first and second stages the power-plant will be constructed under-

ground with a view to obtaining the shortest possible connexion between the upper and lower basins. The required excavation will be carried out diagonally across the geological strata of the rock in order to achieve a high degree of stability. The geological reports show the bed-rock schist to be of unusually good quality. The exploration tunnel, approximately 350 metres in length, which opened up the area of the excavation and of the distribution piping was successfully driven without the use of timbering. The power-plant will be equipped with four horizontal generator-units in the first stage of construction and eight in the final stage, each unit consisting of a turbine, a motor generator, a starting turbine with gear-clutch, and a pump. The power-plant and the lower basin will be linked by pressure conduits.

The current generated will be transformed to a higher potential. It will be carried from the plant by overhead lines.

Technical data

The most important data relating to the pump-fed power plant (first and second stages of construction) are as follows:

Output in operation of turbine	approx. 640,000 kw	
Input for operation of pump	approx. 520,000 kw	
Number of generator-units (each consisting of a turbine, a motor-generator and a pump)	8	
	(4 in first stage of construction)	
Hours in use:	<i>Per day</i>	<i>Per year</i>
Turbine	4.25	1,450
Pump	8	2,720
Effective capacity of lower basin	approx. 5 million cubic metres	
Effective capacity of upper basin		
in first stage	approx. 3 million cubic metres	
in final stage	approx. 5.5 million cubic metres	
Useful head of water (average)	approx. 278 metres	

Construction (see plan 2)

The construction of the complete installations will be carried out in two stages.

It will be possible to enlarge the power-plant after the first stage of construction without curtailing its operation.

ANNEX II

Provisions concerning proceedings in respect of water rights and expropriation

1. After the Concession granted to the SEO becomes effective, the forthcoming construction of the project shall be made known in the manner prescribed by local custom, the plans shall be made available for inspection at the offices of the municipalities concerned, and all persons who will suffer injury as a result of the contemplated utilization of the river shall be called upon to come forward and submit claims in respect of such injury within six weeks. It shall, at the same time, be announced that any person failing to submit a valid claim within the specified time limit shall subse-

quently be entitled to present only such claims as he was unable to anticipate within the said time-limit.

Any person who is prevented by compelling circumstances from observing the time-limit shall be entitled to submit his claims subsequently if he does so as soon as the circumstances in question have ceased to apply.

2. The parcels of land or portions thereof required for the construction of the reservoirs and power-plants shall be acquired by the SEO so far as possibly by private contract. If this cannot be accomplished on suitable terms within a reasonable period of time, the property shall be acquired and its ownership transferred in accordance with article 3 of the State Treaty. In any proceedings that may arise, the documents comprising the Concession governing water rights shall be decisive. Any rights of third parties to the aforementioned parcels of land, as well as other rights of usufruct, shall lapse when the property is transferred, and compensation to be determined in accordance with paragraph 5 of this annex shall be made therefor. The amount of such compensation shall, where necessary, be held in deposit.

3. In the event that rights relating to the utilization of water-power are extinguished or impaired as a result of the construction or operation of the SEO installations, compensation may be made by supplying electric power to the person concerned if he agrees to such arrangement. The amount of power to be supplied shall be determined on the basis of the water rights lawfully held by the injured party.

4. Where any parcel of land, even though not directly affected, suffers impairment — e.g., through an adverse change in the ground-water level — the impairment shall be prevented or so far as possible limited by such measures as are possible. Where the cost of such measures is greater than the damage incurred or where the measures are otherwise economically unsound, suitable monetary compensation shall be made.

5. Questions relating to the validity of claims, the amount of compensation to be made and its distribution among various claimants shall be decided, with due regard to the provisions of this annex, by the competent courts.

ANNEX III

Provisions relating to company law

In view of the fact that the installations as a whole constitute a frontier power-plant, the following provisions are hereby laid down:

1. Each of the two contracting countries shall be entitled to designate one or two representatives, one of whom in the case of Luxembourg shall be the Government Commissioner, to attend general shareholders' meetings and meetings of the Board of Directors and the Management Committee of the SEO. If these representatives consider a decision to be prejudicial to the interests of their country, they may enter an objection accompanied by a statement of grounds, and the contested decision shall then be reviewed at a second meeting. In such cases, the SEO shall confer with the Government of the complainant country concerning the matters at issue and shall thereupon take a new decision. The representatives of the two countries shall not be entitled to enter an objection to the second decision.

The aforementioned proceedings shall be completed as expeditiously as possible within a period of two months.

2. (a) The Luxembourg and German members of the Board of Directors of the SEO shall form an absolute majority irrespective of the extent of Luxembourg or German participation in the company's capital.

(b) The chairman of the Board of Directors shall be a Luxembourg national and the vice-chairman a German national.

(c) The Board of Directors shall have not more than twenty-one members, who shall be appointed in accordance with the articles of association of the SEO. The Luxembourg shareholders shall be guaranteed not less than eleven seats on the Board — including not less than seven for the Grand Duchy of Luxembourg — and the German shareholders not less than seven.

3. The shares issued by the SEO shall be registered shares and shall be transferable only with the prior approval of the Board of Directors of the SEO. Such approval shall require a two-thirds majority of the votes, the said majority to include the votes of the Board members appointed by the Grand Duchy of Luxembourg as a holder of registered shares as well as the vote of at least one of the members appointed by the German shareholders.

Such financial arrangements as are made by the interested parties shall be recognized by the parties to the State Treaty as proper and correct under the terms of that Treaty.

Ten per cent of the share capital outstanding at any given time may be in the form of bearer shares, to which the foregoing limitation on transfers shall not apply. The said shares shall be made available primarily to Luxembourg nationals for subscription or else shall so far as possible be offered for the first time on the Luxembourg market.

4. Agreements concluded between shareholders with a view to promoting the management and business operations of the SEO in accordance with this State Treaty and with such contracts as the SEO may conclude in pursuance thereof, and with a view to exercising voting rights for that purpose, shall be recognized in Luxembourg as proper and be accorded legal protection.

5. The articles of association of the SEO shall be brought into conformity with the provisions of this Treaty and its annexes. Any subsequent amendments to the said articles, including any limitation of the authority of the Board of Directors, shall, in addition to meeting the requirements laid down in the articles, require the approval of the Grand Duchy of Luxembourg as a holder of registered shares and the approval of the German shareholders.

6. During the term of the Concession, the German interested parties (the supplier of pump current, the users of current, etc.) shall also be entitled to acquire shares in the SEO as the concessionaire.

7. The SEO may not go into liquidation, nor may it be terminated, dissolved or wound up, during the term of the Concession governing water rights. Furthermore, no individual shareholder shall have the right to terminate the company before the expiry of the Concession.

8. For the purpose of this annex, the term "Luxembourg shareholders" means only Luxembourg nationals holding registered shares, and the term "German shareholders" means only the parties mentioned in paragraph 6 hereof.

203. TRAITÉ DE LIMITES ¹ ENTRE LEURS MAJESTÉS LE ROI DE PRUSSE ET LE ROI DES PAYS-BAS, SIGNÉ À AIX-LA-CHAPELLE LE 26 JUIN 1816²

ARTICLE XIV. Les Frabriquants d'Eupen ayant obtenu de l'ancienne Administration la permission d'ouvrir et de curer certains fossés et rigoles, situés dans cette forêt entre la Helle et la Saure, pour augmenter par ce moyen le volume d'eau de la Helle, et par conséquent de la Verdre, rivière sur laquelle sont situées toutes leurs usines, il a été convenu que cette Commune ou les Frabriquants seraient maintenus dans cet usage, et qu'ils pourraient continuer à nettoyer et curer les rigoles et fossés actuellement existants, sans cependant que cet usage puisse être assimilé aux droits particuliers dont la conservation est stipulée par l'article 30, ci-dessous, mais restera restreint aux bornes d'une simple permission, qui pourra être révoquée par le Gouvernement des Pays-Bas, lorsque l'existence de ces fossés ou rigoles ou leur curage lui paraîtra nuisible à l'exploitation de la forêt, ou contrariera les plans d'amélioration.

Ces ouvrages ne pourront même être commencés, sans en avoir prévenu les Agents forestiers sous la direction et surveillance desquels ils seront continués.

. . .

ARTICLE XXVII. Partout où des ruisseaux, rivières ou fleuves seront limites, ils seront communs aux deux Etats, à moins que le contraire ne soit positivement stipulé et lorsqu'ils seront communs, l'entretien des ports, le curage, etc. se feront de concert et à frais communs. Mais chaque Etat sera exclusivement chargé du soin de veiller à la conservation des bords situés de son côté. Il ne pourra être fait ni au cours des rivières, ni à l'état actuel des bords aucune innovation quelconque, ni être accordé aucune concession ou prise d'eau sans le concours et le consentement des deux Gouvernements; il en sera de même des fossés, rigoles, chemins, canaux, hayes ou tout autre objet servant de limites, c'est-à-dire que ces objets quant à la souveraineté seront communs aux deux Puissances, et qu'on ne pourra rien changer à leur état actuel que de commun accord, à moins toutefois en cas de stipulation contraire.

L'usage de l'Oure sera libre et commun aux deux Etats dans tout son cours limitrophe, malgré que Vianden soit à cheval dessus et appartienne entièrement aux Pays-Bas; sans préjudice cependant des droits de souveraineté sur la totalité de cette Commune y compris la rivière.

Les passages d'eau, qui existent en ce moment sur la Moselle et autres rivières servant de frontières, seront conservés dans leur état actuel. Les droits établis continueront d'être perçus pour le compte des mêmes Etats qui en jouissent aujourd'hui. On aura de part et d'autre la faculté d'établir et d'entretenir sur la rive opposée les ouvrages nécessaires pour faciliter l'abord aux passants.

La pêche sera également commune et continuera d'être adjudagée publiquement pour le compte des deux Etats; ces adjudications se feront alternativement dans une Commune frontière du Royaume de Prusse et dans une du

¹ Entrée en vigueur le 31 janvier 1817.

² De Martens, *Nouveau Recueil de Traités*, tome III, p. 24.

Royaume des Pays-Bas. Les autorités locales des deux Etats s'entendront sur le mode à suivre et les endroits où elles auront lieu.

204. TRAITÉ DE LIMITES¹ ENTRE LEURS MAJESTÉS LE ROI DE PRUSSE ET LE ROI DES PAYS-BAS SIGNÉ À CLÈVES LE 7 OCTOBRE 1816²

Sa Majesté le Roi de Prusse etc. et Sa Majesté le Roi des Pays-Bas, Prince d'Orange-Nassau, Grand-Duc de Luxembourg etc. ayant fixé par le Traité du 26 juin dernier les limites des deux Royaumes, depuis les confins de la France sur la Moselle jusqu'à l'ancien territoire hollandais près de Mook, et voulant faire examiner cette ancienne frontière et régler sur le Bas-Rhin tout ce qui concerne les travaux hydrotechniques ou autres points analogues de la manière la plus équitable et la plus convenable pour l'avantage mutuel des deux Etats ont, conformément à l'article 25 de l'Acte final du Congrès de Vienne, nommé Commissaires . . .

lesquels Commissaires, après avoir échangé leurs pleins pouvoirs, sont convenus des points et articles suivants :

ARTICLE XI. Tous les travaux hydrotechniques, etc., de côté et d'autre de la rivière seront désormais uniquement à la charge et à la disposition spéciale du Souverain qui possède le territoire à chaque côté du Thalweg déterminé à l'article trois.

ARTICLE XII. Il ne pourra être établi dans le lit de la rivière aucun ouvrage offensif qui puisse nuire au courant et par là à la rive opposée à moins d'un concert préalable et d'un commun accord des deux Puissances. Il en sera de même des nouveaux ouvrages qui sur les terrains extérieurs des digues pourraient entraver le courant ou arrêter les glaces.

ARTICLE XIII. La largeur normale de la rivière sera de cent-cinquante verges (mesure de Rhinlande) prise à la hauteur moyenne de huit pieds et six pouces à l'échelle de Pannerden correspondante avec six pieds quatre pouces de l'échelle d'Emmerich.

Il ne sera permis de tolérer la moindre oseraie ou plantation quelconque qui approche le bord opposé de la rivière de plus près que de cent-cinquante verges, de sorte que non seulement elles sont interdites dans cette largeur normale, mais que même celles actuellement existantes qui dépassent la largeur de cent verges, seront abattues ou arrachées jusqu'à la racine.

S'il est cependant jugé nécessaire de part et d'autre de faire quelque plantation contraire à cette stipulation, les autorités respectives devront préalablement s'entendre sur leur exécution.

ARTICLE XIV. Aucune des deux Puissances ne fera exercer ou ne permettra jamais à sa rive, vis-à-vis du rivage étranger, dans ladite largeur normale de cent-cinquante verges, des pêcheries de saumon ou autre poisson

¹ L'échange des instruments de ratification a eu lieu le 30 janvier 1817.

² De Martens, *Nouveau Recueil de Traités*, tome III, p. 45.

quelconque, par des parquétages ou d'autres moyens qui puissent causer le moindre retard dans le courant, ou faciliter tant soit peu l'atterrissement de gravier, sable ou autres objets propres à causer alluvion.

ARTICLE XV. La souveraineté de la pêche sur le Bas-Rhin sera déterminée par une ligne droite, à tirer de la tour de Keeken à celle de Lobith, de manière que la partie en amont de cette ligne appartiendra à S.M. le Roi de Prusse et la partie en aval à S.M. le Roi des Pays-Bas.

. . .

ARTICLE XX. Pour que l'écoulement des eaux du Polder la Hetter s'effectue sans nuire au Territoire voisin des Pays-Bas, il sera construit dans le Sommerdamm de Klein-Netterden, une petite écluse en maçonnerie à deux vannes bien étanchées.

L'ouverture d'écoulement sera de quatre à cinq pieds (mesure de Rhinlande) et le fond ou le seuil ne sera pas établi à plus de profondeur que d'un pied au-dessous de celui de la grande écluse de Nieder-Hetter près de Leuwenberg dans la digue capitale du Rhin au-dessus d'Emmerich.

Ni les murs ni la retenue des eaux de la nouvelle écluse de Klein-Netterden ne seront jamais au-dessous de la hauteur actuelle du dit Sommerdamm de Netterden, égale au numéro treize pieds à l'échelle, qui existe en ce moment au côté d'amont de ladite grande écluse de Leuwenberg.

ARTICLE XXI. Aucune des vannes de la nouvelle écluse de Klein-Netterden ne sera levée que quand le Landweer ou Schouwgraaf de Netterden, le Bergsche-Wetering et la Wildt seront à leur profondeur, largeur et ouverture entière, stipulées par l'article XXII, et quand alors l'eau dans le dit Schouwgraaf, en aval de la dite nouvelle écluse, sera abaissée au moins jusqu'au numéro dix pieds à l'échelle de la grande écluse de Leuwenberg, ou, ce qui revient au même, à trois pieds en contre-bas de la plus grande hauteur déterminée à l'article suivant pour la nouvelle écluse de Klein-Netterden et la crête du Sommerdamm de ce nom.

ARTICLE XXII. Les dimensions générales fixées pour l'écoulement sont comme suit:

1) La profondeur du fossé d'écoulement dans le platfond à l'extrémité orientale, près de la nouvelle écluse susdite de Klein-Netterden, sera au niveau du radier de cette même écluse, et ira en pente descendante vers l'extrémité opposée dans le vieux Rhin, à la profondeur actuelle de Wildt, sous le pont dans le Postweg près la montagne d'Elten.

2) La largeur sur le platfond du canal sera tout au moins

a) Pour le fossé d'écoulement à creuser et la partie dite Nettersche-Landweer ou Schouwgraaf de six pieds;

b) Pour le Bergsche-Wetering de huit pieds;

c) Pour le ruisseau la Wildt de douze pieds.

3) Les talus seront d'une et demie ou de deux fois la hauteur, d'après la qualité de la terre à creuser.

4) La hauteur du Sommerdamm ou de toute autre retenue d'eau quelconque, depuis la nouvelle écluse de Klein-Netterden jusqu'à Emmerich, ne sera pas abaissée au-dessous du numéro treize pieds à l'échelle susdite de la grande écluse de Leuwenberg.

Aucune écluse, hormis celle de Klein-Netterden ni deversoir ou coupure quelconque ne seront jamais construits ou pratiqués dans ledit Sommerdamm.

Aucun fossé d'écoulement de plus de trois pieds de largeur au platfond ne sera creusé

- a) A côté d'aval du même Sommerdamm;
- b) Dans toute l'étendue du terrain entre la Wildt, le Bergsche-Wetering, le Schouwgraaf et les anciennes limites d'Emmerich;
- c) Dans les terres de Huttum jusqu'au Postweg d'Elten à Stockmann.

Le Gouvernement prussien fera redresser, dans le plus court délai, tout défaut à l'égard des stipulations sous quarto.

ARTICLE XXIII. Les bermes ou le terrain de chaque côté du fossé d'écoulement seront élevés et égalisés par les déblais à faire au besoin des terrains aux deux côtés du fossé, sans dédommagement pour les parties de terrain couvertes par les dits déblais, qui seront à la charge du Gouvernement prussien.

ARTICLE XXIV. Au cas que le nouveau fossé à creuser, ainsi que le Nettersche-Schouwgraaf, coupe des chemins vicinaux ou autres routes quelconques, le Gouvernement prussien y fera construire des ponts forts et suffisants, afin que le passage ne soit gêné en aucune manière.

Il aura de même à sa charge non-seulement l'élargissement de la Wildt et du Bergsche-Wetering, ainsi que le creusement du nouveau fossé d'écoulement, le tout aux dimensions déterminées par l'article XXII, mais aussi la construction de tous les ouvrages neufs, soit en terre soit en maçonnerie.

ARTICLE XXV. L'entretien dudit écoulement, autant qu'il forme frontière depuis la limite de Nieder-Hetter, sera commun entre les deux Etats, tandis qu'il sera à la charge de chaque Puissance, sur le territoire de laquelle il est situé en entier. L'écluse de Nieder-Hetter sera entièrement à la charge du Gouvernement prussien.

ARTICLE XXVI. Autant que des élargissements ou changements de vieux ponts seront nécessaires pour l'écoulement des eaux de la Hetter, le Gouvernement prussien pourvoira aux frais de la première construction; mais l'entretien, tant de ces nouvelles constructions que des ponts et ouvrages antérieurs au creusement dudit écoulement, sera à la charge des deux Etats.

ARTICLE XXVII. Les grandes écluses existantes dans la digue capitale du Rhin d'Emmerich à Wesel ne seront supprimées, fermées ni rétrécies d'aucune manière dans leur capacité d'écoulement jusqu'à la grande rivière susdite, afin que toutes ces écluses restent en bon état, pour coopérer, comme à présent, à la décharge des eaux d'inondations ou de pluie, de toute l'étendue du pays derrière ces digues capitales.

En cas que du côté de la Prusse quelque changement fût jugé nécessaire dans les dites écluses, on se concertera là-dessus avec les autorités compétentes des Pays-Bas, et si le Gouvernement de ce pays y accède, il pourra être innové à la stipulation que renferme cet article.

ARTICLE XXVIII. Tous les travaux et objets susnommés, depuis le Sommerdamm de Klein-Netterden jusqu'à la jonction de la Wildt au vieux Rhin, seront inspectés deux fois par an, aux mois de Juin et d'Octobre, par

des Commissaires et des Experts à nommer de part et d'autre, et d'après un règlement à rédiger de commun accord.

Lesquels Commissaires et Experts auront, dès le moment de leur nomination, la faculté de surveiller tous les ouvrages à construire et à entretenir.

ARTICLE XXIX. Indépendamment de ces inspections, la Direction générale du Waterstaat du Royaume des Pays-Bas aura en tout temps la faculté de faire inspecter tous les travaux relatifs au dit écoulement, depuis le Sommerdamm de Klein-Netterden jusqu'à la jonction de la Wildt au vieux Rhin, après que la Direction prussienne en aura été prévenue assez à temps pour pouvoir réunir des Ingénieurs ou Inspecteurs à ceux de la Direction du Waterstaat susnommé, pour coopérer au même but.

ARTICLE XXX. Partout où des ruisseaux feront limites, ils seront communs aux deux Etats, à moins que le contraire ne soit positivement stipulé, et lorsqu'ils seront communs, l'entretien des ponts, le curage, etc. se feront de concert et à frais communs, à moins que des conventions communales existantes ne contiennent d'autres stipulations; mais chaque Etat sera exclusivement chargé du soin de veiller à la conservation des bords situés de son côté. Il en sera de même des fossés, rigoles, chemins, canaux, haies ou tout autre objet servant de limites, c'est-à-dire, que ces objets, quant à la souveraineté, seront communs aux deux Puissances et qu'on ne pourra rien changer à leur état actuel que de commun accord, à moins toutefois en cas de stipulation contraire.

ARTICLE XXXI. Les écoulements d'eau, qui se trouvent actuellement dans les territoires réciproques, seront pareillement conservés pour l'avenir, et l'on n'osera faire aucun arrangement qui puisse nuire à l'écoulement des eaux intérieures (Binnenwasser).

ARTICLE XXXII. Les passages d'eau, qui existent dans ce moment sur le Rhin, seront conservés dans leur état actuel. Les droits établis continueront d'être perçus pour le compte des mêmes Etats qui en jouissent aujourd'hui. On aura de part et d'autre la faculté d'établir et d'entretenir sur la rive opposée les ouvrages nécessaires pour faciliter l'abord aux passants. Il ne pourra être établi aucun nouveau passage, depuis la limite de Millingen au Waal jusqu'à Stockmann au Rhin, à moins d'un concert préalable et d'un commun accord des deux Puissances.

. . .
205. TREATY¹ CONCERNING THE FRONTIERS BETWEEN
THE NETHERLANDS [AND HANOVER, CONCLUDED AT
MEPPEN ON 2 JULY 1824²

. . .
ARTICLE 19. To the extent to which the aforesaid Radewyk stream [Radewyker beek] is jointly owned and forms the boundary, it shall, as in the past, be cleared each year at a suitable time by the inhabitants of the

¹ Ratified by the Netherlands on 18 August 1824 and by Hanover on 24 September 1824.

² E. G. Lagemans, *Recueil des Traités*, Tome II, p. 131.

farming communities of Itterbecke, Wyle and Balderhaar in Hanover and the inhabitants of the farming community of Radewyke in the Netherlands; it shall be inspected by the local authorities in either territory and, by joint efforts, be maintained at all times in a condition ensuring the unobstructed flow of the water.

. . .

ARTICLE 23. The old aqueduct situated in Hanoverian territory, near the so-called *Puffershütte*, which issues from the *Rouwenriete*, on the lands of the *Kleine Eikenhorst*, whence it runs along the meadow-land of the *Grosse Eikenhorst*, as also the main aqueduct which conducts the water from that area, at the *Grosse Eikenhorst* property, from the *Heesterkante* in Hanoverian territory into the Veldt [Vecht], shall be cleared each year and be kept clear of obstruction by the Hanoverian inhabitants concerned. On the other hand, the free flow of the water from the *Rouwslinge* or *Landwehr* towards the Netherlands shall not be impeded by any obstacle put in its way on the Netherlands side, for which reason the dam erected there some years ago and still standing shall be demolished and levelled immediately after the boundary stones have been set up.

. . .

ARTICLE 25. The so-called *Kleine Vechte* near Coevorden in Netherlands territory shall be properly cleared every year by the appropriate Netherlands agencies, in order to ensure the free flow of its tributary streams.

. . .

ARTICLE 27. The aforesaid *Schonebecker Tief* [Schoonebeker-diep], or the Aa river, from stone No. 1 below *Esscherbrugge* to the last-mentioned boundary stone on the *Twist*, shall be cleared twice every year, viz., during the months of May and August, and shall be kept free of obstruction by those inhabitants on either side upon whom this duty has been incumbent since ancient times; it shall be inspected each year by the local authorities of either State, who shall not tolerate the presence of any obstacle to free and adequate drainage.

. . .

ARTICLE 34. The present drainage of the lands, whether under cultivation or fallow, of the Hanoverian settlement [of hereditary tenant-farmers] *Ruitenbrook* towards the Aa river in Netherlands territory, whence the waters take their natural course, shall be maintained until such time as may be deemed suitable by the Netherlands Government for the restoration of the so-called *Leitdeiche* [*Leidijken*, dikes], in the aforesaid area and further on, in which case, however, the pump in the *Leitdeich*, situated near the former guard-house above the so-called *Ossenschot*, in Netherlands territory, and measuring three Rhenish feet square, or nine *Netherlands* palms four duims square, shall be restored by the appropriate Netherlands agency in such a manner that the bottom of the pump shall lie not less than three Rhenish feet or nine *Netherlands* palms four duim below *Maifeld* [*Maaiiveld*] and that the free flow of the water coming from the direction of *Ruitenbrook* towards the Aa, through the old ditch, which shall be cleared to a depth appropriate for such purpose, shall thereby be ensured. The quantity of

water that may then be diverted to Hanoverian territory shall not exceed the amount which may be released by a pump measuring three Rhenish feet or nine Netherlands palms four duims square. Furthermore, after the restoration of the *Leildeiche* and the aforesaid pump, the dikes shall not be cut again, and it shall be the responsibility of the local authorities on either side of the frontier to enforce this provision to the best of their abilities.

ARTICLE 35. The sluice now installed in the Area of Bourtange, in the dike between the Backofen [Bakoven] redoubt and Abeltje's house, which has a width of twelve Rhenish feet eight inches, or four Netherlands ells, shall be removed by the appropriate Netherlands agencies immediately after the ratification of the present Frontier Treaty, and all sluice-gates and openings shall be properly plugged and dammed up. All other openings in the aforesaid dam shall also be stopped, and the entire dike shall be restored and permanently maintained in good repair and shall not be cut again, which provisions shall, as far as possible, be enforced by the Netherlands authorities.

It is agreed that a new pump measuring three Rhenish feet or nine Netherlands palms four duims square, the bottom of which shall lie not less than three Rhenish feet or nine palms four duims below Maifeld, may be set up again by the Netherlands agencies concerned in place of the aforesaid sluice, in the same spot where a tripod pump formerly stood, such new pump to provide the only drainage from the Netherlands through the dike to Hanoverian territory.

Such drainage from Netherlands territory in the direction of and through Hanoverian territory shall be free and unimpeded; on the other hand, the amount of water diverted to the Hanoverian side shall on no account exceed the quantity which the pump referred to above, measuring three Rhenish feet or nine Netherlands palms four duims square, will release.

ARTICLE 37. While each Party shall be free to take all measures, on its own side, which shall be required for the protection of the conjointly owned Aa river, such measures shall not obstruct either common navigation on the Aa river or drainage through the river.

ARTICLE 38. With a view to adjusting existing differences over the water turbines set up by the Wymeerst Syhlacht [Zijlacht] since 1819 as a necessary means of improving their highly inadequate drainage, such water turbines having however been deemed liable to endanger Netherlands territory, and in order to achieve the twofold purpose, on the one hand, of securing for the aforesaid Wymeerst Syhlacht, for all future times, completely free and unrestricted drainage, and on the other hand, of protecting Netherlands territory against all detrimental effects thereof, the following has been agreed and provided:

1°. The present Wymeerst sluice-canal, before its junction with the main moat of the Neuzchanz Fortress, east of the fortress, shall be secured near the bridge spanning the canal at that point, and between the bridge and the land frontier on Hanoverian territory, by a solid earthen dam, which shall be sufficiently strong, high and watertight to withstand flooding, so that in future no water shall overflow from the canal into the moat, such construction to be carried out approximately at the point marked by the letter A on the map attached to the *Procès-Verbal* of the Conference.

2°. Starting at the point east of Neuschanz where the Wymeerst sluice-canal is to be dammed up, a new sluice-canal shall be cut entirely within Hanoverian territory, in the Bunder Neuland, along the frontier between the countries, which is already provided with an embankment; such sluice-canal shall have the width and depth required to ensure such drainage as is at present provided, i.e., a width of approximately thirty Rhenish feet or nine Netherlands ells four palms, and shall be level with the Wymeerst channel, and the existing dike along the frontier on the Hanoverian side shall be used for this purpose and adapted thereto.

This new channel shall be conducted around the Bunder Neuland without crossing it, and to the extent to which this proves necessary shall be provided with dikes on either side in such a manner that the territories both of the Netherlands and of Hanover shall at all times be protected against flooding, irrespective of the level to which the Wymeerst waters may in future be raised. Along the stretch where the proposed new canal joins the old dike, now the post road, which marks the frontier between the two countries and coincides with the channel or canal [“Griffe”] which was cut at the expense of Wymeer in Hanoverian territory from Neuschanz to Bunde under a Covenant concluded in the year 1700 between the town of Groningen and Wymeer, an embankment shall be built on one side only, in Hanoverian territory, the old dike being so high that it can never be flooded.

Along this old dike, now the post road, the existing canal shall be widened, and the cut required for such widening shall be made on Hanoverian territory.

and at the north-eastern corner of Dettmer's property, the canal joins the old Wymeerst canal, which shall be safely dammed up at this point, in the direction of Neuschanz, to secure it against flooding. To drain the water from the Moorschloot [Moorsloot] and the Walkens property, to the extent to which this remains possible without prejudice to the water level at Wymeerst, a pump measuring three Rhenish feet or nine Netherlands palms four duims shall be installed in the aforesaid dam, the bottom of which shall lie at a level one Rhenish foot or three Netherlands palms lower than the bottom of the present pump in the Moorschloot. On the side facing East Friesland, this pump shall be provided with a flood-board or shutter, to ensure that in the event of the Wymeerst water level being higher than the water level on the Netherlands side, the waters shall be prevented by automatic action of the shutter from flowing on to Netherlands territory and from flooding either Netherlands or Hanoverian territory.

The line of the new canal, from the Heerenpaal along the Heerensloot and the Walkens property to the Wymeerst sluice canal, shall not merge with or touch the frontier canal or so-called Heerenschloot, but a dam with a width at its base of twelve to eighteen Rhenish feet or from three ells eight palms to five ells seven palms [Netherlands measure] shall remain standing between the Heerensloot and the line of the new canal, such dam to be built up to such height that neither Netherlands nor Hanoverian territory shall ever be exposed to flooding from the new canal from any other source, and it shall be incumbent upon the appropriate Hanoverian agencies to maintain the dams at the required height. Furthermore, the Bunder dike, or post road, shall never be lowered to an extent prejudicial to the Wymeerst drainage.

3°. To secure complete drainage of Netherlands waters near Neuschanz,

in particular at higher water levels, a water turbine of medium size and of the required capacity shall be installed near Blindsylke or in some other suitable locality in Netherlands territory, by means of which the surplus water shall be drained from all land cut off from the Wymeerst drainage by the aforesaid works and shall be conveyed directly into the Binnen-Aa in the Netherlands, so that no water shall be conducted from Netherlands territory into the Wymeerst sluice canal after the completion of the new works.

4°. The line of the new canal is marked on the map attached to the *Procès-Verbal* of the Conference by the letters A, B, C, D, E, F, G.

Hanoverian-East Frisian subjects shall continue to enjoy freedom of navigation and the right of water drainage through the Staaten sluice [Statenzijl] to the Aa river, as provided in the afore-cited Covenant of 3 November 1706 for the benefit of East Friesland, and they shall receive the same treatment as Netherlands boatmen in these respects.

ARTICLE 40. Similarly, it is provided once more that navigation on, and drainage into, the Aa river, as a jointly-owned boundary river, shall be free, and it is specifically agreed that Hanoverian-East Frisian subjects shall retain their right to cut a free drainage and ship-canal through such Netherlands territory as may in future accrue by alluvion west of the borderline in the Dollart as far as the Aa river.

206. CONVENTION¹ ENTRE LES PAYS-BAS ET LA PRUSSE POUR RÉGLER L'ENDIGUEMENT DU DOLLARD, CONCLUE À LEER LE 23 SEPTEMBRE 1874²

Les Commissaires du Royaume des Pays-Bas et du Royaume de Prusse ayant été habilités par leurs Gouvernements à conclure, sur la base des négociations menées jusque-là, une convention visant à régler le drainage de la zone frontière entre la Province de Groningue et la Province de la Frise orientale et à assurer l'endigement des crues de part et d'autre du Dollard . . .

et sont, sous réserve de l'approbation de leurs Gouvernements, convenus de la Convention ci-après :

I. Exception faite du Moorschloot formant frontière entre la Province de Groningue et la Province de la Frise orientale — pour lequel les dispositions relatives à un projet spécial de régularisation demeurent applicables — le drainage des deux régions susmentionnées du Royaume des Pays-Bas et du Royaume de Prusse s'effectuera de façon entièrement séparée, la Groningue devant être drainée exclusivement vers le fleuve frontalier Aa et la Frise orientale exclusivement vers l'Ems.

¹ Entrée en vigueur en mars 1875,

² E. G. Lagemans, *Recueil des Traités*, vol. 7, p. 67.

En conséquence, la Prusse autorisera la suppression de la pompe de Krumbeek ainsi que de la pompe dite de Rothe; les eaux du canal de collature de Wymeer et du polder Heinitz qui se jetaient jusque-là dans l'Aa, se déverseront dans le nouveau polder prussien qui doit être constitué conformément au paragraphe II, pour aller se jeter ensuite dans l'Ems à Vogum.

II. Afin de prémunir tant le Royaume de Prusse que le Royaume des Pays-Bas contre les crues du Dollard, le Gouvernement du Royaume des Pays-Bas s'engage à construire sur son territoire, près de la borne frontière n° 203 a, une nouvelle écluse de navigation, et il autorise le Gouvernement du Royaume de Prusse à rattacher à cette écluse ainsi qu'à la digue de jonction qui doit être établie jusqu'à la frontière prusso-néerlandaise la nouvelle digue de polder qu'il a été convenu de construire, pour endiguer les crues, en deçà du polder Heinitz et que le Gouvernement du Royaume de Prusse s'engage à édifier aux termes de la présente Convention.

A l'ouest de l'écluse de navigation que construira le Royaume des Pays-Bas, la ville de Groningue est déjà autorisée à endiguer les crues en deçà du polder municipal et le rattachement à l'écluse susmentionnée sera sous peu autorisé par le Gouvernement du Royaume des Pays-Bas.

Ces travaux d'amélioration seront entrepris simultanément.

Ce programme de travaux d'amélioration dont sont convenus le Gouvernement du Royaume des Pays-Bas et le Gouvernement du Royaume de Prusse est celui qui est annexé au projet de contrat des 12-13 janvier 1874 et est signé par les divers commissaires. Il est, aux termes de la présente Convention, approuvé par les deux Etats contractants, qui conviennent en outre des dispositions ci-après en vue de son exécution :

III. Chacun des Etats contractants exécutera à ses frais et sans réclamer aucune contribution à l'autre, les travaux d'amélioration convenus qui doivent être effectués sur son territoire.

IV. La présente Convention ne modifiera en rien le tracé antérieurement établi de la frontière entre le Royaume des Pays-Bas et le Royaume de Prusse (précédemment Hanovre).

L'Aa qui, du fait de ce tracé, constitue, sur une partie de son cours, la frontière entre les deux Etats sera comblé par le Gouvernement du Royaume des Pays-Bas, pour autant que le détournement de son cours en territoire néerlandais le rendra superflu. Après exécution des travaux de comblement, l'ancienne ligne frontière sera à nouveau tracée.

V. En ce qui concerne l'écluse de navigation que le Gouvernement néerlandais construira sur le Dollard (paragraphe II) et le détournement de l'Aa en territoire néerlandais (paragraphe IV), toutes les mesures découlant des articles 39 et 41 du Traité de limites du 2 juillet 1824, ratifié les 18 août et 24 septembre 1824, qui ont été prises dans l'intérêt des services de navigation exploités par des personnes qui étaient autrefois ressortissantes du Royaume de Hanovre et sont actuellement ressortissantes du Royaume de Prusse, demeureront en vigueur et continueront d'être appliquées, tandis que le drainage sera régi par les dispositions du paragraphe I de la présente Convention.

VI. L'année 1875 est fixée comme année d'exécution des travaux d'amélioration; les premiers travaux devront en tout état de cause être entamés au cours de ladite année, et tout sera mis en œuvre pour que les travaux puissent être achevés d'ici la fin de ladite année.

Si les travaux ne peuvent être achevés pendant ladite année, ils le seront l'année suivante.

207. CONVENTION¹ ENTRE LES PAYS-BAS ET LA PRUSSE
POUR L'AMÉLIORATION DE LA PARTIE FRONTIÈRE
DU VIEUX ISSEL CONCLUE À LA HAYE, LE 10 MARS 1894²

Sa Majesté la Reine des Pays-Bas et, en son nom, Sa Majesté la Reine Régente du Royaume des Pays-Bas, d'une part, et Sa Majesté l'Empereur d'Allemagne, Roi de Prusse, d'autre part, animés du désir de conclure une convention pour régulariser la partie frontière de la rivière l'Oude IJssel . . . sont convenus de ce qui suit :

Article premier

Un barrage mobile, dont la largeur franche, entre les murs de soutènement, sera de 7,0 mètres et dont le busc sera situé à 12,60 mètres au-dessus de N.N., sera construit sur l'Issel à 100 mètres environ en amont de l'embouchure de la fosse de Cleve, conformément aux plan d'ensemble, plan de situation et plan d'élévation établis par M. Graf, Inspecteur des travaux publics, le 16 janvier 1893 et approuvés par la présente Convention.

S'il était décidé ultérieurement de régulariser différemment la partie de l'Issel qui est située en territoire prussien ou de la rendre navigable, et s'il fallait à cet effet abaisser le busc, le coût de ces travaux d'aménagement seraient à la charge du Gouvernement prussien exclusivement.

Article 2

En amont du barrage, jusqu'au point supérieur de la frontière situé à Landfort, à 160 mètres environ en amont du pont de Landfort, le plafond de l'Issel sera aménagé selon une pente régulière de sorte qu'il se trouve à 13,46 mètres au-dessus de N.N., au point supérieur de la frontière, et à 12,60 mètres au-dessus de N.N., au barrage. La cunette sera de 9 mètres de large, les talus de chaque côté seront dressés sous une inclinaison de $1\frac{1}{2}$ de base pour 1 de hauteur et les risbermes qui seront établies à 1,5 mètre au-dessus du plafond auront 1 mètre de largeur. Les levées à édifier de chaque côté de la rivière auront une crête d'1 mètre de largeur et les talus de la levée seront dressés sous une inclinaison de 2 de base pour 1 de hauteur. La crête sera située à 15,36 mètres au-dessus de N.N., au point frontière supérieur de Landfort, et à 14,75 mètres au-dessus de N.N., au barrage, et elle descendra selon une pente régulière entre ces points.

Article 3

En aval du barrage, jusqu'au point frontière inférieur se trouvant à l'embouchure du ruisseau Hardenberg, le plafond de l'Issel sera aménagé en pente régulière de sorte qu'il se trouve à 11,69 mètres, au barrage, et à

¹ L'échange des instruments de ratification a eu lieu à La Haye, le 18 mars 1895.

² E. G. Lagemans, *Recueil des Traités*, tome XII, p. 79.

11,60 mètres au-dessus de N.N., soit 11,80 mètres + A.P., au ruisseau Hardenberg.

La cunette sera de 9 mètres de large et les talus seront dressés sous une inclinaison de $1\frac{1}{2}$ de base pour 1 de hauteur.

Article 4

Les eaux retenues par le barrage visé à l'article premier ne devront pas dépasser la cote de 14,08 mètres au-dessus de N.N., entre le 1^{er} mars et le 31 octobre, et la cote de 14,60 mètres au-dessus de N.N., entre le 1^{er} novembre et la fin février.

Les eaux retenues par les parties mobiles du barrage d'Ulft ne devront pas dépasser la cote de 13,50 mètres + A.P.

Les deux Gouvernements se réservent de réglementer plus en détail, par voie de dispositions spéciales à cet effet, l'utilisation future du déversoir de la fosse de Cleve, en tenant compte de la nécessité d'ouvrir à temps les barrages de la fosse de Cleve et d'Ulft au début des hautes eaux.

Il sera placé, entre le barrage de la fosse de Cleve et le ruisseau Hardenberg, un repère d'altitude dont la cote sera indiquée en fonction de N.N. et de A.P.

Article 5

Chacun des Gouvernements veillera, sur son territoire, à ce que les terrains nécessaires à l'exécution des ouvrages prévus par la présente Convention soient rendus disponibles le plus tôt possible.

Article 6

Le coût des ouvrages prévus par la présente Convention, y compris le coût de l'acquisition des terrains, sera ventilé en fonction de la longueur de rive sur chacun des territoires; en conséquence, étant donné que, s'agissant de la distance à laquelle a trait la présente Convention, l'Issel constitue, sur 2 175 mètres environ la frontière entre les Pays-Bas et la Prusse et que sur 1 210 mètres environ elle est située entièrement en territoire prussien, la part

du total des dépenses incombant aux Pays-Bas sera de $\frac{2\ 175}{6\ 770}$ et la part incombant à la Prusse de $\frac{4\ 595}{6\ 770}$.

Article 7

Le Gouvernement prussien se charge de l'exécution des ouvrages prévus par la présente Convention.

Article 8

Le Gouvernement prussien veillera à pourvoir à la manœuvre et à l'entretien, conformément aux dispositions de l'article 4, du barrage situé en amont de l'embouchure de la fosse de Cleve, et ce exclusivement par imputation sur la part de la Prusse.

Article 9

L'entretien de la partie de la rivière dont le cours doit être régularisé aux termes de la présente Convention sera assuré, pour autant que ladite partie

constitue la frontière entre les deux Etats, par chacun des Etats sur son territoire et, pour autant que les deux rives se trouvent en territoire prussien, par la Prusse seule.

. . .

208. CONVENTION ENTRE LES PAYS-BAS ET L'ALLEMAGNE
CONCERNANT L'AMÉLIORATION ET L'ENTRETIEN DE
LA NIERS INFÉRIEURE ET DU CANAL DE LA NIERS GUEL-
DROISE, CONCLUE À LA HAYE LE 16 MAI 1895¹

Sa Majesté la Reine des Pays-Bas et, en son nom, Sa Majesté la Reine Régente du Royaume des Pays-Bas, d'une part, et Sa Majesté l'Empereur d'Allemagne, Roi de Prusse, au nom de l'Empire allemand, d'autre part, animés du désir de conclure une convention pour l'amélioration et l'entretien de la Niers inférieure et du canal de la Niers gueldroise . . .

. . .

I. PARTIE DE LA NIERS COMPRISE ENTRE LE MOULIN DE VILLERS ET LE
DÉBUT DE LA PARTIE FRONTIÈRE

Le Gouvernement prussien veillera :

1. A ce que la cunette de la Niers, entre le moulin de Villers et le début de la partie frontière, soit de 12 mètres de large au moins, à ce que les talus intérieurs soient dressés sous une inclinaison de $1\frac{1}{2}$ de base pour 1 de hauteur et à ce que la ligne de pente du fond se trouve à 9,39 mètres au-dessus de N.N. (9,58 mètres + A.P.), dans l'eau d'aval dudit moulin, et à 9,01 mètres au-dessus de N.N. (9,20 mètres + A.P.), au début de la partie frontière.

2. A ce que les vannes du moulin de Villers soient, entre le 1^{er} avril et le 31 octobre de chaque année, ouvertes le samedi avant minuit et restent ouvertes jusqu'au dimanche après-midi à 16 heures, et à ce qu'en cas d'arrivée massive d'eau, les vannes soient ouvertes progressivement et à temps pour empêcher que les eaux n'inondent brusquement les terrains situés en aval.

II. PARTIE FRONTIÈRE DE LA NIERS

Le Gouvernement néerlandais et le Gouvernement prussien veilleront de concert :

3. A ce que la Niers, sur le parcours où elle forme frontière entre les Pays-Bas et la Prusse, ait une cunette de 12 mètres de large au moins et à ce que la ligne de pente du fond se trouve à 9,01 mètres au-dessus de N.N. (9,20 mètres + A.P.), au point supérieur, et à 8,43 mètres au-dessus de N.N. (8,62 mètres + A.P.), au point inférieur, les talus intérieurs étant dressés sous une inclinaison de $1\frac{1}{2}$ de base pour 1 de hauteur; la déclivité des rives pourra, le cas échéant, être accentuée à l'aide de revêtements en fascines ou en pierres à condition qu'il n'en résulte pas de rétrécissement du profil normal susmentionné;

4. A ce que les travaux de curage et de déblaiement sur ledit parcours

¹ E. G. Lagemans, *Recueil des Traités*, vol. 12, p. 176.

soient entrepris en même temps dans les deux moitiés du fleuve trois fois par an, à savoir le 26 avril, le 1^{er} juillet et le 31 août, ou, si ces dates tombent un dimanche ou un jour férié, le lendemain.

III. PARTIE DE LA NIERIS COMPRISE ENTRE L'EMBOUCHURE DU RUISSEAU DE KENDEL ET GENNEP

Le Gouvernement néerlandais veillera :

5. A ce qu'entre l'embouchure du ruisseau de Kendel et le barrage de Gennep, la cunette de la Niers soit régularisée, approfondie et maintenue constamment à 12 mètres de large au moins et réponde au plan d'ensemble et d'élévation I annexé à la présente Convention, qui stipule que la ligne de pente du fond doit se trouver à 8,43 mètres au-dessus de N.N. (8,62 mètres +A.P.), au ruisseau de Kendel, et à 7,11 mètres au-dessus de N.N. (7,30 mètres +A.P.), au barrage de Gennep, les talus intérieurs étant dressés sous une inclinaison de 1½ de base pour 1 de hauteur; la déclivité des rives pourra, le cas échéant, être accentuée à l'aide de revêtements en fascines ou en pierres, à condition qu'il n'en résulte pas de rétrécissement du profil normal susmentionné;

6. A ce que le niveau de retenue au moulin de Gennep, qui est fixé à 9,01 mètres +A.P. en été et à 9,17 mètres +A.P. en hiver, et la palplanche du canal de vidange situé au milieu, à 8 mètres +A.P., ne soient pas élevés et à ce que la largeur franche du canal de vidange ne soit pas ramenée à moins de 16 mètres;

7. A ce que les vannes du moulin de Gennep soient, entre le 1^{er} avril et le 31 octobre de chaque année, ouvertes le samedi avant 23 heures et restent ouvertes jusqu'au dimanche après-midi à 15 heures, et à ce qu'elles le soient également à tout autre moment où le niveau normal de retenue se trouverait dépassé du fait d'une arrivée massive d'eau.

IV. CANAL DE LA NIERIS

8. Le Gouvernement néerlandais veillera à ce que la cunette du canal de la Niers gueldroise soit, sur un parcours de 1 500 mètres en aval à partir de la frontière prussienne, régularisée, approfondie et maintenue constamment à 4,50 mètres de large au moins et réponde au plan d'ensemble et d'élévation II annexé à la présente Convention, qui stipule que la ligne de pente du fond doit se trouver à 19,18 mètres +A.P., à la frontière, et à 18,13 mètres +A.P., à 1 500 mètres plus loin en aval, les talus étant dressés sous une inclinaison de 2 de base pour 1 de hauteur.

9. Le Gouvernement prussien veillera à ce que, sur un parcours de 1 500 mètres en amont de la frontière néerlandaise, la cunette du canal de la Niers soit régularisée, approfondie et maintenue constamment à 4,50 mètres de large au plus, les talus étant dressés sous une inclinaison de 2 de base pour 1 de hauteur, et que la ligne de pente de fond se trouve à 20,04 mètres au-dessus de N.N., à 1 500 mètres en amont de la frontière, et à 18,99 mètres au-dessus de N.N., à la frontière; en période de crue, le débit maximum de vidange par ce canal sera de 7 mètres cubes par seconde.

V. REPÈRES DE NIVELLEMENT

10. Le Gouvernement néerlandais et le Gouvernement prussien installeront, à frais communs, des repères de nivellement:

A. *Sur la Niers :*

- a) En aval du moulin de Villers;
- b) Au début de la partie frontière;
- c) A la fin de la partie frontière;
- d) Près du couvent de Roepaan;
- e) En amont du moulin de Gennepe.

B. *Sur le canal de la Niers :*

- a) A 1 500 mètres en amont de la frontière;
- b) A la frontière;
- c) A 1 500 mètres en aval de la frontière.

VI. COMMISSIONS D'INSPECTION

11. Il sera créé des commissions d'inspection chargées de veiller à ce que les dispositions de la présente Convention soient pleinement et continûment exécutées; elles procéderont à une inspection sur place au moins une fois par an, et seront autorisées à confier à un expert les travaux de triangulation jugés nécessaires.

En ce qui concerne la partie de la Niers compris entre le moulin de Villers et le moulin de Gennepe, la commission d'inspection se composera de deux membres nommés par les Pays-Bas et de deux membres nommés par la Prusse.

En ce qui concerne le canal de la Niers gueldroise, il sera créé une commission dont la composition sera identique.

Les commissions consigneront leurs conclusions dans un procès-verbal, dont elles communiqueront copie à chacun des Gouvernements.

Les enquêtes annuelles auront lieu, en règle générale, au mois de juillet.

VII. CLAUSES FINALES

12. Le Gouvernement néerlandais et le Gouvernement prussien s'engagent à veiller, chacun en ce qui le concerne, à ce que les travaux prévus par la présente Convention soient exécutés dans les deux ans qui suivront la ratification de la Convention.

. . .

13. La présente Convention abroge la Convention du 5 octobre 1847.

209. TREATY¹ BETWEEN THE NETHERLANDS AND PRUSSIA CONCERNING THE IMPROVEMENT OF THE FRONTIER SECTION OF THE BOCHOLTER AA, CONCLUDED AT THE HAGUE ON 18 APRIL 1900²

Her Majesty the Queen of the Netherlands and His Majesty the German Emperor, King of Prussia, being desirous of concluding a treaty concerning the improvement of the frontier section of the Bocholter Aa, . . .

¹ The instruments of ratification were exchanged at the Hague on 14 December 1900.

² E. G. Lagemans, *Recueil des Traités*, vol. 14, p. 146.

Article 1

A movable dam, having a clear width of 14 metres and a sill 15.48 metres above A.P. (15.28 metres above N.N.), shall be constructed in the channel of the Aa approximately 380 metres above boundary-stone No. 729. The dam must be designed to allow a minimum flow of water of 0.250 cubic metres per second. The lower edge of the openings left in the sections of the dam for that purpose shall be not more than 15.78 metres above A.P. (15.48 metres above N.N.).

Prussia shall be responsible for the operation of the dam.

Article 2

From boundary-stone No. 729 to the mouth of the Holtwijk stream near boundary-stone No. 730, the channel-bed of the Aa shall be levelled to a steady gradient so that it lies 15.87 metres above A.P. (15.67 metres above N.N.) at the Holtwijk stream and 15.48 metres above A.P. (15.28 metres above N.N.) at the dam.

From boundary-stone No. 729 to a point 100 metres below the Holtwijk stream the width of the channel-bed shall be 7.60 metres, and from that point up-river to the Holtwijk stream it shall widen from 7.60 metres to 12.80 metres.

The banks on both sides shall have a gradient of 1 : 2.44, and the berms shall be 1.60 metres above the channel-bed and shall be 1.50 metres wide. The dikes to be raised on both sides of the river shall have a width of at least 1.50 metres at the summit and a gradient of at least 1 : 2. The summits of the embankments shall in general be 2.20 metres above the level of the channel-bed as specified above.

Article 3

The two Governments reserve the right to establish more detailed provisions for the use of the dam by means of special regulations.

Article 4

The two Governments shall ensure, in their respective territories, that the sites required for the execution of the works referred to in this Treaty are made available as soon as possible.

Article 5

One-half of the cost of the improvement of the river, including that of the acquisition of land, shall be borne by each state; the cost of the dam shall be borne in the proportion of one-third by the Netherlands and two-thirds by Prussia.

Article 6

Each State shall be responsible for the maintenance in its territory of the section of the river to be improved under the terms of this Treaty, including the dikes.

Prussia shall be solely responsible for the maintenance of the dam.

The Prussian Government shall carry out all the works specified in this Treaty.

210. CONVENTION¹ BETWEEN THE NETHERLANDS AND PRUSSIA CONCERNING THE DINKEL AND VECHTE RIVERS, SIGNED AT BERLIN, 17 OCTOBER 1905²

CONCERNING THE DINKEL RIVER

ARTICLE I

The Royal Netherlands State Government undertakes to ensure that the proposed culvert for the passage of the Dinkel river below the Nordhorn-Almelo Canal and the lock installed at the present point of intersection of the Dinkel river with the aforesaid Canal — in the case of the latter so long as it is maintained in operation — shall be serviced as follows:

Section 1

The two structures shall be kept closed only for such periods of time as are required for feeding into the Canal the quantity of water necessary for navigational purposes.

For purposes of navigation, it shall be sufficient if the water level in the Canal be kept at that point at 0.50 m above the ordnance datum on the Canal gauge, i.e. at 21.50 above the new Amsterdam datum [N.A.P.].

Section 2

If the Dinkel river carries water in excess of the amount required to be fed into the Canal for the purpose of maintaining navigation thereon, such surplus water shall be drained off into the lower reaches of the Dinkel river until a rate of discharge into the lower Dinkel river of not less than two cubic foot per second is reached.

Section 3

In the event of a sudden onset of high water, the draining-off operations shall begin as soon as the water level recorded on the Canal gauge reaches ordnance 0.70 m, i.e. 21.70 m +N.A.P.

Section 4

The draining of surplus water shall be carried out in such manner as to prevent, as far as possible, any overflowing of the banks of the lower reaches of the Dinkel river. The procedure to be adopted in opening the culvert shall therefore be such that the two flood-gates shall be raised one after another several times in succession, though only for a few centimetres at a time. If use is also made of the lock for draining purposes, the gates of the latter shall be handled in the same manner.

Section 5

If it is necessary to lower the water level, either in order to allow repair work to be carried out or for other purposes, the opening of the gates shall

¹ The exchange of the instruments of ratification took place at Berlin on 3 August 1906.

² E. G. Lagemans, *Recueil des Traités*, vol. 15, p. 36.

also be effected gradually, and the miller at Lage shall be informed thereof as soon as possible.

CONCERNING THE VECHTE RIVER

ARTICLE II

Section 1

The Royal Prussian State Government will cause a dike to be built and maintained along the left bank of the Vechte River, the crest of which dike shall have an elevation of not less than + 10.75 m N.A.P. at the frontier, of not less than + 10.90 m N.A.P. at the gauge at Laar, and of not less than + 11.33 m N.A.P. at the ferry next to the windmill standing in the municipality of Heesterkante not far from the frontier at Echteler, and which, from that point onward, shall be given an upward gradient of not less than 1 : 6250 [0.16%] up to the point where it joins the high-lying land near Echteler.

The Royal Netherlands State Government will take action to have the barrage dam standing in that area, in the Eggengoor, completely removed over a distance of at least twenty metres, either on both sides of the central channel to be referred to below, or in the depression situated approximately 120 m north of the channel.

Section 2

The Royal Netherlands State Government will cause the following works to be carried out in Netherlands territory, in connexion with the two trenches for the drainage of the left bank of the Vechte valley to be provided by the *Preussische Wassergenossenschaft* in Prussian territory, above the frontier:

(a) a marginal water conduit, starting at the frontier near Puffershut and following the Zwoll Way as far as the Vechte river below the Koningsbrug bridge. The bottom of the conduit shall lie at + 9.04 m N.A.P. at the frontier, at + 8.91 m N.A.P. at a distance of 530 m below the frontier, and at + 7.7 m N.A.P. at a further distance of 2,200 m (near the Holt-heme schoolhouse); at this point it shall fall by 0.10 m and shall lie at + 7.10 m at the culvert under the Overijssel Canal. The slopes shall have an inclination of 2 : 1 throughout. The bottom of the conduit shall have the following widths: in the uppermost section, over a distance of 530 m, 0.90 m; from there to the schoolhouse, 1.00 m; from there to the point where the central conduit to be referred to below joins the marginal conduit (over a distance of 530 m), the width shall gradually be increased from 1.25 to 2.00 m, and from there to the culvert, to 2.60 m. In its further course, as far as the Vechte river, the conduit shall be widened sufficiently to ensure a cross-sectional area at least equalling that of the section above the culvert.

The proposed bridges shall be built in such manner that the lower edge of the girders shall lie not less than 1.10 m above the bottom of the channel; they shall have a clear span of 5.60 m in the section above the schoolhouse, and of 6.00 m in the section below the schoolhouse.

The culvert under the Overijssel Canal shall have a transverse section of 2.00 m²;

(b) a central conduit from the frontier, at a point approximately 250 m north of boundary stone 126, to its junction with the marginal conduit, approximately 410 m above the Overijssel Canal.

The bottom of this conduit shall lie at + 8.10 m N.A.P. at the frontier and, sloping downward at a uniform gradient, shall join the bottom of the marginal conduit. It shall have a width at the bottom of 1.25 m and a rate of slope of 1 : 1¹/₂.

Passages across the conduit shall be built with a clear span of not less than 2.45 m and a clearance of at least 1.10 m above the bottom of the channel.

The culvert under the path leading from Puffershut to Leemgraven may be provided with devices by which it may be shut, but it shall not be closed except during the period from 1 November to 1 April, and even during this period it shall be closed only if the Vechte dike has been flooded or breached by the winter floods.

The Royal Netherlands State Government further guarantees that the central part of the way leading from Puffershut to Leemgraven will not be raised above + 9.60 m N.A.P. over a distance of 100 m, not above + 9.80 m N.A.P. over a distance of 200 m, and not above + 10.00 m N.A.P. over a further distance of 700 m.

The Royal Netherlands State Government shall cause the aforesaid works to be carried out within two years after the receipt of a request therefor from the Royal Prussian State Government; the latter Government, for its part, shall pay to the Royal Netherlands State Government, as contribution to the costs, the sum of 21,000 marks (twenty-one thousand marks) one year after the date of such request.

After completion of the aforesaid works, the present obligation of the Royal Netherlands State Government to secure the temporary opening of the Gramsberg Weir shall cease.

Section 3

The Royal Netherlands State Government will cause to be constructed and maintained an overfall in the barrage dam in the vicinity of the Vechte dike, which overfall shall have a width of 125 m and a rim lying at an elevation of + 10.50 m N.A.P. It will further take such measures as may be required to prevent the formation of new obstructions to the free flow of water below the present barrage.

Section 4

Each State shall be responsible within its own territory for ensuring that adequate provision is made for the permanent and satisfactory upkeep of the proposed works.

Once every two years, in spring, the works described in this article shall be inspected by a Commission, which shall consist of two Netherlands and two Prussian officials.

CONCERNING THE CANALS ON THE LEFT BANK OF THE EMS RIVER

ARTICLE III

The Royal Prussian State Government agrees to take the requisite measures to ensure that no water in excess of the amounts required to feed the Prussian canals on the left bank of the Ems river shall be diverted

from the Vechte river through these canals unless—despite the diversion of Vechte water—the rate of flow in the Vechte river, at the frontier between Prussia and the Netherlands, exceeds two cubic metres per second.

CONCERNING THE DRAINAGE OF THE LAAR'SCHE BRUCH

ARTICLE IV

Section 1

The Royal Netherlands State Government authorizes the Royal Prussian State Government to undertake such deepening and rectification of the upper channel, from the inlet of the northern culvert under the Coevorden Canal, situated at + 7.37 m N.A.P., onwards, as may be required for its purposes.

Section 2

The Royal Netherlands State Government raises no objection to the artificial drainage of the Laar'sche Bruch by means of the two culverts under the Coevorden Canal and, to that end, consents to the upper channel referred to in section 1, as well as the eastern branch channel connecting the two culverts, being diked, provided that:

(a) in the dam of the branch channel, opposite the culvert in the eastern dike of the Canal, a beam-operated sluice gate of equal width be installed, and that three culverts provided with valves, with clear internal cross-sectional areas, one of 1 sq. m, and two of 0.50 sq. m, be built in three places to be specified;

(b) the entire cost shall be borne by the Royal Prussian State Government;

(c) the Royal Prussian State Government guarantees that no water shall in future be diverted from land now draining towards the Vechte river or the Piccardie-Coevorden Canal in such manner as to cut through the watershed towards the *Laarwold Wetering* and, by that route, to the two culverts under the Coevorden Canal referred to above.

However, during droughts it shall be permitted to conduct water from the Piccardie-Coevorden Canal to the Laar'sche Bruch for purposes of irrigation.

CONCERNING THE EMLICHSHEIM DRAINAGE CANAL

ARTICLE V

As soon as the regulation of the drainage system at the frontier between Prussia and the Netherlands has been completed as provided in article II, the Royal Prussian State Government will take all requisite measures to ensure that any surplus water of the Piccardie-Coevorden Canal shall, as far as possible, be conducted to the Vechte river by way of the Emlichsheim drainage canal.

CONCERNING THE NAVIGATION LOCK IN THE NORDHORN-ALMELO CANAL

ARTICLE VI

The Royal Prussian State Government guarantees that the navigation lock to be erected in the Nordhorn-Almelo Canal shall not be used for the diversion of flood waters from the Vechte river.

211. TREATY¹ BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE GERMAN EMPIRE CONCERNING THE RAISING OF THE LEVEL OF THE FORMER MOUTH OF THE OLD RHINE NEAR LOBITH, SIGNED AT BERLIN, ON 29 AUGUST 1918²

Her Majesty the Queen of the Netherlands, on the one hand, and His Majesty the German Emperor, King of Prussia, on behalf of the German Empire, which represents the kingdom of Prussia at its request in this matter, on the other hand, being desirous of improving the flow of the Rhine, have agreed to amend the provisions relating to the former mouth of the Old Rhine near Lobith contained in the Frontier Agreement of 7 October 1816 . . .

ARTICLE 1. The Netherlands Government shall be entitled to close off the old mouth of the Rhine near Lobith to the flow at high water.

ARTICLE 2. Any works which may be necessary in Netherlands territory for the total or partial closing off of the old mouth of the Rhine shall be carried out by the Netherlands Government at its sole discretion and at its sole expense.

ARTICLE 3. The Netherlands Government shall be required, within two years following the ratification of this Treaty, to raise the level of the old mouth of the Rhine so that the Rhine waters, at levels of less than fifteen metres above the Amsterdam water-mark (N.A.P.) in the centre of the old mouth of the Rhine, that is to say, approximately six metres above the Emmerich water-mark, cannot run off through the Old Rhine.

The closing-off of the flow at high water may be commenced not less than five years after ratification of this Treaty.

ARTICLE 4.³ If the angle of the dike near Bimmen in Prussia is set back, the Netherlands Government, notwithstanding the provisions of article 11 of the Frontier Treaty of 7 October 1816, shall be required to contribute to the costs thereby incurred an amount of 2 million marks and to pay this amount according to the progress of the works, at the request of the Prussian Minister for Agriculture, State Lands and Forests, to such institutions as the latter may designate; with the exception of the final amount, however, payments of less than 200,000 marks may not be demanded.

ARTICLE 5. Neither State shall be required to contribute to the maintenance of works carried out under the terms of this Treaty in the territory of the other State.

ARTICLE 6. On the completion of the works required for the purposes of article 3, the provisions of articles 17 and 19 of the Frontier Treaty of 7 October 1816 shall cease to have effect. All other provisions of that Frontier Treaty are unaffected by this Treaty.

¹ The exchange of ratifications took place at Berlin on 28 August 1922.

² De Martens, *Nouveau Recueil Général des Traités*, vol. 14, 3^e série, p. 472.

³ As amended by the Additional Protocol to the Treaty, signed at Berlin on 5 July 1921.

Germany (Federal Republic of)-Netherlands

212. TREATY¹ BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE FEDERAL REPUBLIC OF GERMANY CONCERNING THE COURSE OF THE COMMON FRONTIER, THE BOUNDARY WATERS, REAL PROPERTY SITUATED NEAR THE FRONTIER, TRAFFIC CROSSING THE FRONTIER ON LAND AND VIA INLAND WATERS, AND OTHER FRONTIER QUESTIONS. (FRONTIER TREATY), SIGNED AT THE HAGUE ON 8 APRIL 1960²

CHAPTER 4

FRONTIER WATERS

Article 56

(1) Boundary waters within the meaning of this Chapter are surface waters, including their banks, which cross or, in some of their sections, form the frontier between Germany and the Netherlands.

(2) The provisions of this Chapter shall not apply to the Rhine, the Ems, and the Dollart.

(3) Corporations within the meaning of this Chapter are the Provinces, municipalities and associations of public law which have jurisdiction *ratione loci* in matters relating to the boundary waters in the territories of the Contracting Parties.

Article 57

The Contracting Parties agree to conduct regular consultations on all questions relating to the use and management of water resources in so far as they affect the boundary waters within the territory of the neighbouring State, with a view to solving such questions in a manner satisfactory to both Contracting Parties. Such consultations shall be held in the Permanent Boundary Waters Commissions and its sub-commissions referred to in article 64.

Article 58

(1) The Contracting Parties undertake to give due regard, in the performance of their tasks in the field of water management, to the neighbouring State's interests in the boundary waters. To that end, they agree to take or to support all measures required to establish and to maintain within the sections of the boundary waters situated in their respective territories such orderly conditions as will mutually safeguard their interests, and they shall

¹ This Treaty has not yet entered into force.

² Netherlands, *Tractatenblad*, 1960, No. 68, p. 3. (Translated from the German by the Secretariat of the United Nations.)

neither take nor tolerate any measures causing substantial prejudice to the neighbouring State.

(2) In performing the obligations undertaken in paragraph 1, the Contracting Parties shall in particular take or support, within an appropriate period of time, all measures required:

(a) To secure and maintain the adequate drainage of the boundary waters, to the extent to which such is required in the interest of the neighbouring State;

(b) To prevent inundations and other damage resulting from the inadequate servicing of sluices and weirs;

(c) To prevent such diversion of water as may cause substantial prejudice to the neighbouring State;

(d) To prevent the excessive extraction of sand and other solid substances liable to cause substantial prejudice to the neighbouring State;

(e) To prevent such excessive pollution of the boundary waters as may substantially impair the customary use of the waters by the neighbouring State.

(3) In addition, the Contracting Parties shall endeavour, within the limits of their financial resources, to effect such improvements in the use and management of the boundary waters within their respective territories as will serve their mutual interests, and to participate financially, where such participation is equitable, in measures taken in respect of the boundary waters within the territory of the neighbouring State.

Article 59

(1) For the purpose of implementing the provisions laid down in this Chapter, the Contracting Parties agree to conclude such special agreements in respect of individual boundary waters as may be required. Agreements of this kind may also be concluded between the Kingdom of the Netherlands on the one hand, and, subject to the approval of the Government of the Federal Republic of Germany, the *Länder* Lower Saxony and North Rhine-Westphalia, on the other hand.

(2) Agreement of the type designated in paragraph 1 may also be concluded, subject to the approval of the Governments of the Contracting Parties, by corporations.

(3) Existing agreements, in so far as they concern boundary waters, shall continue in effect, until such time as they are amended or supplemented, even if they are at variance with the provisions of this Chapter.

Article 60

(1) If it is intended to carry into effect, within the territory of one of the Contracting Parties, any measures liable substantially to affect the use and management of water resources in the territory of the other Contracting Party, or to allow such measures to be carried into effect, the Permanent Boundary Waters Commission shall be notified thereof as soon as possible.

(2) The Contracting Parties shall notify each other of the authorities or corporations within its territory which are competent to make the notification referred to in paragraph 1.

Article 61

Each of the Contracting Parties may within an appropriate period of time present to the Permanent Boundary Waters Commission its objections to any measures, whether proposed or already under way, or to any cases of non-performance of an obligation on the part of the other Contracting Party which are liable to cause, or have already caused, substantial damage; such objections must be founded on the fact or the expectation of a violation of obligations entered into.

Article 62

(1) Each of the Contracting Parties shall be obligated, pending the conclusion of the deliberations of the Permanent Boundary Waters Commission or, as the case may be, of the deliberations between the two Governments, to suspend the execution of any measures planned by it to which objections have been raised by the other Party, unless the other Contracting Party consents to some other arrangement.

(2) Paragraph 1 shall not apply if a Party to this Agreement cannot suspend the execution of the measures objected to without seriously endangering its interests. The rights of the other Contracting Party shall not be affected thereby.

Article 63

(1) If one of the Contracting Parties, notwithstanding the objections raised by the other Party, acts in violation of its obligations under this Chapter or arising under any of the special agreements to be concluded as provided in article 59, thereby causing damage within the territory of the other Contracting Party, it shall be liable for damages.

(2) Liability for damages shall arise in respect only of such damage as was sustained after the objections were raised.

Article 64

For the purpose of promoting good-neighbourly co-operation in matters relating to boundary waters, the Contracting Parties establish a Permanent Netherlands-German Boundary Waters Commission.

Article 65

(1) Each Government shall appoint three expert members of the Commission, each group to consist of one chairman and his deputies. The first members of the Commission shall be appointed within three months after the entry into force of this Treaty.

(2) The Commission shall meet at least once every year and may, either at its discretion or upon the proposal of one of the two chairmen, hold additional meetings. The meetings shall be held in the two States alternately. Additional experts may be invited to attend the meetings of the Commission.

(3) The two chairmen may communicate direct with each other on questions relating to the boundary waters.

(4) The Commission may adopt rules of procedure to govern the conduct of its business.

Article 66

(1) It shall be the function of the Commission to deliberate jointly on all questions which may arise in the application of the provisions of the present Chapter and thereby to promote the implementation of the provisions of this Chapter through mutual information and exchange of experience.

(2) The Commission shall receive the notifications provided in article 60, paragraph 1.

(3) It shall consider suggestions, complaints and objections under article 61. It shall direct its efforts towards bringing about the amicable settlement of disputes by the Parties concerned.

(4) It shall consider forthwith how far existing agreements relating to matters within its jurisdiction are in need of amendment or supplementation and shall make recommendations for the modification of existing and the conclusion of new agreements.

(5) It shall discuss the question of contributions by one Contracting Party towards the costs of measures carried out by the other Party.

(6) It shall be authorized to inspect boundary waters. It shall, through the intermediary of its chairmen, receive from the authorities of both Contracting Parties such information as it may require in the exercise of its powers and the discharge of its functions.

(7) It shall be authorized, within its terms of reference, to make recommendations to Governments and corporations.

(8) It shall, in particular, seek to formulate recommendations in cases in which objections are submitted by the Contracting Parties in accordance with the provision of article 61.

Article 67

(1) If, in a case covered by article 66, paragraph 8, the Commission fails to reach agreement on a recommendation, the two Governments shall endeavour to come to an agreement.

(2) If such attempt fails, or if the Governments are unable to reach an agreement despite a recommendation of the Commission, either Government may bring the matter before the arbitral tribunal.

Article 68

(1) The Commission shall decide to establish sub-commissions for individual boundary waters if the need therefore arises; the members of the sub-commission shall be appointed on a basis of parity.

(2) The sub-commissions shall include representatives of the local authorities and corporations.

(3) The sub-commissions shall, within their respective jurisdictions, exercise the same functions as the Commission; they shall report to the latter on their activities. The right to receive and to consider objections and the right of recommendation shall be reserved to the Commission.

Article 69

An arbitral tribunal having jurisdiction, to the exclusion of all other contractual provisions for the settlement of disputes, shall be established for

the settlement of all disputes between the Contracting Parties which involve the interpretation or application of the provisions of this Chapter and of the special agreements to be concluded pursuant to article 59.

Article 70

(1) The arbitral tribunal shall be composed of a permanent umpire and two arbitrators appointed for each individual case. If the umpire ceases to discharge his functions or is prevented from discharging them, they shall be performed by a deputy.

(2) Neither the umpire nor his deputy shall be nationals of either Contracting Party. They shall not be persons having their ordinary residence in the territory of either Contracting Party or persons in the service of such Party.

(3) The Governments of the Contracting Parties shall appoint the umpire and his deputy by mutual agreement, choosing them from among persons who possess the qualifications required in their respective countries for appointment to judicial offices or are otherwise qualified to discharge these functions by virtue of their special competence as jurisconsults.

(4) The terms of office of the umpire and his deputy shall be five years, save in the case of the first deputy umpire to be appointed after the coming into force of this Agreement, who shall be so appointed for a term of six years. Thereafter, the terms of office shall be deemed extended successively by five-year periods unless the Government of one of the Contracting Parties notifies the Government of the other Party before the expiration of such term of office of its wish for the appointment of another umpire or deputy umpire.

(5) If no agreement is reached by the Governments on the choice of an umpire or his deputy within three months after the entry into force of this Agreement, the President of the International Court of Justice in The Hague may be requested by the two Governments jointly, or by one of them, to appoint an umpire or his deputy. If the President is prevented from acting or if he is a national of one of the Contracting Parties, the appointment shall be made by the Vice-President, and if the latter is also prevented or is a national of one of the Contracting Parties, the appointment shall be made by the senior member of the International Court of Justice not prevented from acting who is not a national of either Contracting Party. The same method shall be applied if, after the expiration of the terms of office, no agreement is reached by the Governments on the appointment of a new umpire or deputy umpire.

(6) If, before the expiration of their terms of office, the umpire or his deputy cease to fulfil the conditions laid down in paragraph 2 above, or in the case of their separation for some other reason, a successor, who shall be a person fulfilling the conditions laid down in paragraphs 2 and 3, shall be appointed for the unexpired portion of the term. The appointment procedure shall be subject *mutatis mutandis* to paragraph 5; any extension of the successor's term of office shall be governed by paragraph 4, sentence 2.

(7) As soon as the umpire addresses to the Governments the communication provided for in article 71, paragraph 3, each of the Governments shall appoint an arbitrator. If a Government fails to appoint an arbitrator within one month after the date of the communication provided for in

article 71, paragraph 3, the other Government may request the President of the International Court of Justice to appoint an arbitrator for the vacant seat. Paragraph 5, sentence 2, shall apply *mutatis mutandis*.

(8) In the event of an arbitrator's separation from the arbitral tribunal, the vacancy shall be filled by application *mutatis mutandis* of the procedure laid down in paragraph 7.

(9) The arbitral tribunal shall itself determine the place of its meetings. It shall be assisted by two secretaries; each Government shall appoint one of these secretaries.

Article 71

(1) If the Government of one of the Contracting Parties wishes to refer a dispute to the arbitral tribunal for adjudication, it shall submit to the umpire a statement of claim, at the same time sending a copy of such statement to the other Contracting Party.

(2) If the Governments of the two Contracting Parties, availing themselves of the provision of article 69, wish to refer a dispute to the arbitral tribunal by mutual agreement, they shall file with the umpire an arbitration agreement (*compromis*) in which they have formulated the point at issue.

(3) The umpire shall first discuss the difference with the two Governments with a view to bringing about a settlement. If he considers his efforts to have failed he shall inform the two Governments accordingly.

Article 72

(1) In deciding upon a case, the arbitral tribunal shall apply the provisions of this Chapter and of the special agreements to be concluded pursuant to article 59, and the general principles of international law.

(2) The procedure before the arbitral tribunal shall be governed by the provisions of articles 63 to 82 of the Hague Convention for the Pacific Settlement of International Disputes of 18 October 1907, to the extent to which they are applicable.

(3) In urgent cases, the umpire may, upon the motion of one of the two Governments, order interim measures to be taken even before the appointment of the arbitrators. Upon the motion of one of the two Governments, the arbitral tribunal shall decide on whether the interim measure ordered by the umpire shall be revoked. The arbitral tribunal shall be authorized to order interim measures to be taken after hearing the Parties.

Article 73

The costs of the office of umpire of the arbitral tribunal and of his deputy shall be borne in equal shares by the two Contracting Parties. Each Party shall be responsible for the costs of the office of the arbitrator appointed by it and of the secretary appointed by it, as well as the costs of its representation before the arbitral tribunal. All other expenses involved in the functioning of the arbitral tribunal shall be borne by the Contracting Parties in equal shares.

ANNEX A

Section 8

RIMBURG/EYGELSHOVEN

Special Provisions:

Pending the regulation of the Wurm river, existing rights of use in respect of the water course in either territory shall not be affected by the rectification of the frontier.

Section 12

THE OLD RODEBACH NEAR TÜDDERN/SITTARD

Special Provisions:

(Paragraph 1 omitted) . . .

(2) The permission to conduct water into the Rodebach granted to the settlement of Tüddern by the "Waterschap van de Geleen- en Molenbeek met zijtakken" on 25 January 1960 shall continue in force. Any change in existing conditions that would result in the additional burdening of the Rodebach or the aforesaid ditch along the road shall be subject to the grant of a new permit.

(3) The terms laid down above shall continue in force until drainage conditions have been newly regulated on the German side in the course of proceedings for the rectification of field boundaries, but not longer than five years.

Section 33

SUDERWICK/DINXPERLO

Special Provisions:

(6) The drainage system built by the municipality of Dinxperlo in the area south-east of the *Anholter Weg* and the *Hellweg* shall remain connected with the Dinxperlo drainage system. The drain under the southern footway of the *Hellweg* shall not be disconnected. No alterations in, or new connexions with, the existing drainage system shall be effected by the German side except by agreement with the municipality of Dinxperlo. The municipality of Dinxperlo shall be responsible for the maintenance of the drainage system. The necessary maintenance work may be carried out on German territory subject to the approval of the competent German agencies. The

municipality of Dinxperlo and the *Amtsverwaltung* Liedern-Werth shall conclude an agreement concerning the payments to be made to the aforesaid municipality in consideration of the use of the drainage system.

Section 34

ZWILLBROCK/EIBERGEN

. . .

Special Provisions :

The Kingdom of the Netherlands undertakes to make provision, through the agency of the *Waterschap van den Berkel*, for the restoration and maintenance, in accordance with the regulation plan carried into effect in 1939, of such drainage conditions as are required by the German *Wasser- und Bodenverband Krosewicker Feld*. In preparing a new regulation plan, the *Waterschap van den Berkel* will, to the extent to which such plan affects the interests of the *Wasser- und Bodenverband Krosewicker Feld*, proceed by agreement with the *Landkreis Ahaus* in drafting the relevant provisions.

Section 40

FRENSDORF/DENEKAMP

. . .

Special Provisions :

In recognition of the fact that a development of the Rammelbach will serve the water development policies of the two Contracting Parties, the Kingdom of the Netherlands pledges its co-operation pursuant to the provisions of Chapter 4 of this Treaty, and in particular undertakes to promote steps towards the speedy conclusion of a special agreement within the meaning of article 59 relating to this question.

. . .

Section 44

RHEDE/VLAGTWEDE

. . .

Special Provisions :

(1) . . .

(2) The Federal Republic of Germany shall take steps to ensure that any surface run-off of high water from the *Walchum* and *Brualer Schloots* into Netherlands territory shall be prevented.

ANNEX B

REGULATION OF STREAMS AND RESULTANT FUTURE CHANGES IN THE COURSE OF THE FRONTIER BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE FEDERAL REPUBLIC OF GERMANY

. . .

Section 2

AMSTELBACH-BLEYERHEIDER BACH

Regulation of the stream:

The regulation of the Amstelbach and Bleyerheider Bach, in the sections between a point lying approximately in the middle of the frontier between boundary-stones 224 and 225 on the one hand, and boundary-stone 227, on the other, shall be undertaken according to a joint plan by the Federal Republic of Germany and the Kingdom of the Netherlands, within four years after the entry into force of this Agreement, the courses of these streams to be changed thereby as shown in the attached map.

. . .

Section 3

MÜHLENBACH/JUNGE WURM

Regulation of the stream:

The regulation of the Mühlenbach, between border stones 361 and 362, shall be undertaken according to a joint plan by the Federal Republic of Germany and the Kingdom of the Netherlands within three years after the entry into force of this Agreement, the course of the stream to be changed thereby as shown in the attached map.

. . .

Section 4

ROTHENBACH

Regulation of the stream:

The regulation of the Rothenbach, between boundary-stones 374 and 376, shall be undertaken according to a joint plan by the Federal Republic of Germany and the Kingdom of the Netherlands within five years after the entry into force of the present Agreement, the course of the stream to be changed thereby as shown in the attached map.

. . .

Section 5

RAMMELBACH

Regulation of the stream:

The regulation of the Rammelbach, between boundary-stones 41 XIV and 48, shall be undertaken according to a joint plan by the Federal Republic of Germany and the Kingdom of the Netherlands within six years after the entry into force of this Agreement, the course of the stream to be changed thereby as shown in the attached map.

. . .

Germany (Democratic Republic)-Poland

213. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE POLISH REPUBLIC AND THE GOVERNMENT OF THE GERMAN DEMOCRATIC REPUBLIC CONCERNING NAVIGATION IN FRONTIER WATERS AND THE USE AND MAINTENANCE OF FRONTIER WATERS, SIGNED AT BERLIN, ON 6 FEBRUARY 1952²

The Government of the Polish Republic, on the one hand, and the Government of the German Democratic Republic, on the other hand, have decided to conclude an Agreement concerning navigation in frontier waters and the use and maintenance of frontier waters . . .

. . . have agreed on the following provisions:

CHAPTER I

NAVIGATION AND FLOATING ON FRONTIER WATERS

Article 1

The two Contracting Parties grant each other, on a basis of complete equality, the right to navigation and floating on frontier waters.

Vessels and rafts authorized for navigation by either Contracting Party and persons and cargo thereon may use the full width of the frontier waters of the Older and the navigable part of the Nysa Łużycka (Lausitzer Neisse).

Such vessels, rafts, persons and cargo shall be exempt from all customs and passport formalities, unless they tie up to the other Party's bank or otherwise make contact with the bank or with vessels or rafts of the other Party.

In the event of their being obliged to tie up to the other Party's bank or otherwise to make contact therewith, the vessels and rafts referred to in the second paragraph shall be subject to all provisions and regulations in force in the territory concerned.

Contact with vessels and rafts of the other Contracting Party may be treated by the competent authorities as contact with the other Contracting Party's bank.

The vessels and rafts referred to in the second paragraph shall be exempt from navigation and other charges.

Article 2

Vessels of the competent authorities of either Contracting Party shall be entitled to navigate over the full width of the frontier waters. They may likewise tie up to the bank of the other Contracting Party, with the latter's consent and subject to the provisions of the fourth paragraph of article 1.

Article 3

Every vessel and raft shall carry the documents and distinctive marks required for navigation or floating.

¹ Came into force on 2 August 1952 by the exchange of the instruments of ratification at Warsaw, in accordance with article 31.

² United Nations, *Treaty Series*, vol. 304, p. 160.

Article 4

Every vessel and raft shall be in the charge of a responsible person and carry the necessary crew.

The person in charge of a vessel or raft shall be responsible for ensuring that it is properly manned and controlled.

The charge of a vessel or raft shall be entrusted only to persons holding a certificate of competence (e.g. a master's or raftsman's certificate) issued or recognized by the competent offices of one of the Contracting Parties.

The said documents shall be honoured by the authorities and offices of the other Party. The office which has issued or recognized such a document shall be bound to withdraw it from the holder at the other Party's request in the event of his serious or repeated contravention of the navigation, customs or currency regulations, or if he is guilty of contraband or any other frontier offence.

The two Contracting Parties shall prescribe a uniform model seaman's book for the crew of vessels or rafts.

Article 5

Vessels may tie up to and remain alongside their own Party's bank only at the places designated for the purpose by the competent authorities and marked by clearly visible signs of which the other party has been notified. This provision shall not apply to official vessels of the water security service or to engineering appliances or vessels of the waterways administration.

Article 6

Each Contracting Party shall issue appropriate regulations authorizing persons in charge of vessels or rafts to tie up to the other Party's bank outside the designated mooring places if the vessel or raft is in danger of sinking or for other good and sufficient reasons, and if necessary to land the crew and unload the cargo, subject to immediate notification of the frontier authorities of the said Party. Timber from a broken raft may likewise be landed.

Both Contracting Parties shall grant the victims of shipwreck every assistance, subject to reimbursement of the expenses incurred, and shall also if necessary carry out aid or rescue operations.

If as a result of such aid or rescue operations third persons suffer damage, each Contracting Party shall enable the said persons to claim in its territory compensation under the law in force in the territory of the Party in which the damage was sustained.

Article 7

If any navigation installations, water engineering works, vessels or rafts of one Party are destroyed or damaged through the culpable act or negligence of the person in charge of a vessel or raft belonging to the other Party, the person having the ownership or possession of the said vessel or raft shall be liable for the damage in accordance with the law applicable to the injured Party.

The competent authorities of the two Parties shall determine by agreement the amount of any compensation claimed under articles 6 and 7. Where serious damage in excess of 1,000 roubles is sustained, the liability for

compensation and the amount thereof shall be examined by a Mixed Commission convened for the purpose and composed of representatives of both Parties.

. . .

CHAPTER II

PRINCIPLES OF ADMINISTRATION AND MAINTENANCE OF FRONTIER WATERS

Article 13

The two Contracting Parties agree that, on the frontier sector of the river Oder, on the Nysa Łużycka (Lausitzer Neisse) and on other frontier waters, the riparian works and the riparian markings of the navigable channel shall be restored and maintained:

On the right bank — by the Polish authorities;
On the left bank — by the German authorities.

Article 14

In order to ensure the normal conformation of the river bed and to permit the removal of obstructions likely to cause ice barriers, damage and accidents, each Contracting Party shall, save as may be otherwise determined by special agreement between the competent authorities of the two Parties, carry out the following works in its own frontier sector: the installation of kilometre marks; the removal of destroyed bridging and other water installations, piles and miscellaneous remnants of rebuilt and temporary bridges, up to halfway across the bridge; the raising of sunken vessels and the removal of other obstructions above or below the water-line; and the restoration, on its own bank, of any dams, flood-dikes, navigation marks and other water installations destroyed or damaged during the period of navigation by ice-floes, flooding or any other cause.

Article 15

In order to ensure the safety of navigation and floating on navigable frontier waters, the two Contracting Parties shall bear joint responsibility for the detection, marking and removal of obstructions in the fairway, and for the marking of the fairway. Both Parties shall dredge the navigable channel and employ other suitable means to maintain the necessary depths in the sectors designated by the Mixed Commission in accordance with article 30.

. . .

Article 17

In order to maintain the frontier waters in proper condition, each Contracting Party undertakes:

(1) Not to alter or obstruct to the detriment of the other Party the natural flow of water in frontier watercourses or on the adjoining land through the erection or reconstruction of any works in the water or on the banks;

(2) Not to take, on the land adjoining the frontier sector of the river Oder, any action likely to result in a fall in the water level necessary for navigation;

(3) To clean out frontier watercourses regularly in the sectors where such cleaning is considered necessary by the competent authorities of the two Contracting Parties;

(4) To prevent, by appropriate means and installations, any waters entering the frontier sector of the rivers Oder and Nysa Łużycka (Lausitzer Neisse) and any effluents from towns, settlements or industrial plant from introducing into the said rivers physical, chemical or bacteriological impurities of such nature and in such quantities as:

(a) To affect adversely the use of the water of the said rivers for domestic requirements, water supply, industry and agriculture;

(b) To cause bridges, dams, other water engineering works and installations, and vessels to become corroded and overgrown with slime and aquatic flora and fauna;

(c) To cause the executive accumulation of slime on the bed and banks;

(d) To affect adversely the normal development of the typical aquatic flora and fauna of the said rivers.

Article 18

Existing water engineering works, bridges, dams, sluices, embankments etc. on frontier watercourses shall be preserved. If they are in use, each of the two Contracting Parties shall at its own expense keep them in good condition and in repair up to the frontier line unless the two Contracting Parties conclude a separate agreement on the subject.

If need arises to reconstruct or remove any of the objects referred to in the first paragraph and such reconstruction or removal may cause a change in the water level in the territory of the other Party or impair the navigability of the river, the other Party's consent to the execution of the necessary works must be obtained.

Such consent shall likewise be required for the construction of new bridges, dams, sluices, embankments etc.

If the projected works may serve common purposes, the competent authorities shall agree upon the general and detailed plans thereof, the construction costs, the apportionment of costs and the acceptance.

The use, operation and repair of existing power installations, the restoration of destroyed power installations and the construction of new power installations on frontier waters shall be regulated by agreement between the competent authorities of the two Parties.

CHAPTER III

PRINCIPLES OF CO-OPERATION IN PRECAUTIONARY MEASURES AGAINST FLOODING AND ICE-FLOES

Article 19

The two Contracting Parties undertake to exercise joint vigilance and to co-operate with each other to prevent the formation of potentially dangerous

ice barriers. The technical direction of works for protection against ice shall be undertaken by the Polish Party.

The Polish Party shall inform the German Party in good time of the place and time of ice clearance operations on the frontier sector of the river Oder, the middle and lower reaches of the Oder, and the Nysa Łużycka (Lausitzer Neisse).

Ice-breaking operations shall proceed upriver from the mouth of the Oder. Where necessary, and provided that no danger to the lower reaches of the river is entailed, local ice barriers may be demolished by blasting.

The Polish Party shall take into account, in carrying out ice-breaking operations, the wishes and requirements of the German Party, with a view to preventing any danger to German territory. The German Party shall provide the Polish Party at its request with appropriate technical facilities (ice-breakers and blasting operatives) for the ice clearance operations. The competent authorities of the two Contracting Parties shall agree on the extent of the technical facilities which each Party shall be required to provide for ice-breaking purposes.

Article 20

In the event of damage or accident during blasting operations, each Party undertakes to come to the other's assistance, subject to reimbursement of the expenses entailed in the provision of such assistance.

Article 21

Each Contracting Party shall take precautions against flooding on its own territory in accordance with its applicable provisions and shall where necessary inform the other Party of the danger of a burst in any dike.

If a dike bursts, the two Parties shall immediately combine their efforts to repair the damage, furnishing technical facilities and the necessary labour.

The Party which asks for assistance shall bear the cost involved.

Article 22

The labour costs involved in operating the ice-breakers used shall be borne by the Party to which the ice-breakers belong.

Where labour is employed in blasting operations carried out by one Party at the other Party's request, the two Parties shall divide the cost of such works equally between them.

Article 23

The Parties hereby determine that the division of the waters in the sector of the river below the village of Zatoń Górna (Hohensaaten) shall be carried out by the competent Polish authorities in agreement with the competent German authorities.

CHAPTER IV

USE OF FRONTIER WATERS

Article 24

The inhabitants of each Contracting Party shall be permitted, in accordance with the provisions in force in its territory, to fish in frontier waters up to the frontier line subject to the following conditions:

- (a) That no explosive, poisonous or narcotic substances that result in the large-scale destruction or mutilation of fish shall be used;
- (b) That fish may be caught in frontier waters, rivers and lakes only during the hours of daylight;
- (c) That fishing shall in no way interfere with navigation.

Article 25

Permission for the extraction of gravel, sand, stone, ice etc. from the river bed in the frontier sector of the rivers Oder and Nysa Łużycka (Lausitzer Neisse) shall be granted by the competent authorities of the Contracting Parties after consultation with each other.

The mowing of hay and the cutting of reeds shall be subject to the provisions in force in the territory of the Party concerned and may be carried on only up to the frontier line.

CHAPTER V

FINAL PROVISIONS

Article 26

In this Agreement, the expression "frontier waters" means:

- (a) Sectors of rivers, canals and streams over which the frontier line passes;
- (b) Lakes and other standing waters intersected by the frontier line;
- (c) The Zatoka Nowowarpieńska (Neuwarper Bucht) and the Zalew Szczeciński (Stettiner Haff).

Article 27

The following are navigable frontier waters:

- (a) The sector of the Oder extending from frontier mark No. 433 to frontier mark No. 755;
- (b) The sector of the Nysa Łużycka (Lausitzer Neisse) extending from frontier mark No. 391 to frontier mark No. 432.

Article 28

In this Agreement, the term "vessels" means water-borne objects, with or without mechanical means of propulsion, used on inland waterways for the transport of persons, livestock, goods and mail, for engineering works, for fishing and for sport.

The term "rafts" means logs of wood suitably bound and attached lengthwise and crosswise for the purpose of floating.

Article 29

The Governments of the two Contracting Parties shall notify each other of the offices, which are to be regarded as "competent authorities" or "frontier authorities" for the purposes of the individual provisions of this Agreement.

Article 30

The determination of the procedure for dealing with special questions shall be entrusted to a Mixed Polish-German Commission sitting at Frankfurt on the Oder, to which each Party shall appoint three representatives. The Mixed Commission may co-opt experts.

The Commission referred to in the first paragraph shall meet not later than fifteen days after the entry into force of this Agreement and shall within six months prepare and submit to both Parties for approval a code of provisions concerning navigation in frontier waters and the maintenance and use of frontier waters.

. . .

FINAL PROTOCOL

On signing the Agreement between the Polish Republic and the German Democratic Republic concerning navigation in frontier waters and the use and maintenance of frontier waters, the Contracting Parties have agreed as follows:

I

The functions of the Mixed Polish-German Commission provided for in article 30 of the Agreement shall include the preparation of a code of provisions governing all matters arising out of this Agreement, in particular: the tying up of vessels of the navigation authorities to the other Party's banks (article 2), the types and distinctive markings of particular vessels and rafts (article 3), model seamen's books (article 4), damage to vessels and rafts (article 6), compensation (article 7), navigation (article 8), the safety of navigation and floating (articles 14 and 15), co-ordination between the competent authorities (article 16), the maintenance of frontier waters in proper condition (article 17), the protection of frontier waters against flooding and ice-barriers (article 19), co-ordination between the waterways administrations in taking precautions against ice and flooding, and the division of the waters (articles 21 and 23).

II

On completion of the code of provisions referred to in paragraph I, the Mixed Polish-German Commission shall be dissolved.

III

At the request of either Contracting Party and in agreement with the other Party, a Mixed Polish-German Commission may be established to make such amendments as may in the future prove necessary to the code of provisions referred to in paragraph I.

. . .

ADDITIONAL PROTOCOL TO THE AGREEMENT BETWEEN THE POLISH REPUBLIC
AND THE GERMAN DEMOCRATIC REPUBLIC CONCERNING NAVIGATION IN
FRONTIER WATERS AND THE USE AND MAINTENANCE OF FRONTIER WATERS

The plenipotentiaries of the two Contracting Parties agree on the following provisions to supplement the Agreement between the Polish Republic and the German Democratic Republic concerning navigation in frontier waters and the use and maintenance of frontier waters:

Section 1

The dam at Widuchów shall be administered by the Polish Party through its authorities.

Section 2

The Polish Party shall issue regulations concerning the times of opening and closing of the dam in accordance with the following provisions.

Section 3

It is hereby determined that the closing of the dam shall take place within the period 15 March to 15 April and that the dam shall remain closed throughout the summer and autumn. During this period the dam may not be opened save under the conditions and in accordance with the provisions laid down in sections 7 and 8.

Section 4

It is hereby determined that, water conditions permitting, the opening of the dam shall take place within the period 15 November to 15 December.

Section 5

If special weather conditions arise, the two Parties shall agree whether or not to give effect to the provisions of sections 3 and 4.

Section 6

The Polish Party shall give the German Party forty-eight hours' advance notice of the opening of the dam in the autumn and the closing thereof in the spring, in order to permit the opening or closing of related appliances (sluices, siphons, culverts etc.) on polders belonging to the German Party.

Section 7

If the approach of a high water in excess of 1,600 cu.m/second is signalled from the upper sector of the frontier waters, the Polish Party shall inform the German Party of the need to prepare the Crieven, Schwedt and Widuchów polders to receive the high water.

If the water level approaches plus 6.80 m on the water-gauge at Zatón Górna (Hohensaaten), the German Party shall immediately open the inlet appliances on the said polders.

Section 8.

When the flow of water in the Oder reaches approximately 520 cu.m/second (plus 1.63 m on the water-gauge at Widuchów), water shall be released through the dam at Widuchów to the West-Oder at a rate of not less than 45 cu.m/second.

In the event of a rise in the water level which is not caused by wind pressure, the said volume shall be steadily increased by gradually opening the dam in such manner that, at a rate of flow of 1,600 cu.m/second, approximately 40 per cent passes into the West-Oder and approximately 60 per cent into the East-Oder.

If the rate of flow exceeds 1,600 cu.m/second (plus 2.75 m on the water-gauge at Widuchów), all outlets of the dam shall be opened.

Section 9

Each Party shall be responsible for regulating the water on the inner and outer polders in its own territory and shall issue its own instructions.

The Parties shall communicate to each other, for information, detailed regulations embodying the said instructions.

Section 10

Workers of the Polish administration permanently employed in the operation, preservation and maintenance of the dam at Widuchów shall be entitled to cross the frontier and to move about on the German bank within a radius of sixty metres of the abutment of the dam on the German side.

Germany-Switzerland

214. TRAITÉ¹ ENTRE LA CONFÉDÉRATION SUISSE ET LE GRAND-DUCHÉ DE BADE SUR LA FRANCHISE RÉCIPROQUE DES DROITS SUR DE COURTES LIGNES DE JONCTION PAR VOIE DE TERRE ET SUR LA RÉGULARISATION, AINSI QUE LA DIMINUTION RÉCIPROQUE DES DROITS DE NAVIGATION DES DEUX ETATS SUR LA LIGNE DU RHIN DE CONSTANCE À BÂLE INCLUSIVEMENT, CONCLU À BERNE LE 27 JUILLET 1852²

ARTICLE 8. Pour le cas où, sur la ligne du Rhin mentionnée à l'article 7, il y aura des émoluments à payer à des corporations ou à des sociétés pour prestations déterminées, telles que: passage de bois à flotter, conduite par distance de bateaux et de radeaux, etc., une entente est réservée à cet égard, en ce sens que les dispositions surannées seront appropriées aux besoins de

¹ Entré en vigueur le 20 mai 1853.

² Confédération suisse, Chancellerie fédérale, *Recueil systématique des lois et ordonnances 1848 - 1947*, 12^e volume, p. 686.

l'époque et que la plus grande liberté possible sera accordée, moyennant les mesures nécessaires de police sur la matière, à la navigation et au flottage.

ARTICLE 9. Par suite de l'intention énoncée ci-dessus, les deux parties contractantes s'appliqueront de toutes leurs forces à faire disparaître les entraves que la navigation et le flottage rencontrent sur le Rhin, sans toutefois prendre un engagement quelconque quant aux frais que cela pourrait entraîner.

. . .

215. CONVENTION ENTRE LA CONFÉDÉRATION SUISSE ET LE GRAND-DUCHÉ DE BADE CONCERNANT LA DÉLIMITATION DES FRONTIÈRES, CONCLUE À STUTTGART ET À ZURICH LES 20 ET 31 OCTOBRE 1854¹

. . .

ARTICLE 2. Sans préjudice de la ligne frontière fixée à l'article 1^{er}, les points spéciaux suivants sont reconnus de part et d'autre:

a) Sur toute l'étendue du Rhin et du lac inférieur, dans la mesure spécialement indiquée en l'article 114 de l'ordonnance sur la pêche, du 22 août 1774, les habitants des communes situées sur les deux rives du lac et du Rhin, à ce autorisées par ladite ordonnance, peuvent exercer la pêche et la chasse aux oiseaux, conformément aux dispositions de cette ordonnance et sous la police de l'autorité badoise chargée de l'exécution.

Demeure réservée une révision de cette ordonnance sur la pêche, à opérer par voie d'accommodement.

. . .

c) Les droits de pêche fondés sur des documents ou sur la tradition sont réciproquement reconnus comme droits privés.

. . .

216. CONVENTION² ENTRE LA SUISSE ET LE GRAND-DUCHÉ DE BADE INSTITUANT UN RÈGLEMENT INTERNATIONAL POUR LA NAVIGATION ET LE SERVICE DES PORTS SUR LE LAC INFÉRIEUR ET LE RHIN ENTRE CONSTANCE ET SCHAFFHOUSE, CONCLUE À SAINT-GALL LE 28 SEPTEMBRE 1867³

. . .

¹ Confédération suisse, Chancellerie fédérale, *Recueil systématique des lois et ordonnances 1848 - 1947*, 11^e volume, p. 44.

² Entrée en vigueur le 1^{er} mars 1868.

³ Confédération suisse, Chancellerie fédérale, *Recueil systématique des lois et ordonnances 1848 - 1947*, 13^e volume, p. 446.

ENTRETIEN DU CHENAL

ARTICLE 2. a) Les Etats contractants, chacun sur son territoire, feront en sorte que les constructions hydrauliques, telles que moulins, machines, ponts, câbles pour bacs, conduites électriques, etc., soient élevées de manière à ce que la navigation n'en soit pas entravée, ni même sensiblement gênée.

b) Afin que les constructions à élever sur les rives ou les eaux du Rhin soient exécutées d'une manière convenable et qui n'offre pas d'inconvénients pour les uns ni pour les autres, les Etats contractants se communiqueront les plans des constructions de ce genre qu'ils auraient projetées, et ils s'entendront sur les circonstances à prendre en considération lors de l'exécution de ces plans.

c) Le gouvernement de l'Etat sur le territoire duquel certaines parties du cours du fleuve sont sujettes à des déplacements devra indiquer le chenal navigable au moyen de bouées bien visibles. Si ces déplacements affectent à la fois les territoires des deux Etats contractants, chacun de ces derniers contribuera pour moitié à l'établissement des bouées et à leur entretien.

. . .
COMPÉTENCE DES AUTORITÉS CHARGÉES DE SURVEILLER LA
NAVIGATION ET LE FLOTTAGE

ARTICLE 7. Les autorités chargées de surveiller la navigation et le flottage ont le droit et le devoir de veiller à ce que les embarcations et les radeaux se trouvent en bon état conformément au règlement, à ce qu'ils soient munis des appareils nécessaires et à ce que l'équipage puisse faire convenablement son service.

Dans le cas où, sous l'un de ces rapports, des déficiences auraient été constatées et où il n'aurait pas été fait droit immédiatement aux injonctions des autorités chargées de la surveillance, ces dernières peuvent interdire le départ du bateau ou du radeau jusqu'à ce qu'il ait été satisfait, à leurs réclamations.

. . .
DEVOIRS DU CONDUCTEUR DE BATEAU PARTICULIÈREMENT PENDANT LE TRAJET

ARTICLE 12. a) Les conducteurs d'embarcations quelconques et de radeaux, les propriétaires de bacs, de moulins flottants, de bains ou de tout autre établissement situé sur la rive ou sur l'eau, doivent veiller avec soin à ce que ces embarcations ou établissements ne se gênent pas entre eux et ne se causent mutuellement aucun dommage.

. . .
217. CONVENTION¹ ENTRE LA SUISSE ET LE GRAND-DUCHÉ
DE BADE AU SUJET DE LA NAVIGATION SUR LE RHIN,
DE NEUHAUSEN JUSQU'EN AVAL DE BÂLE, SIGNÉE À
BÂLE LE 10 MAI 1879²

Dans le but de régler convenablement et d'une manière qui réponde à la législation actuelle, surtout en matière d'industrie, ainsi qu'aux besoins

¹ Entrée en vigueur le 1^{er} janvier 1880.

² Confédération suisse, Chancellerie fédérale, *Recueil systématique des lois et ordonnances 1848 - 1947*, 13^e volume, p. 488.

des communications, l'usage des eaux du Rhin, de Neuhausen jusqu'en aval de Bâle, le Conseil fédéral suisse et le Gouvernement du Grand-Duché de Bade ont nommé des plénipotentiaires, qui sont convenus des dispositions suivantes, sous réserve de ratification.

ARTICLE PREMIER. La navigation et le flottage sur le Rhin, de Neuhausen jusqu'en aval de Bâle, sont permis à tout le monde; ils ne sont soumis qu'aux restrictions exigées par les prescriptions relatives aux impôts et aux douanes, ou par les nécessités de police pour la sûreté et la régularité des communications.

Tous les droits privés pour l'exercice de la navigation ou du flottage sur la partie du cours du Rhin susnommée, et notamment les droits exclusifs de la maîtrise réunie de navigation du Grand et du Petit-Laufenbourg et des compagnons du Rhin entre Säckingen et Grenzach, confirmés par le chiffre 4 du traité conclu le 2/17 septembre 1808 entre le Grand-Duché de Bade et le canton d'Argovie, sont abolis.

ARTICLE 2. Les deux gouvernements édicteront, chacun pour son territoire, les ordonnances de police nécessaires pour la sûreté et la régularité de la navigation et du flottage.

Pour autant qu'il paraîtra nécessaire ou utile de régler d'une manière uniforme ces dispositions pour la partie du cours du fleuve située entre Neuhausen et la frontière entre l'Alsace et la Suisse, les prescriptions de police seront rédigées d'une manière identique sur tous les points essentiels, sur la base d'une entente préalable entre les deux gouvernements.

ARTICLE 3. Les personnes qui s'occupent de navigation et de flottage ne seront soumises au paiement d'aucun droit reposant uniquement sur le fait de l'usage des eaux du fleuve ou sur le passage sous des ponts, pas même dans le cas où l'on construirait des ponts de bateaux sur cette partie du Rhin, ou dans celui où l'on prescrirait, pour la sécurité d'un pont permanent, que le passage ne peut avoir lieu qu'avec l'aide d'un pilote désigné dans ce but.

On pourra percevoir des émoluments pour des constructions, arrangements ou services spéciaux, servant à la navigation ou au flottage, en particulier:

- a) Pour l'usage des places de débarquement, d'amarrage, etc.;
- b) Pour la surveillance spéciale de police organisée en certains endroits dans l'intérêt du flottage;
- c) Pour le dégagement, la pêche et la garde des bois flottés qui sont restés aux piles des ponts ou ailleurs, sous réserve du recours pour les dommages qui auraient pu en résulter.

Les émoluments seront fixés par un tarif du gouvernement respectif; ils ne pourront dépasser le chiffre nécessaire pour couvrir les frais résultant des constructions, arrangements ou services qui s'y rapportent.

. . .

ARTICLE 5. Dans les limites de son territoire, chacun des gouvernements pourvoira à ce que, dans le cas d'ouvrages artificiels (tels que chaussées de route ou autres, installations permanentes d'appareils de pêche, roues

hydrauliques, ponts, etc.), ou de travaux hydrauliques et de travaux d'endiguement, qui seraient établis sur la partie du fleuve située de Neuhausen jusqu'en aval de Bâle, ou qui seraient notablement modifiés, il soit pris les mesures nécessaires pour empêcher que les communications par eau ne soient sensiblement entravées ou compromises et que la rive appartenant à l'autre Etat ne soit endommagée.

Dans ce but, les deux gouvernements s'engagent à pourvoir à ce qu'on n'établisse ni ne modifie notablement des ouvrages de cette nature, ni, en général, des travaux qui pourraient exercer une influence sensible sur l'écoulement des eaux, dans le fleuve même ou sur ses rives, pour autant que celles-ci se trouveraient en dessous du plus haut niveau connu des eaux (zone d'inondation), avant que l'on ait communiqué à l'autorité compétente de l'autre Etat, pour sauvegarder les intérêts en jeu, les plans de l'ouvrage projeté, afin d'amener, si possible, une entente.

ARTICLE 6. Les deux gouvernements veilleront à ce que toutes les prescriptions actuellement existantes, qui seraient en contradiction avec la présente convention et avec les mesures de police qui seront édictées en exécution de celle-ci, soient abrogées.

De ce nombre sont, entre autres, les anciennes ordonnances, telles que les dispositions de la « lettre de mai » (nouvelle ordonnance) de 1808 relatives à la navigation et au flottage, l'ordonnance sur le flottage (Flosskehrordnung) de 1808, les ordonnances de 1808 dites « Wochengefährtdordnung », « Steinfuhrkehrordnung » et « Büchsengeldordnung », l'ordonnance de 1812 sur la navigation des bateliers de Laufenbourg, et les compléments qui y ont été introduits.

218. CONVENTION¹ ENTRE LE GRAND-DUCHÉ DE BADE ET LA SUISSE CONCERNANT LA PÊCHE DANS LE LAC INFÉRIEUR DE CONSTANCE ET LE RHIN, AVEC RÉGLEMENT, CONCLUE À CONSTANCE LE 3 JUILLET 1897²

A l'effet de conformer la législation de la pêche du lac Inférieur et du Rhin à la convention qu'ont arrêtée, à Bregenz, le 5 juillet 1893³, les Etats intéressés à la pêche du lac de Constance, ainsi que de promulguer les dispositions législatives requises pour conserver et multiplier dans le lac Inférieur et le Rhin les espèces précieuses de poissons, le Conseil fédéral de la Confédération suisse d'une part, et le Gouvernement grand-ducal de Bade d'autre part, vu l'article 13, alinéa 2, de la convention de Bregenz, de même que l'article II du contrat conclu en date des 20 et 31 octobre 1854⁴ par les Etats de Thurgovie et de Bade au sujet de la frontière qui les sépare, ont décidé d'arrêter de nouvelles dispositions de police sur la pêche du lac Inférieur et du Rhin.

A cet effet, le Conseil fédéral suisse a transmis ses pouvoirs à M. Coaz,

¹ Entrée en vigueur le 1^{er} janvier 1898.

² Confédération suisse, chancellerie fédérale, *Recueil systématique des lois et ordonnances 1848 - 1947*, 14^e volume, p. 219.

³ Voir aussi la convention du 18 mai 1887 entre la Suisse, le Grand-Duché de Bade et l'Alsace-Lorraine, arrêtant des dispositions uniformes sur la pêche dans le Rhin et ses affluents, y compris le lac de Constance. Voir *supra*, traité n^o 113.

⁴ Voir *Recueil systématique des lois et ordonnances de 1848 - 1947*, 11^e volume, p. 44.

inspecteur fédéral en chef des forêts, et à M. le Dr Egloff, conseiller d'Etat, et le gouvernement du Grand-Duché de Bade, à M. le baron de Marschall, conseiller intime de légation, et à M. Föhrenbach, conseiller ministériel. Ces délégués ont tenu séance et ont, sous réserve de ratification de la part de leurs gouvernements respectifs, arrêté le règlement dont la teneur suit. Ce règlement sera publié par les deux Etats contractants et abrogera les dispositions du règlement du 16 novembre 1861 sur la pêche du lac Inférieur et du Rhin.

RÈGLEMENT POUR LA PÊCHE DU LAC INFÉRIEUR
DE CONSTANCE ET DU RHIN

§ 1

Champ d'application de ce règlement

Le présent règlement concerne aussi bien le Grand-Duché de Bade que la Confédération suisse.

Il s'applique à tout le lac Inférieur et au Rhin, à partir du pont qui traverse ce fleuve à Constance jusqu'au point où la frontière badoise quitte le Rhin, en dessous de Stiegen.

Quand, lors des hautes eaux, le lac et le Rhin dépassent leur niveau normal et pénètrent sur les terres, le règlement s'applique à toute la surface inondée.

Les dispositions du présent règlement s'appliquent de plus au cours d'eau de l'Aach, jusqu'en regard de l'ancien couvent de nonnes, se trouvant en dessous de la route qui conduit de Moos à Bohlingen; aux biez d'Allensbach et de Markelfingen, pour chacun de ces deux cours d'eau, à partir du lac, jusqu'à la première usine qu'ils actionnent; au canal appelé Schlattgraben, jusqu'au pont de la voie ferrée Radolfzell-Stahringen; à tous les affluents du lac ou du Rhin enfin, jusqu'à une distance de 100 m de leur embouchure, ainsi qu'à tous les canaux, biez, fossés ou excavations en communication permanente avec le lac ou le Rhin, sur 100 m de leur longueur à partir de la rive.

§ 2

Territoire de la pêche générale

Sont autorisés à exercer la *pêche générale* conformément aux dispositions du présent règlement, les habitants des *localités suisses* de Gottlieben, Trieboltingen, Ermatingen, Mannenbach, Berlingen, Steckborn, Feldbach, Mammern, Neuenburg et Eschenz; et des *localités badoises* de Constance, Reichenau, Allensbach, Markelfingen, Radolfzell, Moos, Itznang, Gundholzen, Hornstaad, Gaienhofen, Hemmenhofen, Wangen, Marbach, Ochningen et Stiegen.

Le territoire de la pêche générale a les limites suivantes:

a) En remontant le Rhin, le territoire comprend, sur le côté gauche du Rhin, toute la surface qui (sans dépasser le bord du mont) s'étend jusqu'à la hauteur du lieu dit « Grauer Stein am Entenbühl ». La frontière du côté du Rhin même est formée par une ligne qui va du pieu fiché en terre à l'endroit dénommé « alte Groppenfächle » jusqu'au Agerstenbach. Sur le côté droit du Rhin, le territoire de la pêche générale s'étend, vers l'intérieur du

pays, jusqu'aux pieux qui délimitent le marais de Wollmatingen; ce territoire est délimité du côté du Rhin par la ligne reliant le pieu décrit ci-dessus à celui qui se trouve planté au lieu dit « Bohl am Rhein » dans le prolongement de la ligne qui, partant du belvédère de Litzelstetten, passe par le clocher de Wollmatingen; en outre, ce territoire comprend toute la partie qui s'étend en amont du finage de Reichenau et il est délimité par la rive du Rhin (Bohl).

b) *Du côté de la partie du lac nommée Gnadensee ou lac Intérieur*, le territoire de la pêche générale comporte les limites dont l'Indication suit:

La route de Reichenau à Constance, la rive sud puis ouest de l'île de Reichenau jusqu'au point dit Genslehorn, au milieu de la côte ouest de cette île; de ce point, en ligne droite jusqu'à la pointe de terre, qui se trouve au sud de la presqu'île de Mettnau.

c) *En descendant le Rhin*, la limite suit une ligne qui va du coin le plus bas du mur d'enceinte de la fabrique d'Oberstaad sur sol badois vers le lieu dit « Plattenbach » situé vis à vis sur territoire suisse.

Il faut excepter toutefois de ce territoire, ouvert à la pêche générale, le territoire domanial de pêche, réservé près de Gaienhofen, territoire qui s'étend sur une bande du lac de 54 mètres de largeur, le long de la rive, à partir du point appelé Trappenstein jusqu'aux aunes du parc du château de Gaienhofen.

En revanche, le territoire de la pêche générale comprend encore tout le cours de l'Aach, jusqu'à la hauteur de l'ancien couvent de nonnes, et, lors des hautes eaux, il s'étend à toute la surface inondée, le long des limites susindiquées. Cette dernière disposition ne s'applique cependant pas au marais de Wollmatingen, pour lequel la limite décrite ci-dessus (lettre a) reste constante.

§ 3

Rapports entre le présent règlement et les droits de pêche privés

Les dispositions du présent règlement sont aussi applicables aux droits de pêche privés fondés sur des titres authentiques.

D'ailleurs, la valeur de ces droits est réglée par les titres authentiques mêmes dont ils émanent.

§ 4

Surveillance de la pêche

La surveillance de la pêche du lac Inférieur et du Rhin, ressortit à la préfecture de Constance. L'inspecteur de la pêche, ainsi que les agents assermentés placés sous ses ordres, procèdent à cette surveillance conformément aux instructions qu'ils reçoivent sur ce sujet de l'autorité compétente.

L'inspecteur de la pêche est nommé et rétribué par le Grand-Duché de Bade. En revanche, les gardes-pêche sont nommés par l'un ou l'autre des deux États intéressés, suivant les cas et suivant les besoins; ils sont rémunérés par l'État qui les a nommés.

Les gardes-pêche relèvent de l'inspecteur quant à l'exercice de leurs fonctions, mais, au point de vue disciplinaire, ils dépendent de l'autorité compétente de l'État qui les a nommés.

Après de la Commission de pêche, la préfecture de Constance trouvera

conseils et appui sur toute question concernant la surveillance de la pêche ou la pisciculture.

Or, la commission de pêche, qui se réunit chaque fois que la préfecture de Constance la convoque, se compose :

1. Du préfet ou de son suppléant, comme président, et

2. De quatre autres membres. Ceux-ci sont nommés pour une période de cinq ans parmi les pêcheurs portés dans le livre des pêcheurs, à raison de deux pêcheurs suisses pour deux pêcheurs badois. La nomination a lieu dans l'île de Reichenau, à un jour fixé d'avance pour cette élection. Tous les pêcheurs inscrits dans le livre des pêcheurs sont convoqués à cette assemblée, qui nomme, outre ces quatre membres de la commission, quatre suppléants, dont deux suisses, et deux badois.

Sont élus membres de la commission les deux pêcheurs suisses et les deux pêcheurs badois qui ont obtenu le plus grand nombre de suffrages. La votation se fait au scrutin secret. Cette votation est dirigée par le préfet ou son suppléant; deux pêcheurs, jouissant de leurs droits de vote, tiennent les registres.

Les fonctions des membres ainsi nommés de la commission de pêche sont purement honorifiques; elles ne comportent aucune indemnité quelconque. Si l'un des Etats intéressés tient à faire toucher aux membres de la commission, qui ressortissent à son territoire, vacations et frais de déplacements, l'autre Etat contractant n'est pas tenu pour cela d'en user de même, à l'égard des membres de la commission ressortissants de son territoire.

§ 5

Conditions générales requises pour l'exercice de la pêche (Cartes de légitimation pour pêcheurs)

Sans être porteur d'une carte de légitimation pour pêcher, nul ne peut prendre ni poisson ni écrevisse partout où s'applique le présent règlement.

Il appartient à la préfecture de Constance d'accorder des cartes de légitimation pour la pêche.

Ces cartes ne peuvent être délivrées pour plus d'un an; elles ne seront jamais accordées pour une période dépassant le 31 décembre de l'année dans laquelle elles auront été établies.

Toute carte de légitimation pour la pêche sera refusée ou retirée :

1. A celui qui, pendant les cinq dernières années, a été condamné à un emprisonnement de quatre semaines au minimum pour avoir chassé d'une manière illégale; pour avoir, sans en avoir eu le droit, détruit ou endommagé des constructions hydrauliques, des établissements ou des installations piscicoles, ou pour avoir introduit des marchandises en contrebande;

2. A celui qui, pendant les cinq dernières années, a été mis en prison pour avoir contrevenu aux dispositions de police en vigueur sur la pêche; pour avoir volé des poissons, ou pour avoir pris d'une manière illégale des poissons ou des écrevisses.

Le porteur d'une carte de légitimation pour la pêche doit toujours l'avoir sur lui lorsqu'il pêche; il la présentera à tout agent de pêche ou à tout autre membre du personnel de surveillance pour la pêche, quand il en sera requis.

Le personnel auxiliaire pêchant en présence et pour le compte du porteur d'une carte de légitimation n'a pas besoin de cartes de légitimation.

Toute personne pêchant à l'hameçon depuis la rive suisse sans faire de la pêche un métier n'est pas tenue d'avoir une carte de légitimation, à condition toutefois que cette pêche ne s'opère pas autrement qu'à la canne.

§ 6

Conditions requises spécialement pour l'exercice de la pêche au filet

Pour exercer la pêche au moyen de tramails, étoles, ou autres filets fixes, dormants ou traînants; de seines ou autres grands filets flottants ou volants; de verveux; de nasses ou de casiers, il faut être inscrit dans le livre des pêcheurs, comme pêcheur indépendant, (voir § 7) ou tout au moins dans la liste des employés-pêcheurs (voir § 8).

Le livre des pêcheurs et la liste des employés-pêcheurs sont tenus par la préfecture de Constance.

Les femmes sont exclues du droit de se faire inscrire, soit dans le livre des pêcheurs, soit dans la liste des employés-pêcheurs.

§ 7

Inscriptions dans le livre des pêcheurs

L'inscription dans le livre des pêcheurs a lieu par commune, suivant l'ordre chronologique dans lequel les pêcheurs se sont annoncés.

Celui qui demande son inscription dans le livre des pêcheurs doit prouver :

1. Qu'il habite l'une des localités mentionnées au § 2;
2. Qu'il a au moins 20 ans;
3. Qu'il est indépendant au point de vue économique;
- 4¹. Qu'il est en mesure et qu'il a l'intention de faire de la pêche son principal métier et qu'il exerce ce métier pour son propre compte;
5. Qu'il possède une carte de légitimation valable pour la pêche dans l'année en cours.

Quant au point 4, il doit prouver en particulier qu'il est propriétaire d'un bateau, ainsi que des accessoires nécessaires, et qu'il a des engins de pêche en suffisance, ou tout au moins qu'il est copropriétaire d'un grand filet flottant, volant ou à sac, et d'un bateau requis pour la pêche au grand filet.

La préfecture de Constance délivre une attestation pour toute inscription dans le livre des pêcheurs.

Si, après l'inscription dans ce livre, l'une des conditions voulues pour l'inscription cesse d'exister, cette inscription sera annulée d'office.

Lorsque la préfecture de Constance refusera de faire une inscription demandée, ou disposera qu'une inscription sera annulée dans le livre des pêcheurs, elle rendra à ce sujet un arrêt avec motifs à l'appui. Contre cet arrêt, l'intéressé pourra recourir, mais cela seulement pendant les quinze

¹ Nouvelle teneur selon entente du 15 janvier 1924, en vigueur depuis le 27 février.

jours qui suivront la lettre par laquelle il aura été avisé de la décision préfectorale. Ce recours se fera auprès du ministère de l'intérieur, à Karlsruhe.

Tout propriétaire d'un droit privé de pêche peut se faire inscrire dans le livre des pêcheurs, pour peu qu'il possède une carte de légitimation pour la pêche.

Cette inscription ne lui permettra cependant l'exercice de la pêche que conformément à la teneur de son titre privé.

Pour exercer la pêche d'une manière plus générale, le détenteur d'un droit privé doit se soumettre aux dispositions qui précèdent sur la matière.

§ 8

Inscription dans la liste des employés-pêcheurs

Tout employé ne peut exercer la pêche au moyen de tramails, ou autres filets fixes; seines, ou autres grands filets flottants; de verveux; de nasses; de béléés ou de lignes de fond, pour le compte d'un pêcheur inscrit dans le livre des pêcheurs et en l'absence de ce pêcheur, que s'il est lui-même inscrit dans la liste des employés-pêcheurs.

L'inscription des employés-pêcheurs dans cette liste a lieu sur la proposition de leur employeur. Pour être inscrit, l'employé doit être domicilié dans l'une des localités citées au § 2, avoir 20 ans au moins, et posséder une carte de légitimation pour la pêche.

Pour pêcher pour le compte et en présence d'un pêcheur inscrit au livre des pêcheurs, ou en présence de l'un de ses employés inscrit lui-même dans la liste des employés-pêcheurs, le personnel de pêche auxiliaire n'a pas besoin, lui, d'être inscrit dans l'une ou l'autre de ces listes.

§ 9

Conditions spécialement requises pour l'exercice de la pêche à l'hameçon

1. Seuls, les pêcheurs et les employés-pêcheurs inscrits, soit au livre des pêcheurs, soit dans la liste des employés-pêcheurs, ont le droit de pêcher à la béléée, à la ligne de fond, ou à la ligne à soutenir (§ 6).

Dans ce genre de pêche, le même pêcheur n'a pas le droit de pêcher à la fois avec plus de 200 grappins ou de 400 autres hameçons.

Il est interdit de pêcher avec des bauffes ou maîtresses cordes, auxquelles il y aurait, en même temps, des grappins et d'autres hameçons.

Du 1^{er} octobre au 30 avril inclusivement, les béléés, les lignes à soutenir et les lignes de fond ne pourront jamais être placées que là où l'eau a au moins un mètre de profondeur.

2. A condition d'être porteur d'une carte de légitimation pour la pêche, tout habitant de l'une ou l'autre des localités mentionnées au § 2 a le droit d'exercer le métier de pêcheur à l'hameçon, avec la ligne à la main, la ligne à fouetter, l'engin appelé Zockschnur, la béléée, la ligne à soutenir et la ligne de fond.

3. La pêche à l'hameçon, non exercée comme un métier, ne peut avoir lieu qu'à la ligne à la main et à la ligne dormante, flottante, ou volante. A condition d'en avoir obtenu la permission de l'autorité de police compétente de l'une des localités citées au § 2, et, — exception faite du cas prévu

au § 5, dernier alinéa, du présent règlement — de posséder une carte de légitimation de la préfecture de Constance, toute personne peut, exercer la pêche à l'hameçon, si elle n'en fait pas un métier, lors même qu'elle ne se trouve qu'en séjour au bord du Rhin ou du lac Inférieur.

§ 9a¹

La pêche dite Zockfischerei

Lorsque plusieurs bateaux-pêcheurs pratiquent ensemble la pêche dite Zockfischerei, ils doivent se trouver à une distance de 30 mètres au minimum les uns des autres.

Il est interdit à tout pêcheur (Zockfischer) d'ancrer son bateau au moyen de plus de deux engins d'ancrage (Senkel).

Il est interdit aussi de se servir de fil de fer pour attacher l'engin d'ancrage.

§ 10

Innovations par rapport aux engins de pêche

Toute innovation relative aux engins de pêche, en usage lors de la promulgation du présent règlement, sera soumise à la préfecture de Constance et ne pourra être introduite qu'avec l'autorisation de cette préfecture.

Lorsqu'on ne saura pas s'il y a réellement innovation, le cas sera soumis à la commission de pêche.

§ 11

Interdictions de pêche; engins prohibés

Il est interdit :

1. De pêcher à l'aide de substances explosibles ou nuisibles d'autre part (tout particulièrement à l'aide de dynamite, de cartouches explosibles, d'amorces empoisonnées ou de substances ayant pour but d'aveugler les poissons);

2. De pêcher avec des trappes ou pièges à ressort, des pinces, des tridents, des foènes, des harpons, des armes à feu, ou d'autres engins semblables, pouvant blesser le poisson; l'engin appelé Juckschnur, au moyen duquel on prend le poisson sans amorce et en le déchirant, est également prohibé; en revanche, les autres hameçons peuvent être utilisés;

3. Il est interdit de plus d'assommer le poisson sous la glace, en hiver;

4. De pêcher au moyen de lacets de fil d'archal; de nasses ou casiers de fil de fer ou de laiton; d'allingres, allingues ou gautiers; de lumière produite artificiellement, en particulier de lumière électrique; des appareils dits « Steinglocken », à l'exception de l'engin qu'à Steckborn on appelle Stohrreiser;

5. De prendre le poisson ou l'écrevisse à l'aide de pêcheries fixes, à l'exception des parcs sur palots ou en clayonnages, dit Reiser (§ 35), des

¹ Introduit selon entente du 3 novembre 1911, en vigueur depuis le 1^{er} décembre 1911.

gords (§ 36) et des hauts filets fixes qui servent à prendre les corégones (voir § 29, *in fine*);

6. De pêcher l'anguille au moyen de nasses ajoutées bout à bout.

§ 12

Dimensions des mailles

A. Prescriptions générales

Est interdit l'usage de tout filet, quel qu'en soit le genre ou la dénomination, si les mailles de ce filet mesurées de nœud à nœud, après leur séjour dans l'eau, n'accusent pas au moins 32 millimètres d'ouverture dans tous les sens. La même règle s'applique aux engins autres que les filets et formés de verges, pour lesquels ces verges doivent être espacées d'au moins 32 millimètres les unes des autres.

Lors du contrôle de ces instruments, il n'y aura pas lieu de tenir compte d'une différence d'un dixième en moins dans la dimension des mailles ou la distance des verges entre elles.

B. Cas dans lesquels la distance des nœuds de maille entre eux ou des verges entre elles peut être réduite

1.¹ La pêche du *Gangfisch* et du *goîtreux* (Kilchen) avec des engins dont les mailles ont au moins 25 mm d'ouverture est permise.

2.¹ Du 20 novembre au 25 décembre, il est loisible d'employer, dans le Rhin, des engins dits « Fachenböhren », soit gords avec nasses dont les mailles n'ont que 25 mm d'ouverture. Pendant les deux années qui suivront l'entrée en vigueur du présent arrêté, la pêche pourra toutefois s'exercer encore au moyen des gords actuellement en usage, dont les mailles des nasses n'ont que 23 mm d'ouverture; en revanche, tous les gords *nouveaux* devront avoir des nasses avec mailles de 25 mm d'ouverture au moins.

3. La pêche des *lottes* au moyen de passes ou bouraches, ajoutées à la suite les unes des autres, est permise dans le fond du lac, sans que pour ces engins la distance minimale des verges ou cannes entre elles ou que les dimensions du goulet soient prescrites (voir § 34).

4. Pour prendre les vandoises, on pourra faire usage de filets qui n'auront pas de mailles de moins de 17 mm d'ampleur; cette permission cependant ne sera accordée que pour l'époque s'écoulant du 15 septembre au 15 avril et seulement pour la pêche s'effectuant sur la beine. Le filet connu sous le nom de « Haselwättle », employé dans la pêche de la vandoise, n'aura jamais de mailles de moins de 20 mm d'ouverture. La vandoise ne sera jamais prise qu'au moyen de Haselwättle et ces filets ne seront jamais disposés plus près les uns des autres que cela est absolument indispensable pour leur emploi.

Si, en pêchant la vandoise avec des filets à petites mailles, on prend en même temps des poissons d'autres espèces, ces poissons seront immédiatement remis soigneusement en pleine eau, il y a toutefois lieu d'excepter de cette règle, quand la pêche s'est faite sous la glace, le *rotengle*, le vangeron ou *gardon*, et la mirandelle ou *ablette*.

¹ Nouvelle teneur selon entente du 25 avril 1914, en vigueur depuis le 15 juin 1914.

5. Pour prendre des ablettes devant servir à l'alimentation, on ne pourra utiliser de filets dont les mailles auront moins de 14 mm d'ouverture. Si, en pêchant ainsi l'ablette, on prend en même temps d'autres poissons, ces poissons seront immédiatement remis soigneusement en pleine eau.

La préfecture de Constance pourra, après avoir consulté la commission de pêche, interdire la pêche de l'ablette d'une manière totale ou partielle dès que l'objet de cette pêche sera autre que celui que traite le chiffre 6 ci-dessous.

6. Quant à prendre, au moyen de filets à mailles de petite ouverture, des poissons devant servir d'amorces ou d'êches pour le propre compte de celui qui les pêche, l'autorisation pourra en être accordée par la préfecture de Constance, sans préjudice toutefois des dispositions concernant les longueurs minimales que les poissons doivent avoir pour pouvoir être pris (§ 13), ni de celles qui s'appliquent aux périodes de prohibition de la pêche, lors du frai des poissons (§ 14). Les autorisations qu'accordera la préfecture seront écrites.

Elles mentionneront les espèces de poissons, auxquelles elles s'appliquent, le temps pendant lequel la pêche de ces poissons sera permise, les places où cette pêche pourra être exercée, ainsi que les autres mesures prises pour empêcher les abus pouvant résulter de ladite pêche.

Quant à la pêche des *chabots de rivière* ou chassots et à celle du *goujon* au moyen de la truble, trouble, du capé ou de l'épervier, sans autre spécification par rapport à l'ouverture des mailles, ces pêches pourront être autorisées dans le Rhin, à partir de Constance, jusqu'à la ligne qui joint Ermatingen à Schopflen, mais du premier janvier au 15 avril uniquement, et seulement trois jours par semaine, soit le mardi, le mercredi et le vendredi, jusqu'à 10 heures du soir.

La pêche de l'ablette et celle du *vairon* ou gremoillon, comme poissons devant servir d'amorces ou d'êches, pour le propre compte de celui qui les prend, sont permises d'une manière générale avec des filets dont l'ouverture des mailles n'est pas prescrite.

7. Si, dans les cas susindiqués des chiffres 1 à 6, des engins de pêche ont été employés sans avoir l'ouverture de mailles prescrite, ou bien si les engins à mailles de faibles dimensions ont été utilisés dans la pêche de poissons autres que ceux qui sont indiqués dans les cas spécialement énumérés, — en particulier dans la pêche de poissons n'ayant pas encore atteint la longueur minimale à partir de laquelle il est permis de les pêcher ou dans la pêche de poissons en faveur desquels il existait, au moment où ils ont été pris, une période d'interdiction de pêche, — la préfecture de Constance pourra retirer au pêcheur en contravention le droit d'user des avantages accordés par les dispositions indiquées ci-dessus aux chiffres 1 à 6 ou le droit de profiter d'une partie de ces avantages; cela, sans préjudice des autres peines qui pourront être infligées au délinquant par l'autorité judiciaire compétente. Lorsqu'il y a eu deux fois récidive de la part du même délinquant, ces avantages lui seront retirés pour une durée de 2 à 5 ans.

Si, du 20 novembre au 25 décembre, des *truites des lacs*, des *corégones*, des *brochets* et des *ombres communes* ou *de rivières* sont pris sur les places à frayer des corégones appelés Gangfische, dans les circonstances prévues aux chiffres 1 et 2 ci-dessus, ces truites, corégones, brochets et ombres peuvent, — à l'exception de ceux qui n'ont pas encore atteint la longueur minimale voulue, — rester la propriété du pêcheur qui les a pris.

Néanmoins, les truites des lacs ainsi que les corégones pris pendant le

temps où la pêche en est interdite sont soumis aux dispositions contenues dans les §§ 16 et 17 du présent règlement, quant à l'utilisation des éléments de reproduction de ces poissons et au contrôle relatif à leur vente.

C. Circonstances dans lesquelles une grande ouverture de maille est requise

1. Les *hauts tramails*, meiniers, ou autres filets fixes, dormants ou traînants, doivent avoir des mailles d'au moins 45 mm d'ouverture (§ 27).

Cependant, pour la pêche des *Gangfische*, il est permis d'employer de hauts filets fixes dont les mailles, tout en ayant moins de 45 mm d'ampleur, n'ont pourtant pas une ouverture moindre de 23 mm (§ 31).

Les tramails et autres filets fixes à faible chute destinés à prendre les corégones doivent avoir une ouverture de mailles de 40 mm au moins.

2. Les *seines*, montes ou autres grands filets flottants ou volants, auront des mailles de 35 mm d'ouverture au minimum; pourtant ces filets pourront avoir un sac dont les mailles n'auront que 32 mm d'ouverture. L'emploi de seines ou autres filets volants, dont les mailles ont plus de 23 mm mais moins de 35 mm d'ouverture, n'est permis que pendant le temps du frai des *Gangfische*, pour prendre ces poissons.

Les seines ou seinettes destinées à pêcher l'ombre doivent avoir des mailles de 32 mm au moins d'ouverture.

3. Les montes, tragales, éissaugues, ou autres grands filets volants que l'on emploie dans le domaine piscatorial de Gottlieben, auront des mailles dont l'ouverture sera de 35 mm au moins; si ces filets volants sont à sac, les mêmes prescriptions s'appliqueront aussi au sac.

§ 13

Minimum de longueur du poisson dont la pêche est autorisée

Le pêcheur qui prend du *menu poisson* doit le remettre immédiatement et avec soin en pleine eau.

Est considéré comme menu poisson, tout poisson qui, pour l'espèce indiquée ci-dessous, n'atteint pas la longueur inscrite en regard, cette longueur étant mesurée de l'extrémité du museau aux extrémités de la nageoire caudale:

Pour l'anguille, le sandre ou brochet-perche, la truite des lacs et le brochet	35 cm
Pour l'ombre, le corégon appelé <i>Weissfelchen</i> , le lavaret, la grande marène et la marène américaine	30 cm
Pour la truite arc-en-ciel, l'omble-chevalier, le barbeau et la carpe	25 cm
Pour le goîtreux et la tanche	20 cm

Sur chaque bateau de pêcheurs, ces mesures seront incisées ou bien reproduites au moyen d'organisations fixes.

§ 14

Époques de protection pour le poisson

Par rapport aux poissons indiqués ci-dessus, la pêche est interdite comme cela est spécifié ci-après:

1. Du 1^{er} mars au 30 avril pour l'*ombre commune* et la *truite arc-en-ciel*;

2. Du 1^{er} avril au 31 mai pour le *sandre* ou *brochet-perche*;
3. Du 1^{er} octobre au 31 décembre pour la *truite des lacs*;
4. Du 1^{er} novembre au 31 décembre pour l'*omble-chevalier*;
5. du 15 novembre au 15 décembre pour les *corégones* (*Weissfelchen*, *lavaret*, *goîtreux* et *marènes*).

Lorsqu'un poisson en faveur duquel il existe une période d'interdiction de pêche est pris, pendant cette période, en même temps que d'autres poissons dont la pêche est ouverte, ce premier sera remis immédiatement et avec soin en pleine eau.

§ 15

Exceptions à l'avantage de la pêche des truites des lacs, des corégones, des ombres et des omblés

La préfecture de Constance peut, à titre d'exception, autoriser en faveur de pêcheurs de toute confiance la pêche de *truites des lacs*, *corégones*, *ombres* et *omblés*, même pendant le temps où la pêche de ces poissons est interdite conformément au § précédent. Cette autorisation n'est accordée cependant que lorsqu'il y a certitude pour ladite préfecture que les éléments de reproduction (œufs et laitance) des poissons capturés trouveront emploi dans les établissements piscicoles d'incubation.

Pour accorder cette autorisation, la préfecture se conformera aux prescriptions suivantes :

1. L'autorisation doit être écrite. Le pêcheur autorisé aura toujours cet acte sur lui, et le produira, chaque fois qu'il en sera requis par le personnel de surveillance.

2. Les dispositions du § 16 s'appliquent à tout ce qui concerne l'enlèvement des produits sexuels, la fécondation et la remise aux établissements piscicoles des œufs embryonnés.

3. Durant l'époque où la pêche des corégones est interdite, ces poissons ne pourront être capturés, ensuite d'autorisations spéciales de la préfecture, que du 25 novembre au 5 décembre, à l'aide de hauts tramails, meiniers, ou autres filets fixes, dormants ou traînants.

4. L'autorisation accordée pourra être rapportée en tout temps. Cette révocation aura lieu surtout lorsque les conditions auxquelles était soumise l'autorisation n'auront pas été observées par l'ayant droit, ou lorsque celui-ci ne se sera pas conformé d'une manière absolue aux instructions du personnel de surveillance, relativement à l'opération de la fécondation artificielle du poisson capturé ou à la délivrance aux établissements piscicoles du matériel d'incubation.

§ 16

Pisciculture artificielle

L'autorisation exceptionnelle de capturer des *truites des lacs*, des *corégones*, des *ombres* et des *omblés* (§ 15) pendant l'époque durant laquelle ces poissons ne peuvent être pêchés, ainsi que la prise des *Gangfische* et des *brochets* durant le temps du frai de ces poissons, ont pour but l'obtention des éléments de reproduction desdits poissons (œufs et laitance) et la fécondation artificielle

des œufs obtenus; les œufs fécondés sont ensuite, par l'intermédiaire des gardes-pêche, transmis aux établissements piscicoles que désigne la préfecture de Constance pour l'opération de l'incubation.

Relativement à l'extraction des produits sexuels, au traitement des éléments de reproduction et à la délivrance aux établissements de pisciculture des œufs fécondés, les instructions du personnel de surveillance pour la pêche seront suivies en tout point.

Tout pêcheur, qui ne traite pas les éléments de reproduction avec les soins voulus, est déchu de la confiance que lui avait accordée la préfecture; en conséquence, il ne peut obtenir pour l'année qui suit une autorisation lui donnant le droit de capturer les poissons susmentionnés pendant les époques où leur pêche est prohibée, où pendant le temps où ils fraient.

Dès que les établissements piscicoles, reconnus par l'Etat, ont reçu tout les œufs qu'ils peuvent faire incuber, les œufs fécondés que les gardes-pêche obtiennent en plus sont soigneusement déposés dans des endroits du lac ou du Rhin propices à l'incubation de ces œufs et ensuite au développement des petits poissons qui en sortiront.

Les éléments de reproduction, de même que les produits d'incubation, provenant de poissons pêchés dans les eaux où s'applique le présent règlement, ne pourront être expédiés à l'étranger, que ce soit à titre gratuit ou contre indemnité, mais seront réintégrés comme alevins dans les eaux dont ils proviennent. Pourtant, la préfecture peut accorder des dispenses à ce sujet.

§ 17

Défenses relatives au marché

Non seulement il est défendu de prendre tout poisson qui n'a pas la longueur voulue (§ 13) ou en faveur duquel il existe, au moment de la pêche, une période de protection (§ 14), mais encore, — exception faite toutefois des trois premiers jours de cette période, — il est interdit d'exposer ces poissons en vente, de les colporter, de les vendre, de les acheter, de les expédier, de les servir dans les auberges, restaurants, hôtels, etc.

Cette interdiction ne s'applique cependant pas aux corégones, au sujet desquels une autorisation de pêche a été délivrée conformément aux dispositions du § 15.

Quant aux *truites des lacs, ombres et omble*s pris en vertu d'une autorisation accordée conformément aux dispositions du § 15, et aux *truites stériles, dites Silber- et Schwebforellen*, capturées pendant le temps où la pêche des truites des lacs est fermée, ces poissons ne pourront être exposés en vente, vendus, ou expédiés, que lorsqu'ils seront pourvus de l'empreinte de l'appareil du contrôle. Cette empreinte est apposée par le personnel de surveillance, lorsque le pêcheur lui présente l'autorisation de la préfecture, et après que ce pêcheur a prouvé ou que les éléments de reproduction des poissons capturés ont été livrés aux établissements de pisciculture voulus, ou que les poissons avaient déjà frayé au moment de la capture, ou encore qu'ils n'auraient pas frayé dans l'époque de protection en cause.

§ 18

Cas relatifs à des buts d'ordre scientifique

La préfecture peut accorder des autorisations de pêche exceptionnelles lorsqu'il s'agit de recherches scientifiques. Dans ces cas, il n'y a égard ni à

l'ouverture des mailles des filets ou engins employés, ni à la longueur minimale que doit avoir le poisson pour pouvoir être pris, ni aux époques pendant lesquelles il est défendu de le capturer.

§ 19

Interdiction de la pêche de nuit

A partir d'une heure après le coucher du soleil jusqu'à une heure avant son lever, il est défendu à tout pêcheur de s'employer à la pêche.

Cependant, des *exceptions* à cette règle seront faites par la *préfecture* dans les conditions suivantes :

1. Du 15 février au 1^{er} avril, pour la pêche au filet flottant ou volant et dans les nuits de lundi à mardi, et de mercredi à jeudi, à partir d'une heure après le coucher du soleil jusqu'à une heure avant son lever ;

2. Du 15 février au 1^{er} avril également, pour la pêche à la monte ou tragale dans l'ancien domaine fieffal de Gottlieben (fief de Griesserhalben), soit dans le Rhin, chaque mardi soir, depuis le commencement du crépuscule jusqu'à 10 heures de la nuit ;

3. Du 20 novembre au 25 décembre, pour la pêche du Gangfisch, avec des tragales, des montes, tramails, étoles, meiniers, verveux, berfous, ou louves, sur les places de frai du Gangfisch seulement, et par rapport aux tragales, montes, étoles et autres filets volants ou dormants, toutes les nuits, à l'exception toutefois du temps qui s'écoule entre une heure après le coucher du soleil, samedi, et une heure avant le lever du soleil, lundi.

Toute permission de prendre les poissons la nuit doit être écrite. Lorsqu'il y a eu abus manifeste de la part de l'ayant droit, sa permission lui sera retirée, surtout quand l'abus a consisté à capturer des poissons dont la longueur n'atteignait pas celle que requiert le présent règlement.

Si, en pêchant pendant le temps d'interdiction de la pêche de l'ombre, de la *truite des lacs*, de l'omble, ou des *corégones*, on prend aussi l'un ou l'autre de ces poissons, il est permis de les garder, mais à condition de se soumettre à ce sujet aux dispositions des § 16 et 17 du présent règlement sur l'obtention et la mise à profit des éléments de reproduction, ainsi qu'au contrôle exercé par le personnel de surveillance.

Relativement au placement d'étoles, de meiniers, de tramails ou autres filets fixes, dormants ou traïnants, ainsi que de berfous, louves ou verveux, durant la nuit, s'en rapporter aux dispositions des §§ 28 et 33. Sur la pêche de nuit avec la truble, trouble, le capé ou l'épervier, voir le § 12, lettre B, chiffre 6.

§ 20

Jours fériés

L'action directe de l'homme dans l'exercice de la pêche est interdite tous les jours déclarés fériés par rapport au lac.

Sont exceptées de cette disposition la pêche à l'hameçon, exercée non pas comme un métier et de la rive seulement, ainsi que la sortie de l'eau des verveux, berfous ou autres engins semblables, conformément aux prescriptions du § 33. Durant lesdits jours fériés, il n'est permis de laisser dans le lac ou le Rhin des tramails, étoles ou autres filets fixes, dormants ou

trainants, des verveux, berfous ou autres engins semblables, placés pendant la nuit, qu'autant que les dispositions des §§ 28, 30 et 33 ne s'y opposent pas.

Outre les dimanches, les jours suivants sont déclarés fériés quant à la pêche: le jour de l'An, le jour des Rois, le Vendredi-Saint, le lundi de Pâques, l'Ascension, le lundi de Pentecôte, la Fête-Dieu, la Saint-Pierre et Paul, l'Assomption, la Toussaint, Noël et la Saint-Etienne.¹

§ 21

Droit du premier occupant

Le droit de pêcher dans un endroit déterminé appartient au premier occupant.

§ 22²

Nombre des grands filets flottants qu'il est loisible de tendre à la fois

Il est permis de tendre un grand filet (tragal, tragale, monte, seine ou revin) seulement lorsque au moins quatre pêcheurs inscrits fournissent la preuve qu'ils ont le même droit de s'en servir.

§ 23

Nature des grands filets volants ou flottants

La longueur du sac ou de la poche de tout filet flottant n'excédera pas 30 m. Il est permis d'employer des filets flottants aux sacs desquels un rets est adapté des deux côtés, mais à condition que cela ne soit pas à plus de 15 m du bourdon ou bordeneau.

Les grands filets volants ne dépasseront pas la longueur de 180 m.

Quant aux autres grands filets flottants, employés pour la pêche dans le Rhin, ils n'excéderont pas les longueurs suivantes:

	mètres
Sur le domaine piscatorial de Constance.	80
Sur celui de Paradies, pour la pêche des Gangfische et des ombres. . .	65
Sur le domaine de Paradies, pour la pêche des Gangfische (filets dits Läufer).	55
Sur le domaine de Gottlieben (grands filets)	110
Sur le même domaine (Läufer).	55
Le grand filet d'Ermatingen dit Sege ou Segi, pour la pêche des Gangfische	180

§ 24

Restrictions de l'emploi des grands filets volants par rapport au temps

L'emploi des seines, grands filets, gropeyres, montes, tragales et autres filets flottants, est seulement autorisé:

- a) Du 15 février au 15 avril, soit au temps du carême;

¹ Nouvelle teneur de cet alinéa selon entente du 25 avril 1914, en vigueur depuis le 15 juin 1914.

² Nouvelle teneur selon entente du 28 décembre 1920, en vigueur depuis le 15 février 1921.

b) Du 15 juin au 30 septembre, en été;

c) Du 20 novembre au 25 décembre, pour prendre les Gangfische, à l'exception toutefois des domaines où, en raison de titres privés spéciaux, la pêche des Gangfische au grand-filet peut être autrement réglée.

En été (voir lettre *b*), l'emploi des filets flottants n'est permis que de l'aube à 4 heures du soir.

Au temps du carême et en été (lettres *a* et *b*), toute pêche au filet volant est prohibée le lundi et le jeudi.

Au temps du carême, du 15 février au 15 avril; en été, du 15 juin au 30 septembre, de même que pendant le temps du frai des Gangfische, du 20 novembre au 25 décembre, une seule et même exploitation de pêche ne peut utiliser qu'une seule et même sorte de filet (filet flottant ou filet dormant).

Celui qui, durant le carême, du 15 février au 15 avril, aura pêché au filet flottant, ne pourra pas pêcher avec des filets dormants pendant l'époque protectrice du printemps, soit du 15 avril au 1^{er} juin, où l'emploi du filet flottant est absolument défendu (§ 28).

Il faut excepter cependant de cette défense les hauts filets fixes, dormants ou traïnants, destinés à prendre les Gangfische (§ 31).

§ 25

Restrictions de l'emploi des filets volants par rapport aux localités

Pour l'emploi des filets volants, l'ancre sera jetée sur la beine, et le filet, retiré le long du mont.

Il est interdit de pêcher au filet volant dans les profondeurs du lac. Cependant, du 15 février au 15 avril, cette pêche peut s'exercer à une distance de 100 m de l'ancre jetée sur la beine. A cette époque, il est aussi loisible, partout où le mont descend d'une manière très faible, de jeter l'ancre, entre la beine et le mont, à une profondeur qui pourtant n'excédera pas 5 m, à partir du niveau de l'eau.

§ 26¹

Nombres de filets dormants ou traïnants qu'il est permis d'utiliser à la fois

Dans une seule et même exploitation de pêche, il est loisible d'employer à la fois.

*a.*² Sur la beine, 10 filets dormants au plus; sur la beine, le mont et dans les parties profondes, 12 au plus;

b. En traquant le poisson, 3 filets dormants au plus;

c. En ce qui concerne les hauts filets dormants, pas plus de 4 de ces engins.

Les filets dormants mentionnés sous *b* sont compris dans le nombre maximum fixé sous *a*; mais non pas les quatre hauts filets dormants mentionnés sous *c*, s'ils sont tendus ailleurs que là où sont posés ceux indiqués sous *a*.

¹ Nouvelle teneur selon entente du 25 avril 1914, en vigueur depuis le 15 juin 1914.

² Nouvelle teneur selon entente du 5 septembre 1914, en vigueur depuis le 15 novembre 1914.

Les filets dormants employés à la pêche de la brème ne seront pas compris dans les nombres maximums fixés au premier alinéa du présent §, si leurs mailles ont au moins 75 mm d'ouverture, s'ils ne dépassent pas 1,80 m de hauteur et ne sont tendus que dans les profondeurs, au nombre de six au plus.

§ 27

Nature des filets fixes, dormants ou traïnants

Tout filet dormant ou traïnant ne pourra pas dépasser en longueur 100 m et en hauteur 1,80 m, à l'exception des hauts tramails ou hauts meiniers dont la chute pourra atteindre 5 m. Ces mesures s'entendent pour les filets secs, suspendus aux perches de l'étendage.

Les filets destinés à prendre des ablettes (§ 12, lettre B, chiffres 5 et 6) n'auront ni plus de 10 m de longueur, ni plus de 1 m de hauteur.

§ 28

Restrictions dans l'emploi des filets fixes, par rapport au temps

Il est interdit, le lundi et le jeudi, de traquer le poisson dans des filets fixes, dormants ou traïnants, ainsi que de tendre, dans la matinée de ces deux jours, des tramails, étoles ou meiniers, pour prendre la vandoise.

En revanche, il est permis :

a. Dans l'après-midi de ces deux jours, de placer, pour la nuit qui vient, des filets fixes, dormants ou traïnants, ainsi que

b. Le matin de ces deux jours, de relever les filets fixes posés la nuit précédente; cas auquel les filets ne pourront cependant avoir été placés que dans les profondeurs ou à partir du mont vers la profondeur, soit perpendiculairement à la direction du mont.

Sont exceptés de la défense contenue dans le premier alinéa ci-dessus, le temps s'écoulant du 20 mai au 15 juin (époque du frai pour la brème) et celui qui court du 20 novembre au 25 décembre (période du frai pour le Gangfisch).¹

Du 1^{er} octobre au 31 mars, il n'est pas permis de placer dans l'eau des tramails, étoles, ménis, meynis ou meiniers, avant 3 heures de l'après-midi, et du 1^{er} avril au 30 septembre, avant 4 heures de l'après-midi; ces filets seront retirés de l'eau avant 10 heures du matin du 1^{er} octobre au 31 mars; avant 8 heures du matin, du 1^{er} avril au 31 août, et avant 9 heures du matin du 1^{er} au 30 septembre.² Les filets fixes devront toujours être retirés de l'eau au matin suivant l'après-midi où ils ont été placés et ne pourront être replacés dans l'eau avant l'après-midi suivant. Cependant les filets traïnants placés *dans les profondeurs du lac* pourront y rester plus de deux nuits et un jour, cas où ces filets devront avoir été placés en dehors du domaine attribué à la pêche aux grands filets volants ou à sac. En dehors de ce domaine, les filets fixes, dormants ou traïnants pourront être tendus, durant le temps du carême, soit du 15 février au 15 avril, aux jours où, pendant les nuits qui suivront, la pêche aux filets volants est permise.

¹ Nouvelle teneur de cet alinéa selon entente du 5 novembre 1908.

² Nouvelle teneur de cette phrase selon entente du 14 mai 1908.

Pendant les soirs précédant immédiatement les jours fériés arrêtés pour le lac au § 20, les filets traïnants ne pourront être placés que dans les eaux profondes ou entre le mont et ces eaux, perpendiculairement à la direction du mont; ces filets seront retirés de l'eau le matin du jour ouvrable suivant immédiatement le jour férié dont il s'agit.

Il n'est permis de traquer le poisson pour le chasser dans des filets fixes qu'à partir d'une heure avant le lever du soleil, à l'aube, jusqu'à 4 heures de l'après-midi; mais du 1^{er} octobre au 31 mars, jusqu'à 3 heures de l'après-midi seulement.

La même défense existe par rapport à la pêche de la tanche connue sous le nom de Schleienstupfen.

Il n'est permis de traquer les Gangfische dans des filets dormants, hauts ou bas, que du 15 avril au 31 mai (§ 31).¹

En ce qui concerne la *tendue, pendant la matinée*, des filets dormants, elle peut avoir lieu durant deux heures (du 20 au 31 mai pendant trois heures) avant le lever du soleil; mais dans ce cas encore, il n'est pas permis de traquer le poisson avant le point du jour.¹

Quant à la pêche de la vandoise avec des rets à petites mailles (§ 12, lettre B, chiffre 4), il n'est plus permis de tendre de filets à partir de 4 ou de 3 heures de l'après-midi suivant les cas dont il s'agit ci-dessus; toutefois, les filets à vandoise placés dans l'eau avant ce temps pourront en être retirés jusqu'à la nuit, soit jusqu'à une heure après le coucher du soleil.

Comme il est dit ci-dessus (§ 24), celui qui aura pêché au filet flottant, pendant le temps du carême, soit du 15 février au 15 avril, ne pourra pas pêcher au filet dormant ou au filet traïnant durant l'époque de protection du printemps, soit du 15 avril au 1^{er} juin.

Du 15 au 25 novembre, l'emploi de filets fixes n'est permis que sur la beïne.

§ 29

Restrictions de l'emploi des filets fixes par rapport aux localités

Il est interdit de laisser, aussi bien de jour que de nuits, des filets fixes tendus dans les roseaux; de même, il est défendu de tendre des filets fixes pendant la nuit sur les places de frai de la brème. On ne pourra, tendre des filets dans le voisinage des places de frai, sur le mont, qu'à la condition de les placer dans une direction perpendiculaire à celle du mont.

Les hauts filets fixes ne pourront être tendus que dans les profondeurs du lac.

Durant le temps de frai des corégones il est aussi permis, lorsqu'on en a obtenu de la préfecture l'autorisation spéciale, de tendre, du 25 novembre au 5 décembre, de hauts filets fixes sur la beïne (voir § 15, al. 2, ch. 3).

§ 30

Capture des Gangfische avec des filets fixes, pendant l'époque du frai de ces poissons

Avant que le Gangfisch ait commencé à frayer, les places de prise situées sur le domaine de la pêche générale sont chaque année réparties aux pêcheurs de la manière suivante:

¹ Nouvelle teneur de cet alinéa selon entente du 25 avril 1914, en vigueur depuis le 15 juin 1914.

Tout pêcheur qui veut exercer la pêche des Gangfische pendant le temps du frai de ces poissons, et cela avec des filets fixes, informera de son intention l'inspecteur de la pêche, avant le premier novembre au plus tard. A partir de cette date, ledit inspecteur, assisté de deux membres de la commission de pêche, désigne et fait piqueter, avant que commence le temps où la pêche des poissons en question est exceptionnellement permise, autant de places de prise qu'il y a de pêcheurs inscrits; ces places sont numérotées conformément à la suite des nombres naturels, puis distribuées aux différents pêcheurs inscrits suivant un tirage au sort. A dater du 20 novembre, les pêcheurs ayants droit permutent entre eux leurs places de pêche, de façon à ce que, après un jour, et dès lors tous les jours, à une heure de l'après-midi, une place de pêche déterminée passe au pêcheur dont la place portait, la veille, le numéro suivant.

Dans le piquetage susindiqué, l'inspecteur de la pêche aura soin de ne désigner aucune place de prise qui ne soit — à partir du pieu fiché en terre sur l'ilot appelé Groppenfächle, en longeant la rive du lac jusqu'au Rhin, à l'ouest — à une distance de 200 m au moins de la rive du lac, ou de 20 m au moins des berges du Rhin.

Dans le lac dit Gnadensee, d'Allensbach à l'église d'Oberzell, les places de capture des Gangfische seront réparties de la même manière. N'ont cependant droit à ces places-ci que les pêcheurs inscrits des communes de Reichenau, d'Allensbach et de Markelfingen.

Sur les autres localités où fraient les Gangfische du lac Inférieur, on ne piquette jamais de place exceptionnelle de prise.

Du 20 novembre au 25 décembre, les filets fixes ayant des mailles de moins de 32 mm d'ouverture ne pourront être employés à la pêche des Gangfische dans le domaine affecté à la pêche générale, que sur les places désignées et piquetées à cet effet comme il est dit ci-dessus. Dans le Gnadensee, les tramails, meiniens et autres filets fixes ne pourront être placés sur les places de prise non piquetées qu'à la condition d'être éloignés de 100 m au moins les uns des autres.

Sur une place de pêche attribuée à un pêcheur déterminé pour y prendre le Gangfisch avec des filets fixes, seul ce pêcheur a le droit d'exercer cette pêche. S'il n'en fait pas usage, la place qui lui était affectée reste territoire fermé à la pêche.

La manière conformément à laquelle les filets fixes seront tendus, pendant la nuit ou le matin, sur les places de prise, est arrêtée suivant entente entre les pêcheurs intéressés; si cependant ces pêcheurs ne peuvent arriver à s'entendre, l'inspecteur de la pêche décide en dernier ressort, après avoir entendu sur ce point les deux membres de la commission de pêche qui ont procédé avec lui au piquetage desdites places de prise. Que la décision ait été arrêtée suivant l'un ou l'autre des deux modes susindiqués, tout pêcheur autorisé à la pêche exceptionnelle en question doit se conformer strictement et absolument à la décision prise.

Il n'est permis de retirer de l'eau les filets fixes, dormants ou traînants, qu'à partir du point du jour, — fixé à une heure avant le lever du soleil — jusqu'à 10 heures du matin. Ces filets ne seront jamais tendus dans l'eau avant une heure de l'après-midi, opération qui pourra durer jusqu'à une heure après le coucher du soleil. Le dimanche, il est défendu de laisser dans l'eau des filets fixes tendus pour la pêche exceptionnelle des Gangfische.

Celui qui, en raison de l'autorisation spéciale qu'il a obtenue, pêche avec des filets fixes les Gangfische pendant le temps du frai de ces poissons,

ne peut, du 20 novembre au 25 décembre, exercer en même temps la pêche aux grands filets flottants ou volants.

§ 31

Capture des Gangfische avec des filets fixes, durant l'été

La pêche des Gangfische, soit avec de hauts filets dormants pour Gangfische, soit avec de bas filets dormants à mailles de moins de 32 mm d'ouverture, est permise du 15 avril au 31 mai jusqu'à midi, à l'exception du lundi et du jeudi.¹

Comme les hauts filets fixes ordinaires, les hauts filets fixes destinés à prendre des Gangfische n'auront pas plus de 100 m de longueur sur 5 m de chute.

Leur partie inférieure aura sur un mètre de hauteur des mailles de 30 mm d'ouverture. La ralingue de fond ne sera pas conformée différemment que pour les filets fixes ordinaires. Les filets dormants ou trainants à Gangfische ne seront jamais utilisés comme filets flottants.

L'emploi des filets fixes à grande chute pour prendre les Gangfische n'est permis que depuis le point du jour, une heure avant le lever du soleil, jusqu'à midi.

§ 32

Distances que doivent avoir les filets fixes entre eux, lorsqu'ils sont tendus

En tendant ses filets fixes, le pêcheur aura soin de les placer à 20 m de distance au moins les uns des autres; cette distance s'entend mesurée perpendiculairement de la nappe de l'un des filets à la nappe d'un autre filet.

Cependant, cette prescription n'est pas applicable lorsqu'il s'agit de traquer le poisson pour le chasser dans les mailles d'un filet fixe (en particulier dans la pêche des Gangfische au moyen de filets fixes à haute chute, v. §§ 28 et 31) ou que l'on tend des filets durant la matinée.

§ 33

Pêche avec des verveux, barfolets, berfous ou louves

Tous ces engins, quels qu'ils soient, ne peuvent avoir une entrée dont le plus grand diamètre dépasse un mètre. Dans une seule et même exploitation piscatoriale, on ne peut faire usage à la fois de plus de 12 verveux, barfolets, berfous, ou louves.

Lorsque ces engins sont divisés en cases plus ou moins nombreuses, les dispositions ci-dessus ne s'y appliquent pas; ces engins, divisés en cases, n'étant pas compris dans le chiffre susindiqué.

Les verveux, barfolets, etc., seront placés avant 4 heures de l'après-midi; du premier octobre au 31 mars, ces appareils seront retirés de l'eau avant 10 heures du matin, et du premier avril au 30 septembre, avant 8 heures du matin. Lorsque ces engins auront été placés durant la nuit, ils

¹ Nouvelle teneur de cet alinéa selon entente du 25 avril 1914, en vigueur depuis le 15 juin 1914.

seront retirés de l'eau le matin suivant, et ne pourront être replacés dans l'eau avant l'après-midi du même jour.

Il sera permis de laisser dans l'eau, pendant les jours, fériés indiqués au § 20, les verveux et autres engins semblables, lorsqu'ils auront été posés le jour précédent.

Du 20 novembre au 25 décembre, il sera loisible, dès le point du jour (une heure avant le lever du soleil) jusqu'à la nuit, de ressortir et de replacer lesdits engins, lorsqu'ils seront divisés en cases plus ou moins nombreuses et qu'ils auront été posés sur les places de frai des Gangfische; cela, d'une manière absolue et sans aucune restriction. En revanche, il sera défendu dans ces cas, de laisser ces engins dans l'eau pendant un jour férié. Lorsqu'ils auront été placés le samedi soir, ils seront retirés de l'eau le dimanche suivant, avant 8 heures du matin, mais il ne pourront être replacés le même jour.

Lesdits engins ne pourront être déposés sur les places où abondent les plantes aquatiques.

Les verveux, berfous et autres engins semblables seront espacés de 20 m au minimum les uns des autres.

§ 34

Pêche aux nasses proprement dites, bires, paniers, bouraches, nances, casiers et autres engins semblables

Les nasses proprement dites, casiers et autres engins analogues ne seront employés que pour la pêche de la lotte, et seulement dans les eaux profondes du lac, entre Berlingen et Mammern. Dans une seule et même exploitation piscatoriale, il ne sera pas permis de faire usage en même temps de plus de 100 nasses ou casiers.

Les nasses employés en même temps seront placées les unes à la suite des autres; elles ne seront disposées que suivant le sens de la longueur du lit du lac; la rangée de nasses sera indiquée à la surface de l'eau au moyen de trois flottes, dont deux seront placées aux extrémités de la rangée, et la troisième au milieu. Chaque année, entre le premier et le 15 mai, les pêcheurs à la nasse permuteront leurs places de pêche conformément aux instructions qu'ils recevront à ce sujet de l'inspecteur de la pêche.

Les pêcheurs auront soin de ne jamais placer leurs nasses à moins de 50 m de distance des nasses des autres pêcheurs.

Il est interdit de poser des nasses dans les roseaux.

§ 35

Parcs sur palots sans bires, ni verveux

Le pourtour d'un parc, déterminé par les pieux qui le forment, n'aura dans quelque direction que ce soit, un diamètre dépassant 15 m. Les pieux des barrages du parc ne seront jamais distants de plus de 30 m du pieu du centre de ce parc et jamais installés sur la beine. Chaque parc sera indiqué à la surface de l'eau, au moyen de flottes qui seront placées au-dessus des pieux de barrage.

Les parcs existants, dont les dimensions excéderaient celles qui sont indiquées ci-dessus, seront autant que possible, lors des réparations ou modifications que l'on y apportera, réduits aux dimensions minimums susmentionnées. Dans l'espace de douze mois, à partir de l'entrée en vigueur

du présent règlement, les pieux de barrages de tous les parcs existant actuellement dans le lac ou le Rhin seront disposés de façon à n'être éloignés que de 30 m au minimum du centre du parc.

De nouveaux parcs ne seront établis que sur l'autorisation de la préfecture de Constance; cependant cette autorisation ne sera accordée qu'autant que dans l'avenir, le nombre des parcs n'excédera pas le nombre des parcs existant actuellement dans le lac ou le Rhin.

Les parcs seront constamment maintenus dans l'état requis pour qu'ils atteignent leur but. Lorsque cela ne sera pas le cas, la préfecture pourra, sur le préavis de la commission de pêche, obliger le propriétaire à reconstruire son parc dans un laps de temps déterminé, à défaut de quoi, ce propriétaire perdra son droit de pêche au parc. Pourtant le propriétaire pourra recourir contre une telle décision auprès du ministère de l'intérieur, à Karlsruhe. Disposer qu'un parc ne sera plus utilisé est une compétence que, seule, la préfecture de Constance possède. Dès qu'un parc a été déclaré hors d'usage, il est absolument interdit à l'ancien propriétaire ou à des tiers d'y pêcher.

La désignation exacte et le nom des propriétaires de parcs seront portés dans un registre que tient la préfecture. Lorsque le propriétaire d'un parc en transmettra la propriété à quelque nouvel ayant droit, connaissance en sera donnée à la préfecture.

La pêche, à l'intérieur des pieux de barrages d'un parc, ne sera exercée que par le propriétaire de ce parc ou par les personnes qui pourront produire l'autorisation écrite qu'elles auront reçue dudit propriétaire à ce sujet. Lorsque le parc sera la copropriété de plusieurs ayants droit, cette autorisation sera signée par tous les copropriétaires.

L'exercice de la pêche au filet volant, dans l'intérieur des pieux du barrage, est interdit même au propriétaire du parc.

§ 36

Gords, vanels, bourdigues et autres pêcheries fixes semblables

Il est interdit d'établir de nouveaux gords, vanels ou bourdigues et d'augmenter le pourtour des pêcheries fixes semblables existant déjà.

Lorsque, par la négligence de leurs propriétaires, des gords ou autres pêcheries fixes analogues seront tombés en ruines, ils ne pourront pas être reconstruits. S'il n'est pas certain que la négligence du propriétaire soit la cause de la dégradation du gord, la préfecture tranche la question, après s'être enquis sur ce point de l'opinion de la commission de pêche. Les gords qui ont été détruits par un phénomène naturel ou par une cause étrangère à la négligence du propriétaire pourront être reconstruits dans un délai de deux ans, à dater du temps où ils auront été détruits.

§ 37

Récolte des plantes aquatiques

Il est défendu de récolter les plantes aquatiques, soit dans le lac, soit dans le Rhin.

Cependant, lorsque la demande en sera faite à l'inspecteur de pêche, cette récolte pourra être autorisée pour le temps qui court du 15 au 31 mars, à condition toutefois qu'elle ne s'exerce que sur les places qu'aura piquetées à cet effet l'inspecteur de la pêche.

§ 38

Protection des œufs de poissons et des produits de l'incubation naturelle

Il est interdit d'enlever du lac ou du Rhin le frai qui s'y trouve, de le détruire ou de lui causer n'importe quel dommage. Sauf les exceptions prévues dans ce règlement il est aussi défendu, pour assurer autant que possible la fécondation naturelle pendant l'époque du frai, de déranger les poissons qui s'y livrent sur les places à frayer.

Cependant, si, après les hautes eaux, du frai reste dans des fossés, creux ou autres enfoncements d'où l'eau se retire, les pêcheurs pourront prendre ce frai, à condition de le replacer au plus tôt dans des endroits propices du lac ou du Rhin.

§ 39

Prescriptions relatives à la protection de l'écrevisse

Il est défendu de pêcher des écrevisses qui, du commencement du rostre à l'extrémité de la queue, n'ont pas 10 cm au moins de longueur.

Lorsqu'on aura pris des écrevisses de moindres dimensions, ces crustacés seront immédiatement rejetés à l'eau. Du 1^{er} octobre au 30 juin, la pêche des écrevisses est complètement prohibée.

Les dispositions des §§ 17 et 18 du présent règlement sont applicables ici par analogie, soit en ce qui concerne la mise en vente, la vente et l'expédition d'écrevisses durant le temps auquel il est interdit de pêcher ces crustacés, soit en ce qui concerne la longueur minimum à partir de laquelle ils peuvent être capturés.

S'il était nécessaire à un moment donné de réintroduire en grand nombre des écrevisses dans le lac et le Rhin, la préfecture pourrait interdire d'une manière absolue la pêche de ces crustacés sur tout le domaine d'application du présent règlement pour une durée qui pourrait aller jusqu'à 5 ans.

§ 40

Dispositions pénales

Tout contrevenant aux dispositions qui précèdent est passible ou d'une amende pouvant s'élever jusqu'à 150 marcs, ou d'emprisonnement.

De même, celui qui, sur le domaine d'application du présent règlement, pêche des poissons ou des écrevisses, sans en avoir le droit, encourt une punition.

Dans le cas prévu à l'alinéa premier du présent §, il peut y avoir lieu de prononcer, outre la peine susindiquée, la confiscation des poissons pris et exposés illégalement en vente, ainsi que des engins utilisés à la pêche de ces poissons, que ces animaux et engins appartiennent au condamné ou non.

§ 41

Peines relatives aux contraventions de pêche

Partout où s'applique le présent règlement, la préfecture de Constance est seule compétente pour poursuivre pénalement les contraventions qui se rapportent à la pêche du lac Inférieur et du Rhin.

Les amendes prononcées par cette préfecture comme mesures de police sont versées à la caisse d'Etat du Grand-Duché de Bade; le jugement étant devenu exécutoire, elles seront versées dans l'espace d'une semaine, intégralement, sans frais et sans que le condamné en soit spécialement requis, à l'autorité compétente badoise, avec le montant des frais de procédure effectués jusqu'alors. A cet effet, la préfecture transmet au condamné, en même temps que l'avis de sa condamnation, un mandat destiné au paiement de la somme à verser à l'autorité compétente badoise. Lorsque les condamnés auront leur domicile sur sol suisse, ils opéreront le paiement de l'amende et des frais de procédure au Bureau principal des impôts, à Constance.

D'ailleurs, pour toute personne ayant son domicile en Suisse, ou y étant en séjour d'une manière durable, l'exécution du jugement aura lieu, sur la demande des autorités badoises, par la préfecture suisse du district où habite ladite personne. L'exécution parfaite, la préfecture suisse fait savoir à l'autorité badoise compétente comment le jugement a pu être exécuté; cette communication est accompagnée du montant de l'amende et des frais de procédure encaissés, ou d'un avis relatif à la transformation, en tout ou partie, de l'amende en emprisonnement.

§ 42

Pisciculture

L'introduction, dans le lac Inférieur ou dans le Rhin, d'espèces de poissons nouvelles, ne peut avoir lieu que si elle est approuvée à la fois par le Conseil fédéral suisse et par le ministère de l'intérieur du Grand-Duché de Bade.

§ 43

Interprétation de l'indication des époques ou périodes citées dans le présent règlement

Lorsque, dans le présent règlement, il est question d'époques, de périodes ou de délais, le premier et le dernier des jours cités sont compris dans ces époques ou délais.

Quand l'exercice de la pêche devra cesser d'une manière absolue à un moment donné, toutes les mesures seront prises à temps pour que cela arrive.

Partout, où, dans ce règlement, il s'agit « d'une heure après le coucher du soleil » et « d'une heure avant le lever du soleil » il faut interpréter la chose ainsi qu'il suit:

	<i>1 heure avant le lever du soleil</i>	<i>1 heure après le coucher du soleil</i>
En décembre	7 heures du matin	5 heures du soir
En janvier et novembre	7 » » »	6 » » »
En février et octobre.	6 » » »	7 » » »
En mars et septembre	5 » » »	7 » » »
En avril et août.	4 » » »	8 » » »
En mai et juillet	4 » » »	9 » » »
En juin	3 » » »	9 » » »

§ 44

Dispositions antérieures au présent règlement

Le présent règlement entrera en vigueur le premier janvier 1898.

En entrant en vigueur, il abrogera les §§ 1 à 37 du règlement de pêche pour le lac Inférieur (lac Extérieur) et le Rhin, du 16 novembre 1861, ainsi que le règlement de pêche pour le lac Intérieur ou Gnadensee, du 23 janvier 1865 et les dispositions préfectorales du 18 janvier 1893 sur l'exercice de la pêche dans le lac Inférieur et le Rhin.

§ 45

Clauses transitoires

Un sursis est accordé jusqu'au premier janvier 1899 pour l'emploi des engins de pêche actuellement en usage, ayant des mailles de moins de 32 mm d'ouverture ou des baguettes distantes entre elles de moins de 32 mm, l'emploi de ces engins étant contraire aux dispositions du présent arrêté, § 12, lettre B.

De même, relativement au brochet, qui jusqu'à présent ne pouvait être capturé que s'il avait 30 cm de longueur, la disposition du présent règlement, suivant laquelle le brochet, pour pouvoir être pris, doit avoir 35 cm au moins, n'entrera en vigueur qu'au premier janvier 1899.

219. CONVENTION¹ ENTRE L'ALLEMAGNE ET LA SUISSE SUR
LA RÉGULARISATION DU RHIN ENTRE STRASBOURG-
KEHL ET ISTEIN, SIGNÉE À BERNE, LE 28 MARS 1929²

La Confédération suisse et le Reich allemand, animés du désir d'exécuter la régularisation du Rhin entre Strasbourg-Kehl et Istein conformément à la résolution du 29 avril 1925 de la Commission centrale pour la navigation du Rhin³, sont convenus de conclure une convention à cet effet. . .

ARTICLE PREMIER. La Confédération suisse et le Reich allemand conviennent d'entreprendre sans délai et de poursuivre sans interruption la régularisation du Rhin entre Strasbourg-Kehl et Istein, conformément au projet approuvé par la Commission centrale pour la navigation du Rhin, le 29 avril 1925.

Le coût des travaux, évalués par devis à cinquante millions de reichsmarks, sera supporté à raison de soixante pour cent par la Suisse et de quarante pour cent par l'Allemagne.

Les frais supplémentaires éventuels seront répartis dans la même proportion jusqu'à concurrence de dix pour cent du devis indiqué.

Si, contre toute attente, les sommes susvisées ne suffisaient pas à permettre la régularisation recherchée, les Parties contractantes prendront de commun accord, en temps voulu, les dispositions appropriées.

¹ L'échange des instruments de ratification a eu lieu à Berne, le 7 juin 1930.

² Société des Nations, *Recueil des Traités*, vol. 104, p. 24.

³ *Les Actes du Rhin, Traités, Conventions, Lois et Règlements principaux concernant la Navigation sur le Rhin et les voies navigables d'Europe occidentale*, Strasbourg, 1957, p. 36/37.

Les contributions qui proviendraient d'autres intéressés seront créditées aux Parties contractantes dans la proportion de soixante à quarante.

ARTICLE 2. Les Parties contractantes s'entendront chaque année, en temps utile, en vue de déterminer pour l'année suivante le montant des crédits nécessaires et les échéances de paiement, leurs parts respectives demeurant toujours fixées dans la proportion de soixante à quarante.

ARTICLE 3. La charge de l'entretien des sections régularisées sera déterminée conformément à l'accord conclu à Strasbourg, le 20 mai 1922, entre délégués allemands, français et suisses, et conformément au protocole du même jour annexé à cet accord¹. Le Gouvernement allemand déclare prendre à sa charge les frais d'entretien de la section située sur son territoire.

ARTICLE 4. Les deux gouvernements constatent que la Commission centrale pour la navigation du Rhin, dans sa résolution du 29 avril 1925, subordonne son approbation du projet de régularisation à la condition que la Suisse et l'Allemagne s'engagent, par un accord, à prendre les dispositions nécessaires pour que la navigation ne subisse pendant l'exécution des travaux de régularisation aucune gêne appréciable du fait de celle-ci.

Ils conviennent d'assumer cette obligation et d'en garantir l'observation en donnant les instructions nécessaires à la direction des travaux responsables.

ARTICLE 5. Les deux gouvernements constatent que, dans la même résolution, la Commission centrale pour la navigation du Rhin, en approuvant le projet de régularisation, a posé comme condition que l'accord en question comporte également l'obligation de remédier à toutes les conséquences dommageables qui résulteraient pour la partie de la voie navigable déjà régularisée en aval de Strasbourg de l'exécution et de la réalisation des travaux de régularisation en amont de Strasbourg.

Le Gouvernement allemand déclare qu'il prend à sa charge cette obligation.

ARTICLE 6. Les Gouvernements suisse et allemand sont d'accord que l'établissement d'une voie de grande navigation de Bâle au lac de Constance doit être recherchée en liaison avec la régularisation du Rhin entre Strasbourg-Kehl et Istein.

Les deux gouvernements conviennent qu'aussitôt que les conditions économiques permettront l'exécution de l'entreprise, le Conseil fédéral suisse et le Gouvernement badois concluront une convention qui fixera notamment un participation équitable de la Suisse aux frais, les délais d'exécution et l'aide technique et administrative dont bénéficiera cette œuvre.

En vue de favoriser l'établissement d'une voie de grande navigation, le Conseil fédéral suisse consent :

1^o A mener, conjointement avec le gouvernement badois et sur la base des principes adoptés jusqu'à présent, les pourparlers concernant l'octroi de nouvelles concessions de forces motrices entre Bâle et le lac de Constance, et à les accélérer dans la mesure du possible ;

2^o A imposer, d'accord avec le Gouvernement badois, également dans les concessions futures, les conditions généralement adoptées dans l'intérêt de la grande navigation.

¹ Voir *supra*, traité n° 117, p. 410.

3° A faciliter la construction d'usines hydro-électriques et — en tant que les intérêts nationaux de la Suisse le permettront et si la construction des usines en dépend — à autoriser dans la mesure du possible l'exportation de quotes-parts suisses d'énergie électrique qui, hors de Suisse, seraient susceptibles d'une meilleure utilisation.

Greece-Turkey

220. ACCORD¹ ENTRE LA GRÈCE ET LA TURQUIE RELATIF À LA RÉGLEMENTATION DES TRAVAUX HYDRAULIQUES SUR LES DEUX RIVES DU FLEUVE MARITZA-EBROS, SIGNÉ À ANKARA LE 20 JUIN 1934²

PARTIE I

STIPULATIONS RELATIVES AUX TRAVAUX EXISTANTS ACTUELLEMENT

1. Travaux à supprimer

Les travaux suivants existant actuellement sur le fleuve seront supprimés à bref délai:

- 1) Le pilotis d'un ancien pont de Décauville se trouvant immédiatement en aval du village de Marassia-Maratch.
- 2) Deux barrages et l'épis en construction se trouvant sur l'embouchure du fleuve du côté turc près du village de Ghémidjikeuy Gematu (Kourz-koundji Ada — feuille 5 de la carte du protocole de Délimitation).
- 3) Barrage de moulin turc emporté se trouvant en amont d'Edénkeuy-Pactii et l'épis se trouvant du côté grec un peu en amont de ce barrage.
- 4) Mur en maçonnerie se trouvant à la bifurcation du Tchai Ada-Delta près du poste Turc de l'endroit.

2. Travaux à maintenir

Tous les autres travaux existant actuellement sur les fleuves, défenses frontales, digues, épis, éperons etc. . . . seront conservés pour l'instant et pourront être maintenus en l'état et entretenus en attendant l'étude préparatoire du projet (B) qui statuera d'une manière définitive sur leur sort. Il est bien entendu que cet entretien n'impliquera en aucune façon un développement, une extension ou une modification des travaux de quelque nature qu'elle soit qui dépasse les limites actuelles de leur fonctionnement. Il est également entendu que ce terme d'entretien n'implique pas le rétablissement d'épis détruits dont il ne reste que des vestiges. Ne seront pas considérés comme développement et extension dans le sens ci-dessus les aménagements nécessaires pour permettre à ces ouvrages de continuer à fonctionner d'une manière conforme à leur destination primitive. Ces travaux d'entretien ne pourront être exécutés qu'après un préavis de dix jours donné à l'autre Partie.

¹ Ratifié par la Grèce le 1^{er} octobre 1936 et par la Turquie le 25 mai 1935.

² *Gazette Officielle hellène*, n° 474, 27 octobre 1936.

La suppression de la digue de fermeture immédiatement en aval de la borne frontière n° 23, obstruant l'entrée des eaux dans le canal naturel que la carte de la Commission de Délimitation de 1925-1926 indique comme commençant en cet endroit et rejoignant le fleuve en aval de Pythion-Kouléli Bourgas ayant été réclamée par la Délégation Turque et d'autre part le caractère offensif des épis se trouvant sur le littoral du Nazim Bey Tchiflik-Ferme de Nazim Bey et la nécessité de leur suppression ayant été alléguée par la Délégation Grecque, il a été convenu d'un commun accord de laisser également à l'étude du projet B, partie II du présent accord, le soin de décider de leur sort, l'entretien en l'état dans l'intervalle étant autorisé comme ci-dessus. Toutefois étant donné l'importance attachée à cette question il est entendu, qu'en vue d'en hâter autant que possible la solution, l'étude préparatoire du projet B comprendra dans son premier secteur de 20 kilomètres l'étude de cette partie du littoral.

Le projet B statuera bien entendu de même et dans l'ordre de l'étude fixée à la partie II sur la question du maintien ou de la suppression des digues se trouvant du côté Turc à la hauteur de Kourt Boudjagi (sud de Poros-Kaldirkos).

PARTIE II

TRAVAUX HYDRAULIQUES À EXÉCUTER

1. Fixation du caractère des travaux auxquels chaque partie sera libre de procéder moyennant un préavis d'un mois

Ces travaux sont de trois sortes.

- a) Défenses frontales des berges.
- b) Dignes.
- c) Epis.

a) Les défenses frontales pourront être de tout système et de tout matériel à condition que leur base n'occupe pas au fond de la rivière une largeur de plus de 4 mètres à partir du pied du revêtement et ne s'élève pas à une hauteur de plus de 50 centimètres au-dessus de l'eau au niveau de l'étiage. L'épaisseur du revêtement même ne dépassera pas un mètre, sauf s'il s'agit comme mur de soutènement auquel cas cette épaisseur sera calculée d'après le matériel employé et la poussée à laquelle il sera exposé.

Si la défense frontale est effectuée au moyen de plantation, la largeur de l'ouvrage ne doit pas dépasser trois mètres à partir de la rive à l'étiage.

Les défenses frontales en général ne pourront être exécutées que dans les parties du fleuve érosionnées ou menacées d'érosions. Elles ne pourront en aucun cas être pratiquées sur les parties convexes du littoral ou sur les caps.

b) Les digues seront submersibles, de longueur relativement petite, parallèles au fleuve ou obliques par rapport à son cours. Elles auront pour but de protéger les riverains des crues ordinaires et pourront être construites sur les points où une rupture de la berge risque de se produire. Sera également autorisée l'érection de digues circulaires autour de villages à la hauteur voulue pour les préserver de l'invasion des eaux. Il est bien entendu que dans la partie du fleuve dont les deux rives sont également turques entre le pont de l'Arda et la borne frontière n° 23 la liberté complète des Autorités

Turques, pour toutes espèces de travaux hydrauliques, n'est limitée que par les règles générales du droit international et les Conventions internationales régissant la matière auxquelles la Grèce a adhéré, règles et stipulations interdisant les mesures de nature à porter préjudice au territoire turc.

c) Seront autorisés les petits épis ne pouvant être construits que dans les concavités du littoral causées par les érosions. La longueur maximum de ces épis sera de 7,50 mètres à l'endroit de la plus grande érosion, cette longueur étant progressivement diminuée sur les points où l'érosion est moindre jusqu'à arriver aux points où cette érosion commence ou se termine. La direction de ces épis sera perpendiculaire au courant de l'étiage, leur hauteur ne devra pas dépasser le niveau du terrain naturel adjaçant à la berge et leur tête au niveau de l'étiage. Le talus de la base au-dessous de l'étiage aura une inclinaison de 45°. Il ne pourra être construit d'épis là où le fleuve se divise et forme des îles.

2. *Travaux hydrauliques de consolidation du lit principal qui seront exécutés par étapes progressives d'après une étude commune (Projet B)*

Les deux Etats procéderont sur la partie commune du fleuve à l'exécution de travaux de consolidation des rives du lit principal en tenant compte de l'influence sur le régime du lit principal des affluents principaux et des bras subsidiaires du fleuve. Dans le cas où l'étude relative à ces travaux démontrerait la nécessité de procéder à une rectification du cours du lit principal, cette rectification ne pourrait être décidée que par un accord spécial à intervenir entre les deux Parties. Les travaux dont il s'agit seront exécutés en allant de l'amont à l'aval et successivement dans les secteurs qui diviseront le cours commun du fleuve, chaque secteur devant avoir une longueur de 20 km. Les travaux seront conduits de front par les deux Parties et exécutés dans les délais à stipuler dans l'étude préparatoire de ces travaux. Le relevé topographique des secteurs se fera successivement en commençant de l'amont, le relevé du premier secteur, à partir de la frontière Bulgare, devant commencer en été 1934. Les services compétents des deux Parties régleront d'un commun accord les détails de l'accomplissement de ces relevés topographiques qui devront être basés sur une triangulation et un nivellement de précision communs. Les repères et les points trigonométriques qui ont servi aux travaux de la Commission de la Délimitation frontalière seront compris dans le travail de la triangulation. Au fur et à mesure que seront achevés les plans topographiques et d'un commun accord, les avant-projets de chaque secteur, ou ceux de plusieurs secteurs groupés, seront confiés à un expert d'une tierce nationalité. Les avant-projets à dresser par cet expert statueront également sur le programme de l'exécution.

Après l'approbation de l'avant-projet par les deux Gouvernements chaque Etat fera établir par ses services le projet définitif des travaux dans le ou les secteurs en cause sur base de l'avant-projet. Ces projets définitifs seront soumis à l'approbation des deux Gouvernements après quoi l'on passera à l'exécution. Les différends éventuels qui s'élèveraient seront résolus par voie d'arbitrage.

3. *Travaux d'urgence qui pourront être exécutés après entente pendant l'intervalle qui nous sépare de la mise en application du projet B*

Des travaux isolés présentant un caractère d'urgence pourront être exécutés par chacune des deux Parties après un projet préalable qui devra être soumis

à l'autre Partie aux fins d'approbation, en suivant la procédure prévue à la Partie III du présent accord.

4. Travaux hydrauliques préparatoires qui font partie de l'aménagement général de la vallée de la Maritza-Ebros (Plan A) et dont l'établissement est utile en tout état de cause

L'étude et l'exécution de grands travaux hydrauliques pour l'aménagement général du fleuve Maritza-Ebros, c'est-à-dire les travaux qui auront pour but la défense de part et d'autre des terrains submergés par les grandes crues du fleuve (digues longitudinales insubmersibles continues sur de grands secteurs du fleuve et travaux d'art y relatifs etc.) seront remis pour l'instant, la possibilité de la réalisation de travaux semblables ne paraissant pas pouvoir se présenter avant un délai d'une dizaine d'années. Toutefois des observations hydrauliques étant nécessaires en tout état de cause, non seulement pour les travaux ci-dessus mentionnés mais aussi pour ceux qui concernent le projet B mentionné au titre précédent et pour toute étude ou travail, les deux Parties conviennent d'installer dès à présent les stations hydrauliques nécessaires (stations pluviométriques et stations hydrométriques).

Les services compétents des deux Parties se mettront d'accord pour régler le nombre, le genre, l'emplacement de ces stations, les observations qui y seront faites et tous autres détails nécessaires tant pour leur fonctionnement que pour l'échange des observations pratiquées.

PARTIE III

PROCÉDURE À SUIVRE POUR L'ÉTABLISSEMENT DES ÉTUDES ET EXÉCUTION DES TRAVAUX PRÉVUS À LA PARTIE II TITRE 3 DU PRÉSENT ACCORD

La partie désireuse d'exécuter sur sa rive un travail semblable, préparera et transmettra à l'autre partie une étude technique en deux exemplaires, relative à ce travail. Celle-ci sera tenue, dans un délai de trois mois à compter de la date de la réception de ladite étude, de faire savoir à la partie demanderesse soit qu'elle consent inconditionnellement à l'exécution dudit travail, soit qu'elle n'y consent que sous certaines conditions, soit qu'elle refuse d'y consentir. En cas de consentement inconditionnel ou de silence de la partie interpellée pendant le susdit délai de trois mois, la partie demanderesse aura le droit de procéder à l'exécution des travaux en question, en se conformant à l'étude présentée. Toute modification, dont le besoin se fera ultérieurement sentir, avant le commencement du travail ou au cours de l'exécution de celui-ci sera également et suivant la même procédure, communiquée à l'autre Partie. Au cas où la Partie interpellée refusait son consentement ou le rattachait à des conditions jugées inacceptables par la Partie demanderesse et que le différend qui en résultait ne pouvait être résolu à l'amiable, il sera réglé par voie d'arbitrage.

La Partie désireuse de procéder à un travail pourra si elle l'estime utile, remettre en premier lieu à l'autre Partie un avant-projet sur base duquel l'autre Partie pourra formuler son consentement de principe. Cependant le consentement de principe ne lie pas inconditionnellement la Partie interpellée et celle-ci restera libre de refuser son consentement au vu du projet définitif qui lui sera communiqué.

Les relevés topographiques et les observations hydrauliques nécessaires pour l'établissement des études susmentionnées se feront conformément aux règles édictées par le titre suivant ayant trait à la matière.

2. Relevés topographiques

Au cas où l'établissement des études dont il est question plus haut, ou si les besoins généraux du service de l'une des deux Parties lui faisait estimer nécessaire de recueillir des données topographiques au moyen d'observations et de mesurages à effectuer sur le territoire de l'autre Partie ou d'opérer des levées de profil en long et en travers du fleuve, la Partie intéressée adressera à l'autre Partie une communication déterminant la nature, l'extension et l'échelle des travaux topographiques dont il s'agit, et demandant l'autorisation d'y procéder. La Partie interpellée aura à se prononcer dans un délai d'un mois, à partir de la réception de la communication susdite, soit en consentant à l'exécution des opérations envisagées et fixant en même temps la date, aussi rapprochée que possible, à laquelle elle pourront avoir lieu, soit en proposant à la Partie intéressée de faire exécuter ces opérations par ses propres moyens à ses frais, ou à ceux de l'autre Partie, soit en refusant son consentement, pour partie ou totalité des travaux. Les différends qui pourraient s'élever dans ce dernier cas seront, si une entente amiable n'intervient pas, résolus par voie d'arbitrage.

3. Observations hydrauliques

Chaque Partie pourra, sur sa rive et sur les parties des ponts qui lui appartiennent, installer des stations hydrauliques simples et y effectuer des observations, sans avoir pour cela besoin du consentement de l'autre Partie et moyennant seulement un préavis de 10 jours portant mention du genre de la station projetée, de son emplacement exact ainsi que de l'horaire des observations à pratiquer.

L'installation de stations hydrométriques enregistreuses ne pourra être faite par l'une des Parties qu'avec le consentement de l'autre à laquelle devra être au préalable communiqué un plan de la station projetée. La Partie interpellée devra donner sa réponse dans un délai de trois mois, à compter de la date de réception de l'avis. Elle pourra demander des modifications du plan projeté ou refuser son consentement auquel cas le différend pourra être tranché par voie d'arbitrage. Au cas où l'Etat interpellé omettrait de répondre dans le délai susdit, son consentement serait considéré comme acquis et la construction pourra commencer à l'expiration de ce délai.

4. Mesurage de la vitesse des eaux

Chaque Partie sera libre de procéder comme elle l'entend à des opérations de mesurage de la vitesse des eaux du fleuve Ebros-Maritza par des moyens matériels et instruments mobiles, à charge simplement pour elle d'en donner à l'autre Partie un préavis de dix jours portant mention de la nature du mesurage projeté, de sa durée probable et des moyens matériels et instruments qui seront employés.

S'il s'agit de faire le mesurage par des moyens, matériels et instruments fixes, la procédure à suivre sera celle prévue pour les stations hydrométriques enregistreuses mentionnées au deuxième alinéa du titre 3 de la présente partie.

Si le mesurage nécessite des levées de profil en long et en travers, la procédure sera celle fixée pour les travaux topographiques mentionnés au titre 2 de la présente partie, sauf que le préavis sera de 10 jours seulement.

5. *Stipulations diverses*

a) Les deux Parties contractantes élaboreront en commun avec la collaboration des Services compétents de part et d'autre et appliqueront un règlement spécial déterminant les conditions dans lesquelles se pratiquera la pêche dans les eaux du lit principal du fleuve. Ce règlement devra contenir des stipulations interdisant l'usage et prescrivant la suppression de dispositifs fixes suffisamment massifs pour gêner le passage des eaux et en faire dévier le cours.)

b) La borne frontière 24 ayant été détruite par le courant, elle sera reconstruite, au cours de l'été de 1934.

c) Le lit de la Maritza-Ebros se trouvant, en de nombreux endroits, encombré par des arbres et des broussailles de nature à gêner l'écoulement des eaux et à apporter des perturbations dans le cours de la rivière, un déboisement adéquat devra être prévu par le plan B et constituera l'un des éléments de celui-ci; notamment dans la partie du pont de décharge d'inondation de la voie ferrée à proximité de Pythion et dans le bras Turc de la partie de la rivière traversée par le pont routier où les travaux de déboisement, vu l'urgence plus grande, devront se faire, si possible sans attendre l'application du plan B.

d) Les services compétents des deux Parties se mettront d'accord, au plus bref délai possible, pour entreprendre en commun l'enlèvement des troncs d'arbres, qui dans un certain nombre d'endroits gênent le régime du fleuve.

e) Les plantations nouvelles directes ou par rabattage poursuivant le but de protéger la berge ne seront autorisées que dans les parties concaves et érosionnées du littoral.

6

Les préavis mentionnés dans les différents titres du présent accord qui n'impliquent pas une demande de consentement et d'approbation de la Partie interpellée, mais ont simplement pour but de mettre ses Autorités frontalières au courant de l'opération du travail projeté, seront respectivement adressés au Vali d'Andrinople ou au Préfet de la Nomarchie de l'Ebros.

PARTIE IV

CONTRÔLE DE L'EXÉCUTION ET DE L'ENTRETIEN DES TRAVAUX

Au commencement des travaux d'exécution et d'entretien de tout ouvrage autorisé en vertu des stipulations prévues dans les parties précédentes, la Partie intéressée notifiera le fait à l'autre Partie afin de la mettre en mesure, tant au cours des travaux, qu'après l'achèvement de l'ouvrage, de procéder au contrôle. Ce contrôle sera effectué par un Commissaire ayant les connaissances techniques nécessaires auquel sera adjoint au besoin un officier de l'armée; ils auront pour mission de vérifier sur place la conformité de l'ouvrage aux conditions stipulées par le présent accord ou déterminées pour les études et projets approuvés comme ci-dessus.

La Partie intéressée s'engage pendant toute la durée des travaux et après l'achèvement de l'ouvrage à accorder, sur la demande qui lui en sera faite, toutes facilités aux Commissaires de l'autre Partie dans l'accomplissement de leur mission. Au cas où après examen sur les lieux la Commission susdite conclurait à la non-conformité des ouvrages ou travaux ou exécutés ou en

cours avec les stipulations du présent accord ou les études approuvées ou les modifications ultérieurement convenues, la Partie intéressée sera tenue au reçu de la notification écrite y afférente, qui lui sera faite, d'arrêter les travaux en cours ou dans un délai fixé par cette notification de démolir ou modifier l'ouvrage en question.

Tout différend qui surgirait entre les Hautes Parties contractantes, relativement à l'interprétation ou à l'application du présent Accord, sera tranché par voie d'arbitrage après entente entre elles, ou, faute d'entente, par la Cour de Justice Internationale, conformément à l'article 22 du Traité d'Amitié, de Neutralité, de Conciliation et d'Arbitrage conclu entre la Turquie et la Grèce le 30 octobre 1930.

Au cas où cet arbitrage lui donnerait raison, les travaux ou ouvrages en question pourront être repris ou rétablis, dans les limites des stipulations du présent accord ou des études approuvées ou modifiées comme convenues à l'origine.

Les dommages et les frais encourus du chef de l'arrêt des travaux ou de la démolition et de la reconstruction des ouvrages devront être supportés par la Partie qui a provoqué cet arrêt ou cette démolition. La sentence arbitrale fixera le montant de cette indemnité.

Le présent accord sera valable pour une période de 10 années à partir du moment de l'échange des ratifications; à l'expiration de ce délai il pourra être dénoncé par l'une des deux Parties avec un préavis de six mois. Au cas où les deux Parties Contractantes n'auraient pas usé de ce droit il sera prolongé par voie de tacite reconduction pour dix autres années.

. . .

Au moment de procéder à la signature de l'accord relatif à la Réglementation des Travaux Hydrauliques sur les deux rives du fleuve Maritza-Ebros, les Plénipotentiaires des Hautes Parties contractantes ont convenu que la mise en exécution des clauses contenues dans le paragraphe 2 de la seconde partie de l'accord aura lieu à partir du premier été qui suivra l'entrée en vigueur de l'accord.

Greece-Yugoslavia

221. ÉCHANGE DE LETTRES¹ ENTRE LE GOUVERNEMENT DE LA RÉPUBLIQUE POPULAIRE FÉDÉRATIVE DE YUGOSLAVIE ET LE GOUVERNEMENT DU ROYAUME DE GRÈCE CONCERNANT L'EXÉCUTION DES DISPOSITIONS DU PROCÈS-VERBAL², ANNEXÉ À L'ACCORD DE COLLABORATION ÉCONOMIQUE ET D'ÉCHANGES COMMERCIAUX DU 28 FÉVRIER 1953. BELGRADE LE 25 MAI 1954³

I

Belgrade, le 25 mai 1954

Monsieur le Président,

En me référant à nos entretiens concernant l'exécution des dispositions du Procès-Verbal, annexé à l'Accord de collaboration économique et

¹ Entré en vigueur par l'échange desdites Lettres.

² Nations Unies, *Recueil des Traités*, vol. 252, p. 38.

³ *Ibid.*, p. 62.

d'échanges commerciaux du 28 février 1953, j'ai l'honneur de porter à votre connaissance que le Gouvernement de la République Populaire Fédérative de Yougoslavie se déclare d'accord de nommer une délégation, qui se réunira avec une délégation nommée par le Gouvernement du Royaume de Grèce, pour examiner les questions suivantes et proposer aux deux Gouvernements les solutions respectives :

1. Le maintien du régime d'eau au fleuve Vardar ;
2. Le maintien du régime d'eau au lac Dojran ;
3. La régulation du fleuve Vardar pour la protection des terrains et des fermes des régions de Djevdjelia, Idomeni, Plagion, Dogonis et Evzonon ;
4. La régulation des torrents de la rivière Ljumnica auprès de Djevdjelia ainsi que des torrents Sakuleva, Dragas, Crateron dans la région de Florina ;
5. A régler les cours au système d'eau en Pélagonia ;
6. La régulation des eaux du lac de Prespa ;
7. L'échange des données hydrométéorologiques ;
8. L'organisation du mode de coopération en réglant des problèmes de l'économie d'eau ;
9. Les mesures de protections et de l'avancement de la pêche dans les lacs de Prespa et de Dojran ;
10. Les mesures pour la protection des plantes contre les maladies et autres fléaux tels que : rats, sauterelles, oies sauvages, etc.
11. Mesures pour le développement du tourisme des deux pays.

En ce qui concerne les questions mentionnées aux alinéas 1-8, les deux délégations se réuniront dans un délai de quatre mois à partir d'aujourd'hui après avoir échangé des rapports adéquats sur ces questions, échange qui doit être accompli dans un délai de deux mois à partir d'aujourd'hui.

En ce qui concerne les questions mentionnées aux alinéas 9 et 10, les deux délégations se réuniront dans un délai de trois mois à partir d'aujourd'hui.

En ce qui concerne l'alinéa 11, les deux Gouvernements procéderont à l'échange des rapports sur les questions y mentionnées dans le plus bref délai possible.

L'échange des rapports et la désignation des délégations seront notifiées d'un Gouvernement à l'autre par la voie diplomatique.

Je vous prie de bien vouloir me confirmer l'accord de votre Gouvernement sur ce qui précède.

Veuillez agréer, Monsieur le Président, les assurances de ma haute considération.

Le Président de la Délégation yougoslave:
Milan RADOVIC

Monsieur le Président de la Délégation hellénique
Beograd

II

Beograd, le 25 mai 1954

Monsieur le Président,

J'ai l'honneur de vous accuser réception de votre lettre en date d'aujourd'hui ainsi conçue :

[Voir lettre I]

J'ai l'honneur de vous confirmer l'accord de mon Gouvernement sur ce qui précède.

Veuillez agréer, Monsieur le Président, les assurances de ma haute considération.

Le Président de la Délégation hellénique:
Agis I. KAPSAMBELIS

Monsieur le Président de la Délégation yougoslave
Beograd

222. PROCÈS-VERBAL DES DÉLÉGATIONS DE LA RÉPUBLIQUE POPULAIRE FÉDÉRATIVE DE YOUGOSLAVIE ET DU ROYAUME DE GRÈCE, RÉUNIES DU 23 AU 30 MARS 1956 POUR LA QUESTION DU NIVEAU DES EAUX DU LAC DE DOIRAN. SIGNÉ À SALONIQUE LE 31 MARS 1956¹

I

Après avoir terminé en commun la question du niveau des eaux du lac de Doiran, et après une visite sur les lieux, tant sur le territoire Grec que sur le territoire Yougoslave, les deux Délégations ont constaté ce qui suit:

1. Au Canal d'évacuation (Dolaila Canal) a été construit un barrage provisoire de sarazanet et de sacs à sable, permettant à l'eau de couler à travers son corps, ayant une hauteur de côte de niveau 146,79 par rapport à la côte du niveau 149,27 du rail de la voie ferrée sur le pont du Chemin de Fer près de la gare de Doiran.

Conformément à l'estimation faite de commun accord par les deux Délégations par ce barrage écoulent 4-5 m³ environ par seconde.

2. A cause de la construction du barrage et aussi de pluies de la saison d'hiver de cette année, l'écoulement des eaux du lac n'était pas normal et pour cette raison la côte du niveau du lac atteint la hauteur 146,56.

Les côtes du niveau dont il est question, aux points 1 et 2 ont été constatées par des mesurations communes de deux Délégations sur les lieux.

3. A cause de l'écoulement très lent de l'eau du lac de Doiran, une inondation a été constatée dans la région Yougoslave, qui provoqua des dommages à l'agriculture, à la pêche et aux bâtiments se trouvant près du lac.

II

Les points de vue exposés par les deux Délégations, intéressant les deux Gouvernements sur la question du lac sont les suivants:

La Délégation yougoslave exposa que la Yougoslavie s'intéresse;

1. Que la côte du niveau du lac de Doiran soit baissée à un point qui n'empêche pas l'exploitation agricole des régions limitrophes; et

2. Que l'oscillation du niveau du lac (côte maxima et minima) soit fixée de sorte que l'exploitation de la pêche soit faite sans entraves, pendant toute la durée de l'année.

¹ *Federativne Narodne Republike Jugoslavije, Medunarodni Ugovori*, 1957, n° 63, p. 24.

Par ce qui précède ne sont pas touchés les droits de la Yougoslavie pour l'exploitation des eaux du lac pour irrigations et autres buts.

La Délégation hellénique déclara que la Grèce s'intéresse pour ce qui suit:

1. Que la régularisation de l'écoulement des eaux de lac de Doiran soit faite de sorte que des dommages provenant des inondations aux régions cultivées d'Artzan-Amatovo soient évités;
2. Que les quantités d'eau disponibles du lac de Doiran nécessaires pour les irrigations et la production d'énergie électrique soient assurées; et
3. Que l'oscillation de la côte du niveau du lac soit établie pour une meilleure exploitation de la pêche de ce lac.

III

Sur la base des constatations faites, des points de vue exposés des données techniques, ainsi que du Procès-verbal du 22 mars 1940, les deux Délégations sont tombées d'accord sur ce qui suit:

1. En ce qui concerne l'intérêt d'assurer la situation normale dans le lac et d'éviter à l'avenir les malentendus sur cette question, il a été convenu:

a) Que la côte du niveau maxima du lac soit fixée à 146,00, ayant comme point de départ la tête du rail du pont qui se trouve près de la gare de Doiran et qui a comme côte de niveau 149,27;

b) Que la côte du niveau dans le lac soit fixée à 144,80, c'est-à-dire que l'oscillation maxima du lac soit de 1,20 m;

c) Tant que la Yougoslavie n'utilisera pas les eaux du lac de Doiran pour irrigations ou autres buts, la Grèce a le droit d'utiliser pour ses besoins toute l'eau disponible entre la côte du niveau maxima et minima à l'oscillation convenue de 1,20 m.

2. Les installations du côté grec pour régler l'écoulement de l'eau du lac de Doiran seront faites de façon à assurer la côte niveau maxima et minima de l'oscillation du lac.

3. Les deux Délégations ont convenu qu'au moins trois échelles limnimétriques soient placées au lac de Doiran et notamment, deux sur le territoire Hellénique, soit une dans le lac près du canal d'écoulement Dolaia et une autre sur le canal d'écoulement près du pont ferroviaire, tandis que la troisième sera placée dans le territoire Yougoslave près de Novi Doiran.

Les Zéros de ces trois échelles devraient être liés par un nivellement précis et réduits au même horizon.

4. Dans le but de la solution juste des problèmes qui pourront surgir à l'avenir au sujet du lac de Doiran et pour l'intérêt des deux parties, il serait nécessaire d'assurer la collaboration d'experts et autres techniciens de deux pays, de faciliter l'échange de données techniques, statistiques et scientifiques; il serait nécessaire aussi que les deux parties préavisent d'avance l'une l'autre sur les mesures à prendre qui pourraient influencer le régime des eaux du lac.

5. La Délégation hellénique se charge, exceptionnellement pour l'année en cours (1956), de ne pas permettre l'empirement de la situation par l'augmentation de la côte du niveau du lac, par rapport à celle que la Commission Mixte avait constaté le 26 mars 1956, lorsqu'elle s'est rendue sur les lieux, côte qui était de 146,56.

6. La Délégation hellénique se charge de commencer immédiatement la réduction graduelle de la côte du niveau du lac de Doiran de sorte qu'elle puisse atteindre la côte du niveau 146,00 jusqu'à la date du 30 juin 1956.

Par exception pour le cas de chutes de pluies d'une quantité plus grande que la moyenne de celle qui tombe d'habitude pendant les mois d'avril-mai-juin, le terme ci-haut prévu pour la réduction de la côte du niveau du lac de 146,00 peut être prolongé jusqu'au 15 juillet 1956.

7. Ce qui précède a été convenu ayant en vue les intérêts des deux parties:

Notamment, que du côté yougoslave soient évitées des inondations destructives et du côté grec soit assurée la possibilité d'accumulation d'eau et sa meilleure utilisation.

Les décisions susmentionnées seront valables tant qu'elles seront approuvées par les deux Gouvernements.

223. PROCÈS-VERBAL DE LA RÉUNION DES DÉLÉGATIONS DE LA RÉPUBLIQUE POPULAIRE FÉDÉRATIVE DE YOUGOSLAVIE ET DU ROYAUME DE GRÈCE QUI A EU LIEU DU 26 AOÛT AU 1^{er} SEPTEMBRE 1957 À STARI DOJRAN POUR ÉLABORER LE MODE ET LE PLAN DE COLLABORATION CONCERNANT LES ÉTUDES HYDRO-ÉCONOMIQUES DU BASSIN D'ÉCOULEMENT DU LAC DE DOJRAN. LE 1^{er} SEPTEMBRE 1957¹

Cette réunion des deux délégations a eu lieu sur l'initiative du Gouvernement de la République Populaire Fédérative de Yougoslavie en accord avec le Gouvernement du Royaume de Grèce

. . .

Ordre du jour adopté:

- 1) Etudes hydroéconomiques du bassin d'écoulement du lac de Dojran;
- 2) Mode et plan de collaboration pour l'élaboration des études hydro-économiques.

Dans le cadre de l'ordre du jour adopté, la Délégation Yougoslave a posé huit points à discuter et la Délégation Hellénique a ajouté un point, qui serait traité comme le neuvième, à savoir:

Section A

I. TRAVAUX TOPOGRAPHIQUES

a) Détermination d'un repère commun auquel seront liés tous les travaux topographiques concernant toutes les études relatives au lac de Dojran.

b) Rédaction d'un plan topographique du canal d'écoulement précis et détaillé à l'échelle 1 / 100.

¹ *Federativne Narodne Republike Jugoslavije, Medunarodni Ugovori*, 1958, n° 8, p. 75.

c) Rédaction des sections principales du lac afin d'établir un plan coté à l'échelle 1 : 50.000 nécessaire pour déterminer les volumes d'eau contenus dans le lac.

II. ETUDES HYDROLOGIQUES

Pour déterminer le régime de l'eau du lac il faudrait:

a) Installer des stations météorologiques de premier ordre dans le bassin d'écoulement du lac ainsi que les instruments de mesure d'évaporation de la surface du lac;

b) Mesurer les débits des affluents qui se déversent dans le lac à des endroits choisis d'avance et à des profils hydrométriques inaltérables par les méthodes les plus propices pour chaque cas;

c) Installer des limnographes conformément au paragraphe 3 de l'article III du Procès-Verbal du 31 mars 1956;

d) Observer les niveaux des eaux souterraines en rapport aux différents niveaux des eaux du lac.

III. ETUDES PÉDOLOGIQUES

a) Etudes des caractéristiques pédologiques des sols cultivables dans le bassin d'écoulement du lac ainsi que dans les étendues irrigables en dehors de celui-ci.

b) Etudes pédologiques du sol au fond du lac au point de vue de sa qualité et de son influence sur la pêche ainsi qu'au point de vue des pertes d'eau.

IV. ETUDES AGRONOMIQUES

a) Etude de l'exploitation agricole actuelle dans le bassin d'écoulement du lac.

b) Détermination des quantités d'eau nécessaires à l'irrigation par unité de surface pour différentes espèces de culture.

V. ETUDES CONCERNANT LA PÊCHE

Etudes de l'exploitation actuelle de la pêche et des possibilités d'améliorations.

VI. PROTECTION DU LAC CONTRE LES ACCUMULATIONS DES ALLUVIONS

Dans le but de conserver le lac à l'état de réservoir continu d'eau, il faudrait étudier les mesures techniques nécessaires pour protéger le lac contre les dépôts des alluvions par suite d'érosions de ses rives ou bien de ses affluents.

VII. CADASTRE (DESCRIPTION)

Cadastre de l'usage actuel des eaux du lac à des diverses applications comme aussi des dégâts produits jusqu'à présent par les eaux d'inondations.

VIII. COORDINATION DES DIFFÉRENTS TRAVAUX

Au cours de l'élaboration des recherches et études mentionnées aux points précédents, il est nécessaire de réaliser des contacts entre experts des deux

pays qui, tout en échangeant leurs points de vue sur les méthodes à suivre pour l'élaboration des différentes études et tout en visitant ensemble le bassin d'écoulement du lac pour recueillir toutes les données qui leur seront utiles, seront de même chargés d'élaborer des études complètes et finales donnant la solution la plus satisfaisante à tous les problèmes hydroéconomiques.

IX. ECHANGE DES OBSERVATIONS EXISTANTES

Il est nécessaire que les deux pays échangent le plus tôt possible les observations météorologiques et hydrométriques existantes, à savoir:

- a) Les niveaux des eaux du lac;
- b) La hauteur et la durée de la pluie dans le bassin du lac et ses environs;
- c) La température de l'air et de l'eau du lac;
- d) L'évaporation;
- e) Les éléments de calcul du coefficient d'écoulement dans le bassin du lac.

Ensuite les deux Délégations ont développé et discuté largement et d'une façon détaillée les propositions citées plus haut et ont abouti aux constatations et conclusions suivantes:

Section B

I. TRAVAUX TOPOGRAPHIQUES

a) Les deux Délégations se sont mises d'accord qu'un repère commun soit installé près d'une pyramide à proximité du lac de Dojran sur la ligne frontière et que sur ce repère soient inscrites deux côtes absolues dont chacune doit être reliée avec le réseau de nivellement de chaque pays.

La Délégation Yougoslave a exprimé l'opinion que chaque pays détermine et communique à l'autre un repère auxiliaire avec sa côte absolue sur son territoire et près du repère commun et qu'ensuite une équipe topographique mixte, partant de ces deux repères auxiliaires, détermine et inscrit sur le repère commun les deux cotes absolues.

A cette proposition, la Délégation Hellénique a répondu que, du moment que chaque pays communiquera à l'autre en toute responsabilité sa cote absolue du repère commun, après l'avoir reliée avec son réseau de nivellement et inscrite sur le repère commun, il est certain que cette cote sera absolument exacte de sorte que le travail proposé par la Délégation Yougoslave n'est pas nécessaire. Cependant, puisque la Délégation Yougoslave insiste sur sa proposition, la Délégation Hellénique s'est chargée d'en référer aux Autorités Compétentes Helléniques.

La Délégation Yougoslave déclare qu'elle n'exprime elle aussi de doute sur l'exactitude des données qui seront échangées entre les deux pays, mais elle considère, eu égard à l'importance de ces données pour les études ultérieures, que le travail commun est indispensable.

b) Les deux Délégations se sont mises d'accord d'élaborer les plans mentionnés au point I b, Section A, du présent Procès-verbal pour qu'ils puissent être utilisés à la construction d'un modèle d'expériences hydrologiques.

La Délégation Yougoslave exprime à ce propos le vœu que les travaux

concernant l'élaboration des plans ci-dessus soient exécutés en commun par une équipe mixte.

La Délégation Hellénique a déclaré qu'elle soumettra ce vœu aux Autorités Helléniques compétentes.

c) La Délégation Yougoslave a proposé en ce qui concerne les travaux mentionnés au point I c, Section A, qu'ils soient exécutés par une équipe commune d'après la méthode des sections du lac perpendiculaires entre elles à l'aide de l'instrument « Echosonde ».

La Délégation Hellénique étant pleinement d'accord que ces sections et plan coté seront utiles et nécessaires et qu'ils seront élaborés, déclare qu'en ce qui concerne la méthode à employer et son application par une équipe mixte, elle consultera le Service Hellénique compétent en la matière en le priant de donner son avis le plus tôt possible, afin que cette question soit résolue au plus vite.

II. ETUDES HYDROLOGIQUES

a) Les deux Délégations sont d'accord que chaque pays installe sur son territoire une station météorologique dans le bassin d'écoulement du lac. Chaque station sera munie des instruments suivants :

- 1) Ombrographe;
- 2) Thermomètre donnant les températures maxima et minima de l'air;
- 3) Thermomètre pour mesurer la température de l'eau du lac;
- 4) Anémomètre.

Les deux Délégations se sont mises d'accord que les Services Helléniques installent un évaporimètre sur le lac et les Services Yougoslaves un héliographe. Les données de ces deux instruments seront échangées par trimestre entre les deux pays.

b) Les deux Délégations sont complètement d'accord d'exécuter le travail cité au point II b, Section A.

c) Les deux Délégations ont affirmé en ce qui concerne le point II c, Section A, que les limnographes ont déjà été installés par chaque pays conformément au paragraphe 3 de l'article III du Procès-verbal du 31 mars 1956.

Sur la proposition de la Délégation Yougoslave que la liaison des limnographes avec le repère commun se fasse en commun par une équipe topographique mixte, la Délégation Hellénique comme exposé précédemment considère que ce travail topographique est simple et peut être exécuté d'une façon très satisfaisante séparément par chaque pays.

A propos de la remarque précédente de la Délégation Hellénique, la Délégation Yougoslave tient à souligner que, quoique le travail en question soit très simple au point de vue technique, elle considère que, vu la grande importance de ce travail, il est nécessaire qu'on le fasse en commun pour qu'on évite des fautes éventuelles dans les données et les conséquences de ces fautes.

d) Les deux Délégations se sont mises d'accord que l'étude du niveau des eaux souterraines est utile et que chaque pays organise et exécute cette étude dans son territoire sur une étendue qui permettra d'obtenir des données suffisantes de l'influence des eaux souterraines sur le niveau du lac et inversement. La composition géologique du terrain et sa configuration

constitueront les meilleurs éléments pour la détermination de l'étendue à étudier.

III. ETUDES PÉDOLOGIQUES

a) Les deux Délégations se sont mises d'accord que chaque pays exécutera les études pédologiques dans son territoire sur les terres cultivables que se trouvent dans le bassin d'écoulement.

En ce qui concerne les terres à irriguer en dehors du bassin d'écoulement, les deux Délégations ont consenti que les études pédologiques en dehors du bassin d'écoulement ne pressent pas pour le moment.

En attendant, il faudrait déterminer exactement le plus tôt possible la quantité de l'eau disponible dans le lac pendant les mois d'été d'autant plus que ces éléments ne sont pas jusqu'à présent déterminés.

b) La Délégation Hellénique est d'accord sur l'utilité des recherches du fond du lac et que chaque pays exécute séparément ces recherches pour autant que le Gouvernement Hellénique s'y accorde en ce qui concerne la partie du lac située dans son territoire. Dans le cas affirmatif, la date d'exécution de ces recherches dépendra de la mise à la disposition du Service compétent Hellénique des crédits nécessaires à cet effet.

La Délégation Yougoslave a déclaré que les Services compétents Yougoslaves sont prêts à commencer les travaux en question en septembre 1957 sur leur territoire.

IV. ETUDES AGRONOMIQUES

a) Les deux Délégations se sont mises d'accord que les recherches visées au point IV a, Section A, se feront par chaque pays sur son territoire.

b) Les deux Délégations se sont mises d'accord que les recherches visées au point IV b, Section A, se feront par chaque pays sur son territoire.

V. ETUDES CONCERNANT LA PÊCHE

Les deux Délégations se sont mises d'accord sur l'utilité des études visées au point V, Section A, à des proportions qu'elles puissent servir à l'élaboration d'un règlement concernant l'exploitation, protection des poissons, détermination des mesures contre les maladies, etc.

Ces recherches seront exécutées séparément par chaque pays dans son territoire.

La Délégation Yougoslave a déclaré, vu que la pêche représente une importance particulière pour la Yougoslavie au point de vue économique, que les recherches en question touchent à la fin du côté yougoslave.

VI. PROTECTION DU LAC CONTRE LES ACCUMULATIONS D'ALLUVIONS

Les deux Délégations se sont mises d'accord que chaque pays élabore dans son territoire les études visées au point VI, Section A.

VII. CADASTRE (DESCRIPTION)

Les deux Délégations se sont mises d'accord que chaque pays exécutera dans son territoire le travail visé au point VII, Section A.

VIII. COORDINATION DES DIFFÉRENTS TRAVAUX

La Délégation Hellénique reconnaît la nécessité et l'opportunité de créer un organe commun et permanent composé des techniciens des deux pays afin de coordonner, faire avancer et poursuivre toutes les démarches et actes nécessaires à la réalisation des décisions prises à chaque cas entre les deux Pays relativement aux problèmes de la meilleure exploitation des eaux du lac de Dojran.

C'est dans cet ordre d'idée que la Délégation Hellénique soumettra à son Gouvernement sa proposition sur la question ci-dessus, en le priant de bien vouloir l'adopter.

La Délégation Yougoslave, étant de même avis sur ce point, a déclaré qu'elle soumettra cette proposition à son Gouvernement avec recommandation de l'adopter.

IX. ECHANGE DES OBSERVATIONS EXISTANTES

Les deux Délégations se sont mises d'accord de proposer à leurs Gouvernements de donner des instructions à leurs Services compétents d'effectuer le plus tôt possible l'échange des observations mentionnées au point IX, Section A, et de continuer cet échange pour les observations futures.

224. ACCORD¹ ENTRE LE ROYAUME DE GRÈCE ET LA RÉPUBLIQUE POPULAIRE FÉDÉRATIVE DE YOUGOSLAVIE RELATIF AUX QUESTIONS DE L'HYDROÉCONOMIE, AVEC ANNEXE CONCERNANT LE STATUT DE LA COMMISSION PERMANENTE GRÉCO-YOUGOSLAVE DE L'HYDROÉCONOMIE ET ÉCHANGE DE NOTES, SIGNÉS À ATHÈNES, LE 18 JUIN 1959²

En vue de développer et de promouvoir leur collaboration dans le domaine de l'hydroéconomie, concernant l'étude et l'exécution des mesures et travaux hydroéconomiques qui présentent de l'intérêt pour les deux Etats, le Gouvernement Royal de Grèce et le Gouvernement de la République Populaire Fédérative de Yougoslavie sont convenus de ce qui suit :

ARTICLE PREMIER. Il est constitué une Commission Permanente gréco-yougoslave de l'hydroéconomie pour l'étude des problèmes et projets hydroéconomiques que les Parties contractantes lui soumettront de commun accord.

Les attributions de la Commission comprennent notamment la coopération dans l'étude des problèmes du Vardar (Axios) en vue du régime futur des eaux du bassin de ce fleuve, l'aménagement des torrents dans la zone frontalière, les problèmes d'amélioration, les problèmes hydroéconomiques des lacs de Doiran et de Prespa, la pêche dans ces deux lacs, l'échange de données hydrométéorologiques ainsi que d'autres problèmes éventuels

¹ Entré en vigueur le 31 mars 1960, 30 jours après l'échange des instruments de ratification, conformément à l'article 8 de l'Accord.

² Nations Unies, *Recueil des Traités*, vol. 363, p. 134.

d'hydroéconomie qui se présenteraient et dont les Etats contractants chargeront de commun accord la Commission Permanente.

La composition, les attributions et la procédure de la Commission Permanente gréco-yougoslave de l'hydroéconomie sont réglées par le Statut annexé au présent Accord et qui en fait partie intégrante.

ARTICLE 2. La Commission Permanente gréco-yougoslave de l'hydroéconomie proposera la répartition des dépenses à faire pour l'exécution des travaux et des mesures à entreprendre dans l'intérêt commun ou dans l'intérêt de l'un des Etats, et la soumettra à l'approbation des deux Gouvernements.

ARTICLE 3. En exécution du présent Accord, les deux Etats contractants s'engagent à s'accorder mutuellement des facilités en ce qui concerne les formalités relatives au passage de la frontière par les membres et experts de la Commission et les fonctionnaires appartenant aux institutions d'hydroéconomie. Les mêmes facilités seront accordées aux employés et ouvriers dont l'engagement aux travaux auxquels se rapporte le présent Accord sera jugé nécessaire.

ARTICLE 4. Les deux Gouvernements s'accorderont mutuellement toutes les facilités nécessaires, y compris la franchise douanière, en ce qui concerne l'exportation, l'importation et la réexportation, s'il y a lieu, du matériel de construction et de l'équipement mécanique, y compris des outils, destinés à la construction des travaux visés à l'article 2.

Les détails concernant les facilités visées au présent article seront fixés, pour chaque cas concret, par un accord entre les deux Etats contractants, sur proposition de la Commission Permanente.

ARTICLE 5. Les autorités locales compétentes des Etats contractants s'aviseront mutuellement, de la façon la plus rapide, de tout danger de hautes eaux, ainsi que de tous autres dangers menaçant le régime des eaux et le fonctionnement des ouvrages hydrotechniques.

ARTICLE 6. Les deux Etats contractants faciliteront l'exécution du présent Accord et les tâches de la Commission Permanente gréco-yougoslave de l'hydroéconomie en tenant compte des droits et intérêts réciproques.

ARTICLE 7. Les deux Gouvernements peuvent convenir par accord préalable de soumettre à l'arbitrage tout différend qui surgirait entre eux à propos de l'application ou de l'interprétation du présent Accord. La décision du Tribunal sera obligatoire pour les Parties.

Pour chaque litige envisagé à l'alinéa précédent, le Tribunal sera formé sur la demande de l'un des Gouvernements contractants. Chaque Gouvernement désignera un membre au Tribunal. Le Tribunal sera présidé par un surarbitre qui ne doit appartenir à aucun des Etats contractants. Le surarbitre sera désigné de commun accord. En cas de désaccord sur la désignation du surarbitre dans le délai de deux mois à partir de la présentation de la demande, ou si les Gouvernements contractants, dans ce délai, ne désignent pas leurs propres arbitres, ils seront désignés par le président de la Cour Suprême de la Confédération Helvétique.

Le Tribunal Arbitral ouvrira la procédure sur la demande de l'un des Gouvernements adressée au Président au plus tard dans un délai de deux mois à partir de la date où cette demande aura été présentée.

Sauf disposition contraire, sera appliquée devant le Tribunal d'Arbitrage la procédure prévue par la Convention de La Haye du 18 octobre 1907 concernant le règlement pacifique des différends internationaux.

ANNEXE

STATUT DE LA COMMISSION PERMANENTE GRÉCO-YOUGOSLAVE DE L'HYDROÉCONOMIE

ARTICLE PREMIER. Aux termes de l'Accord conclu entre le Royaume de Grèce et la République Populaire Fédérative de Yougoslavie, relatif aux questions de l'hydroéconomie d'intérêt commun, il est institué une Commission Permanente gréco-yougoslave de l'hydroéconomie.

ARTICLE 2. La Tâche de la Commission est d'examiner les questions de l'hydroéconomie d'intérêt commun, conformément à l'article premier, alinéa 1, de l'Accord précité.

ARTICLE 3. Les attributions de la Commission sont, dans le cadre de l'article 2 du présent Statut, l'organisation, la coordination, la supervision et le contrôle des projets et travaux d'hydroéconomie qui lui sont confiés, et notamment:

- a) L'examen des informations communiquées par les Etats contractants relatives aux mesures à prendre et aux travaux d'hydroéconomie projetés;
- b) L'élaboration et la soumission de propositions sur les mesures à prendre et les travaux à effectuer y compris leur étude technique et économique;
- c) L'appréciation des projets soumis, tant sur leur efficacité et opportunité, qu'au point de vue technique et économique, ainsi que la consultation sur leur exécution;
- d) Le contrôle et la prise en livraison des travaux communs;
- e) Les opérations de reconnaissance et l'étude des lieux;
- f) L'organisation des échanges d'expériences en matière de l'hydroéconomie et de données hydrométéorologiques;
- g) La soumission de propositions en vue du règlement amical des différends.

La Commission Permanente soumettra aux deux Gouvernements des propositions concernant toute question rentrant dans ses attributions précitées.

Les deux Gouvernements se réservent le droit de traiter directement des questions rentrant dans les attributions de la Commission Permanente.

ARTICLE 4. La Commission est composée de dix membres. Chaque Etat y sera représenté par cinq membres, qui composeront sa délégation auprès de la Commission, avec désignation d'un suppléant pour chaque membre. Chaque Etat contractant pourra également nommer des experts qui prendront part aux travaux de la Commission.

En cas de besoin, la Commission Permanente pourra constituer des sous-commissions composées de ses membres, membres-suppléants ou experts.

ARTICLE 5. La Commission tiendra ses sessions ordinaires une fois par an. Les présidents des délégations peuvent convoquer de commun accord des sessions extraordinaires.

Les sessions auront lieu alternativement à Thessaloniki et à Skopje ou ailleurs, après entente préalable entre les deux Gouvernements.

La session sera convoquée par le président de la délégation de l'Etat contractant, sur le territoire duquel la Commission se réunira en accord avec le président de la délégation de l'autre Etat contractant.

ARTICLE 6. L'ordre du jour des sessions de la Commission Permanente sera fixée par voie diplomatique.

ARTICLE 7. La séance sera présidée par le Président de la délégation de l'Etat contractant sur le territoire duquel aura lieu la session.

Les langues officielles de la Commission seront le grec et le serbo-croate. La Commission peut décider, dans un cas déterminé, l'emploi d'une autre langue.

ARTICLE 8. La Commission prendra ses conclusions sur accord d'au moins trois membres de chaque délégation.

Un procès-verbal, en double exemplaire, sera dressé pour chaque séance et signé par les deux présidents. Les procès verbaux seront soumis aux deux Gouvernements aux fins d'approbation. Les conclusions de la Commission deviendront obligatoires après l'approbation des deux Gouvernements.

En cas d'urgence et si la Commission le juge nécessaire, la délégation de chaque Etat contractant dans la Commission, en attendant la décision des deux Gouvernements, recommandera aux autorités locales compétentes de procéder, dans le cadre de leurs responsabilités et de leur compétence, à des travaux indispensables en vue d'empêcher des dégâts éventuels.

Les procès-verbaux, ainsi que tous documents signés par la Commission Permanente, seront rédigés en langue française ou anglaise.

ARTICLE 9. Les questions sur lesquelles un accord de la Commission, dans le sens de l'article 8 du présent Statut, n'aurait pas été obtenu seront soumises aux Gouvernements des Etats contractants, pour en être décidé de commun accord.

ARTICLE 10. Chaque Etat contractant prendra à sa charge les frais de sa délégation. Les autres frais de la Commission Permanente, sauf accord contraire, seront à la charge des deux Etats contractants, à parts égales.

ARTICLE 11. La Commission rédigera son règlement intérieur dans le cadre du présent Statut.

ÉCHANGE DE NOTES

Athènes, le 18 juin 1959

Monsieur le Ministre,

En signant aujourd'hui l'Accord entre la République Populaire Fédérative de Yougoslavie et le Royaume de Grèce relatif aux questions de l'hydro-économie, j'ai l'honneur de porter à la connaissance de Votre Excellence, que le Gouvernement de la République Populaire Fédérative de Yougoslavie

est prêt à donner les instructions nécessaires à la partie yougoslave de la Commission Permanente de l'Hydroéconomie, dès qu'elle sera constituée, de porter à l'étude de cette Commission la question des eaux de Vardar, en vue de rechercher la possibilité d'une coopération hydroéconomique dans ce domaine.

La Commission Permanente pourra étudier à cette occasion le problème de la répartition des eaux de Vardar ainsi que la question de la participation de l'une des Parties contractantes aux frais des travaux exécutés par l'autre en vue de nouvelles accumulations des eaux de Vardar à utiliser par les deux parties.

Les deux Gouvernements étudieront les propositions de la Commission Permanente en cette matière.

Athènes, le 18 juin 1959

Monsieur le Secrétaire d'Etat,

J'ai l'honneur d'accuser réception de la lettre de Votre Excellence, en date d'aujourd'hui, ainsi conçue:

« En signant aujourd'hui l'Accord entre la République Populaire Fédérative de Yougoslavie et le Royaume de Grèce relatif aux questions de l'hydroéconomie, j'ai l'honneur de porter à la connaissance de Votre Excellence, que le Gouvernement de la République Populaire Fédérative de Yougoslavie est prêt à donner les instructions nécessaires à la partie yougoslave de la Commission Permanente de l'Hydroéconomie, dès qu'elle sera constituée, de porter à l'étude de cette Commission la question des eaux de Vardar, en vue de rechercher la possibilité d'une coopération hydroéconomique dans ce domaine.

« La Commission Permanente pourra étudier à cette occasion le problème de la répartition des eaux de Vardar ainsi que la question de la participation de l'une des Parties contractantes aux frais des travaux exécutés par l'autre en vue de nouvelles accumulations des eaux de Vardar à utiliser par les deux parties.

« Les deux Gouvernements étudieront les propositions de la Commission Permanente en cette matière. »

J'ai l'honneur d'informer Votre Excellence que j'ai pris acte de la lettre précitée.

Holy See-Italy

225. TREATY¹ BETWEEN THE HOLY SEE AND ITALY ESTABLISHING THE VATICAN STATE, SIGNED AT ROME ON 11 FEBRUARY 1929²

. . .

¹ Ratifications exchanged at the Vatican, June 7, 1929.

² *British and Foreign State Papers*, vol. 130, p. 791.

Article 6

Italy shall ensure, by the conclusion of the necessary agreements with the interested bodies, an adequate supply of water to the Vatican City in ownership . . .

. . .

Hungary-Union of Soviet Socialist Republics

226. TREATY¹ BETWEEN THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE GOVERNMENT OF THE HUNGARIAN PEOPLE'S REPUBLIC CONCERNING THE RÉGIME OF THE SOVIET-HUNGARIAN STATE FRONTIER AND FINAL PROTOCOL, SIGNED AT MOSCOW, ON 24 FEBRUARY 1950²

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. . .

CHAPTER II

Regulations governing the use of frontier waters and of railways and highways intersecting the frontier line

ARTICLE 11. 1. All rivers, streams and canals along which the frontier line runs shall be deemed to be frontier waters.

2. Each Contracting Party shall take appropriate steps to ensure that in the use of frontier waters the provisions of this Treaty are observed and the relevant rights and interests of the other Contracting Party are respected.

. . .

ARTICLE 14. 1. The Contracting Parties shall ensure that the frontier waters are kept in proper order. They shall also take steps to prevent deliberate damage to the banks of frontier rivers.

2. Where one Contracting Party occasions material damage to the other Contracting Party by failing to comply with the provisions of paragraph 1 of this article, compensation for such damage shall be paid by the Party responsible therefor.

¹ The exchange of the instruments of ratification took place at Budapest on 22 June 1950.

² *Treaties, Agreements and Conventions in force, concluded by the USSR with foreign countries.* (Published by the Ministry for Foreign Affairs of the USSR.) Vol. XIV, p. 29. (Translated from Russian by the Secretariat of the United Nations.)

3. The position and direction of frontier watercourses shall so far as possible be preserved unchanged. To that end, the competent authorities of the Contracting Parties shall jointly take the necessary steps to remove such obstacles as may cause changes in the beds of frontier rivers, streams or canals, or impede the natural flow of water along them. Where any necessary joint works are undertaken in this connexion, the competent authorities of both Parties shall make arrangements for carrying out the works, and the expenses involved shall be divided equally between the two Contracting Parties, unless a special agreement is concluded on the matter.

4. In order to prevent changes in the beds of frontier rivers, streams or canals, their banks must be strengthened wherever the competent authorities of the Contracting Parties jointly consider it necessary. These works shall be executed and the relevant expenses defrayed by the Party to which the bank belongs.

5. Should the bed of a frontier river, stream or canal be changed as a result of natural phenomena, the Contracting Parties shall be bound jointly and on equal terms to correct the bed, if this is deemed necessary by their competent authorities. The works shall be executed by mixed commissions set up by the Contracting Parties, which shall make arrangements for carrying out the works, engaging labour, purchasing the necessary materials and defraying the expenses.

ARTICLE 15. 1. The natural flow of water in frontier watercourses and in adjacent areas inundated in time of flood may not be altered or obstructed to the detriment of the other Party by the erection or reconstruction of installations or structures in the water or on the banks.

2. The competent authorities of the Contracting Parties shall agree on arrangements for regulating the discharge of water into, and the removal of water from, frontier waters, and on all other questions relating to frontier waters.

ARTICLE 16. 1. Frontier watercourses shall be cleaned out in sectors where such work is jointly considered essential by the competent authorities of the Contracting Parties. The cost of cleaning in such cases shall be divided equally between the two Contracting Parties.

2. The cleaning of frontier waters in sectors situated wholly in the territory of one of the Contracting Parties shall be carried out by that Party at its own expense as need arises.

3. In cleaning out frontier waters, earth and stones removed shall be thrown out to such a distance from the bank, and levelled down in such a way, as to avoid any danger of subsidence of the banks or choking up of the river bed and to prevent the flow of water from being obstructed in time of flood.

ARTICLE 17. The competent authorities of the Contracting Parties shall take steps to maintain the frontier waters in such due state of cleanliness as to prevent the waters from being poisoned or polluted by acids or refuse from factories or industrial establishments, or from being fouled by any other means.

ARTICLE 18. 1. Existing bridges, dams, sluices, dikes and similar installations on frontier watercourses shall be preserved and may be used, with the exception of those whose demolition is considered necessary by the competent authorities of the two Contracting Parties.

2. If it becomes necessary to re-equip or demolish any of the installations referred to in paragraph 1 of this article in such a way as to cause a change in the level of the water in the territory of one of the Contracting Parties, the works in question may be undertaken only after the consent of that Party has been obtained.

3. No new bridges, dams, sluices, dikes or other hydraulic installations may be erected or used on frontier watercourses except by agreement between the Contracting Parties.

ARTICLE 19. The competent authorities of the Contracting Parties shall exchange information concerning the level of rivers with which the Contracting Parties are concerned, and concerning ice conditions in such rivers, if this information may help to avert danger from floods or from drifting ice. The said authorities shall also agree upon a regular system of signals to be used during periods of high water or drifting ice. Delay in communicating, or failure to communicate, such information shall not constitute ground for a claim to compensation for damage caused by flooding or drifting ice.

ARTICLE 20. 1. Timber-floating may be freely carried out by both Contracting Parties throughout the whole length of the frontier watercourses, including places where both banks belong to only one of the Parties.

2. The dates and sequence of operations for launching and floating timber in accordance with paragraph 1 of this article shall be determined each year by the competent authorities of the two Contracting Parties in good time, and in any case not later than two months before navigation opens on the frontier watercourses. Each Contracting Party shall notify the other Party of the date of commencement of floating operations not less than five days in advance.

ARTICLE 21. 1. In order to ensure that timber-floating operations proceed smoothly, the competent authorities of the two Contracting Parties may by agreement, in accordance with article 32, paragraph (b), of this Treaty, permit workmen to land and move about on their respective banks in order to construct temporary floating installations for timber launching and to clear the bank of floating timber.

2. Details concerning the number of workmen requiring access to the bank in question in order to carry out the work referred to in paragraph 1 of this article and concerning the place and time of landing shall be agreed upon by the competent authorities of the Contracting Parties in good time, that is, not later than five days before the work begins.

3. Timber belonging to either Contracting Party which is floated down frontier watercourses shall not be subject to any customs duties or other charges.

ARTICLE 22. 1. All floating timber must be marked; for this purpose the Contracting Parties shall by agreement establish and exchange specimen markings in advance.

2. Where the floated timber is peeled, the bark removed must not be deposited in the basins of frontier watercourses.

. . .

CHAPTER III

Fishing, Hunting, Forestry and Mining

ARTICLE 25. 1. Residents of each Contracting Party may fish in frontier waters up to the frontier line in accordance with the regulations in force in their territory, but shall be prohibited:

(a) From using explosive, poisonous or narcotic substances which cause the mass destruction and mutilation of fish;

(b) From fishing in frontier waters at night.

2. Measures relating to the conservation and breeding of fish in frontier waters, the prohibition of the taking of particular species of fish in certain sectors and the dates of fishing seasons and other measures of an economic nature relating to fishing, may be authorized by special agreements between the Contracting Parties.

. . .

FINAL PROTOCOL

On concluding the Treaty between the Government of the Union of Soviet Socialist Republics and the Government of the Hungarian People's Republic concerning the régime of the Soviet-Hungarian State frontier, the undersigned plenipotentiaries of the Contracting Parties have adopted the following provisions, which form an integral part of the Treaty.

. . .

Ad article 11 of the Treaty

The term "frontier waters" means rivers, streams and canals within the limits of the sectors along which the frontier line runs.

Ad articles 12, 13, 14, 15, 16 and 17 of the Treaty

Special agreements may be concluded on questions relating to the regulations governing the use and maintenance of frontier waters.

. . .

Ad articles 14, 15, 16 and 18 of the Treaty

The term "frontier watercourses" means sections of rivers, streams and canals along which the frontier line runs.

. . .

Ad articles 19, 20, 21 and 22 of the Treaty

Special agreements may be concluded on the exchange of information concerning the level of rivers with which the Contracting Parties are concerned and concerning ice conditions in such rivers, and on questions relating to timber floating on frontier watercourses.

. . . .

Ad article 24 of the Treaty

At the frontier redemarcation carried out in 1948-1949 it was agreed that the frontier line divided bridges medially, regardless of the course of the frontier line in the water.

. . . .

227. CONVENTION¹ BETWEEN THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE GOVERNMENT OF THE HUNGARIAN PEOPLE'S REPUBLIC CONCERNING MEASURES TO PREVENT FLOODS AND TO REGULATE THE WATER RÉGIME ON THE SOVIET-HUNGARIAN FRONTIER IN THE AREA OF THE FRONTIER RIVER TISZA. SIGNED AT UZHGOROD, ON 9 JUNE 1950²

The Government of the Union of Soviet Socialist Republics and the Government of the Hungarian People's Republic, desiring to prevent floods and to ensure proper regulation of the water regime of the Tisza river basin in the Soviet-Hungarian frontier area, have decided to conclude a Convention concerning joint measures to prevent floods and to regulate the water régime and have for these purposes appointed as their plenipotentiaries the undersigned who, having exchanged their full powers, found in good and due form, have agreed as follows:

Article 1

Each Contracting Party pledges itself not to undertake any unilateral activity in the water systems of the Tisza river basin along the Soviet-Hungarian frontier in connexion with the erection or removal of hydraulic installations or to carry out any other measures connected with these water systems which might under the existing drainage conditions adversely affect the floodwater area of the other Contracting Party.

Article 2

The Contracting Parties undertake to carry out works for the purpose of regulating the water systems of the Tisza river basin along the Soviet-

¹ Entered into force on the date of its signature, according to article 15 of the Convention.

² *Treaties, Agreements and Conventions in force, concluded by the USSR with foreign countries.* (Published by the Ministry for Foreign Affairs of the USSR.) Vol. XIV, p. 71. (Translated from Russian by the Secretariat of the United Nations.)

Hungarian frontier, and to develop the existing hydraulic installations and construct new ones in order to protect their territories against floods. The works shall be carried out by each Contracting Party in its own territory. The extent and nature of the works shall be determined by agreement between the Parties.

Article 3

All planning and survey work necessary for the execution of the measures provided for in articles 2 of this Convention shall be carried out by each Party in its own territory, with its own staff and materials and in accordance with programmes agreed between the Contracting Parties.

Article 4

All expenses connected with the planning, survey and construction works provided for in articles 2 and 3 of this Convention shall be borne by the Parties in their respective territories.

Article 5

All the hydraulic works referred to in article 2 of this Convention must be completed within such time-limits as shall be determined by agreement between the Parties.

Article 6

The Contracting Parties undertake to exchange all data in their possession which are necessary for technical planning and for carrying out survey work.

Article 7

The Contracting Parties pledge themselves to maintain the operation of the water control system (of rivers, canals, and hydraulic installations) in good order. With a view to the execution of the necessary measures and, in particular, to the prevention of floods and the prompt execution of repairs during periods of high water, the Contracting Parties undertake to keep in readiness, in adequate quantity and in good condition, the materials and tools required for protection purposes.

The cost of operating the installations referred to in this article and of maintaining them in good working order shall be borne by the State in whose territory the said installations have been or are to be constructed.

Article 8

Should either Contracting Party wish to entrust to the other Party the execution of the works referred to in articles 2 and 3 of this Convention, the commission shall be registered in official form, the other Contracting Party's consent having been obtained, through the signature of a protocol concerning the execution and cost of the works and the procedure for the reimbursement of expenses.

The Parties shall not entrust the execution of the said works to any third State.

Article 9

On the execution of the measures referred to in article 8 of this Convention, construction materials, tools and equipment imported from the territory of one Contracting Party into the territory of the other shall be exempt from duties, fees and other taxes. On completion of the work, the tools and equipment must be returned.

Article 10

With a view to the discharge of the functions specified in article 11 of this Convention, each Party shall appoint, not later than thirty days after the signature of the Convention, one Commissioner and two Deputy Commissioners; the Commissioners shall be entitled to call in experts as necessary.

Article 11

The functions of the Commissioners shall *inter alia* be:

(a) To co-ordinate the works referred to in articles 2 and 3 of this Convention;

(b) To inspect periodically the condition of protective dikes and other hydraulic installations on both banks of rivers and canals throughout the course of the Soviet-Hungarian frontier; where an inspection of the said installations is to be carried out by representatives of one Party in the territory of the other, the competent authorities of the latter Party must be notified of such inspection, which must be carried out in the presence of its competent authorities, not later than forty-eight hours in advance, with an indication of the time at which it is to begin, and must be informed on completion of the inspection of its results;

(c) To elaborate specific measures in matters relating to joint protection against floods;

(d) To co-ordinate and agree plans of works for the following year;

(e) To agree on all other matters arising out of the execution of this Convention.

Article 12

The results of negotiations between the Commissioners and Deputy-Commissioners on the matters referred to in articles 2, 3 and 11 of this Convention shall be recorded in bilateral protocols which shall be signed by the Commissioners of both Contracting Parties or, in the absence of the Commissioners, by their Deputies.

The decisions recorded in such protocols shall be submitted to the competent authorities of each Party for confirmation.

Save as may be otherwise agreed, the Commissioners shall meet as necessary, in the territory of each Contracting Party alternately.

Article 13

The Contracting Parties shall notify each other of the competent authorities responsible for giving effect to this Convention. The said authorities, as also the Commissioners of the two Parties for matters relating to this

Convention, may correspond with each other directly in the languages of the Contracting Parties.

Article 14

Commissioners, Deputy-Commissioners, experts called in by them and technical personnel shall cross the frontier in accordance with the following arrangements:

The Commissioner of the Union of Soviet Socialist Republics, his Deputies, experts and technical staff: on presentation of a special certificate signed by the Minister for Agriculture of the Union of Soviet Socialist Republics and visaed by the frontier authorities of the Union of Soviet Socialist Republics and the Hungarian People's Republic; the Commissioner of the Hungarian People's Republic, his Deputies, experts and technical staff: on presentation of a special certificate signed by the Minister for Transport and Communications of the Hungarian People's Republic and visaed by the frontier authorities of the Hungarian People's Republic and the Union of Soviet Socialist Republics.

The certificates shall be drawn up in the Russian and Hungarian languages in accordance with the models shown in annexes Nos. I and II.

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Hungary-Yugoslavia

228. AGREEMENT BETWEEN THE GOVERNMENT OF THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA AND THE GOVERNMENT OF THE HUNGARIAN PEOPLE'S REPUBLIC TOGETHER WITH THE STATUTE OF THE YUGOSLAV-HUNGARIAN WATER ECONOMY COMMISSION, SIGNED AT BELGRADE ON 8 AUGUST 1955¹

The Government of the Federal People's Republic of Yugoslavia and the Government of the Hungarian People's Republic, in order to settle questions of water economy on watercourses which form the State frontier and watercourses and water systems intersected by the State frontier, have decided to conclude an Agreement . . .

Article 1

(1) The Contracting Parties undertake, pursuant to the provisions of this Agreement, to examine and resolve by agreement all questions of water economy, including measures and works which may affect the quantity and quality of the water and which are of interest to both or either of the Contracting Parties, having due regard to the maintenance of a common policy in water economy relations and recognizing the rights and obligations arising out of such policy.

¹ *Federativne Narodne Republike Jugoslavije, Medunarodni Ugovori*, 1957, No. 63, p. 43. (Translated from the Serbo-Croat by the Secretariat of the United Nations.)

(2) The provisions of this Agreement shall, in so far as the Contracting Parties are interested in accordance with paragraph (1) of this article, apply to all water economy questions, measures and works on watercourses which form the State frontier and watercourses and water systems intersected by the State frontier, and in particular to:

- (a) The regulation and canalization of watercourses and the maintenance of the beds;
- (b) Drainage and similar measures;
- (c) Protection against flooding and ice;
- (d) Storage and retention works;
- (e) Water supply and pipe-laying;
- (f) Protection of the waters against pollution;
- (g) Questions of ground water;
- (h) The utilization of water power;
- (i) Protection against soil erosion;
- (j) The utilization of water in agriculture;
- (k) Hydrological studies, the preparation of projects and the execution of works;
- (l) The apportionment of the costs of survey, planning and construction works, and of operation and maintenance;
- (m) The exchange of data and plans and of information on the above questions;
- (n) The exchange of data on water levels.

(3) The expression "water system" shall mean, in this Agreement, all watercourses (surface or underground, natural or artificial), installations, measures and works which may affect watercourses from the standpoint of water economy, and installations forming or intersected by the State frontier.

(4) The expression "water economy" shall mean, in this Agreement, everything covered by the sense of the French expression "*régime des eaux*".

Article 2

The Contracting Parties undertake:

(1) Each in its own territory and jointly in the case of watercourses which form the State frontier and watercourses and water systems intersected by the State frontier, to maintain in good condition the beds of watercourses and all installations;

(2) To effect the co-ordinated management and operation of installations and structures, having due regard to the interests of both Parties;

(3) By agreement, to modify existing installations or to erect new installations and to initiate new works and measures in the territory of either Contracting Party for the purpose of changing the water economy relations on watercourses which form the State frontier and watercourses and water systems intersected by the State frontier.

Article 3

(1) Where both or either of the Contracting Parties participate in the maintenance and operation of existing structures and installations and in the planning, erection, maintenance and operation of new structures and installations in the interests of both Parties, the question of the apportionment of expenses and of the method of payment shall be settled by agreement between the Contracting Parties.

(2) The entire cost of erecting and maintaining installations and structures, and of carrying out operations, measures and works, in the territory of one Contracting Party for the sole benefit of the other Contracting Party shall be borne by the interested Party.

Article 4

(1) Questions arising out of the provisions of this Agreement, and measures and works undertaken pursuant thereto, shall fall within the competence of the Yugoslav-Hungarian Water Economy Commission (hereinafter referred to as the Commission) which shall be established for this purpose. The composition, terms of reference and procedure of the Commission shall be as laid down in the Statute, which shall constitute an integral part of this Agreement.

(2) The Commission shall draw up joint regulations for protection against flooding and ice and such other regulations as may be necessary. The regulations so adopted shall be approved by the Governments of the Contracting Parties before their entry into force.¹

Article 5

(1) The necessary construction materials, fuel and gear for the execution of works under this Agreement, which are transferred from the territory of one Contracting Party to the territory of the other Contracting Party, shall be exempt from all import and export taxes and from all import and export restrictions.

(2) Pursuant to paragraph (1) of this article, the necessary equipment (machinery, vehicles, tools and the like) shall be provisionally exempt from taxes provided that the articles concerned are declared to the customs authorities for identification and are returned within the time-limit laid down by the customs authority. The deposit of security for this purpose shall not be required. The appropriate taxes shall be payable in respect of any articles not returned within the prescribed time-limit. Any such article which is completely worn out and thus rendered unusable, and which consequently cannot be returned, shall be exempted from taxes.

¹ Pursuant to this article of the Agreement, the "Yugoslav-Hungarian Water Economy Commission", at its second session, held in Belgrade from 17 to 25 January 1958, adopted the "Regulations for flood and ice control on sectors of water courses of common interest (the Mura, Drava, Danube, Tisa and Maros Rivers)" [*Federativne Narodne Republike Jugoslavije, Medunarodni Ugovori*, 1958, No. 11, p. 50].

(3) The two Contracting Parties guarantee to facilitate for each other the customs procedure for the transit of construction materials, fuel, and gear for the execution of works, which are exempt from taxes.

(4) Construction materials, fuel, gear for the execution of works, equipment and articles shall be subject to customs supervision and inspection by the Contracting Parties.

(5) The Commission shall determine in each individual case the extent, and the conditions for the enjoyment, of the privileges provided for in this article of the Agreement.

Article 6

The Contracting Parties undertake, each in its own territory, to preserve and maintain and, where necessary, to augment or renew, such permanent benchmarks and datum marks along the frontier as are necessary for the purpose of works on the waters. Both Contracting Parties may use these marks. If it is necessary to cross the State frontier in order to use the said marks, the provisions of article 7 of this Agreement shall apply.

Article 7

For the purpose of applying and giving effect to the provisions of this Agreement, the members of the Commission and the heads of the frontier water economy services of the Contracting Parties shall be supplied with official passports and official visas.

For the purpose of deciding upon joint measures or of carrying out joint works, such persons as either Contracting Party may designate shall meet at the State frontier at a place and time to be determined in each specific case by agreement between the competent local authorities of the Contracting Parties.

The persons referred to in the preceding paragraph shall be supplied with special passes issued by the competent authorities of the Contracting Parties and endorsed for passage across the frontier by the competent local authorities of the Contracting Party into whose territory the crossing is made.

Detailed provisions for the issue of special passes for crossing the State frontier shall be drawn up by the Commission and submitted to the two Governments for approval.¹

Article 8

The local authorities of the Contracting Parties shall advise each other, by the quickest possible means, of any danger from high water or ice and of any other danger which may arise on watercourses which form the State frontier and watercourses and water systems intersected by the State frontier.

¹ Pursuant to this article of the Agreement, the "Yugoslav-Hungarian Water Economy Commission" at its first session, held in Budapest from 18 to 26 January 1957, adopted the "Regulations concerning the special frontier pass for Yugoslav and Hungarian water economy experts" [*Federativne Narodne Republike Jugoslavije, Medunarodni Ugovori*, 1957, No. 74, p. 68].

Article 9

Questions on which the Commission fails to reach agreement shall be submitted by the Commission to the Governments of the Contracting Parties for decision.

Article 10

Any dispute between the Contracting Parties relating to the application and interpretation of this Agreement shall, unless the two Parties to the dispute agree upon some other mode of settlement, be submitted at the request of either Contracting Party to a commission composed of two representatives of each Party. If this commission fails to reach agreement, the dispute shall be settled directly by the Governments of the two Contracting Parties.

STATUTE OF THE YUGOSLAV-HUNGARIAN WATER ECONOMY
COMMISSION

Article 1

The functions and terms of reference of the Commission shall comprise all matters placed within its competence by the Agreement concerning water economy questions concluded between the Government of the Federal People's Republic of Yugoslavia and the Government of the Hungarian People's Republic.

Under its terms of reference, it shall be the Commission's task, in particular:

- (1) To submit proposals concerning measures and works of interest to the Contracting Parties and their study from the technical and economic standpoints;
- (2) To submit proposals for the investigation of problems *in situ*, the organization of topographical surveys, studies and research operations, and the preparation of projects;
- (3) To make a technical evaluation of projects submitted and to submit to the Governments of the Contracting Parties proposals for the execution of joint works or works of joint interest;
- (4) To examine and submit proposals concerning the execution of joint water economy works, structures and installations, the conditions for and method of executing the same, and the apportionment of expenses; to organize control over the completion and acceptance of jointly executed works;
- (5) To ensure compliance with decisions; to organize technical supervision of measures and works in progress which are of joint interest;
- (6) To study questions relating to joint protection against flooding and ice and means of averting other dangers, and to draft joint regulations on the subject;

(7) To submit proposals for the exchange of practical experience in the field of water economy, for the exchange of hydrological and hydrometeorological data, and for the operation of the information service established to transmit particulars of the water level, ice and so forth;

(8) To ensure co-operation between the water economy services of both sides in the territory of the two Contracting Parties in the interest of maintaining a common policy in water economy relations and generally in the spirit of the provisions of the Agreement concerning water economy questions concluded between the Government of the Federal People's Republic of Yugoslavia and the Government of the Hungarian People's Republic.

(9) To submit proposals for the management of sluices and the operation of installations of joint interest.

Article 2

The Governments of the Contracting Parties reserve the right to deal directly with questions within the competence of the Commission.

Article 3

The Commission shall consist of ten (10) members. Each Contracting Party shall appoint five (5) members of the Commission and each member may have an alternate. The Contracting Parties may likewise designate experts to take part in the Commission's work. Each Contracting Party shall appoint one of its own members of the Commission as Chairman of its delegation. The Commission may if necessary set up sub-commissions composed of its members, their alternates and experts.

Article 4

The Commission shall meet in regular session twice a year. In addition, the Chairmen of the delegations may convene special sessions by agreement. Regular sessions shall be held alternately in the territory of each Contracting Party. Each session shall be convened by the Chairman of the delegation of the Contracting Party in whose territory the Commission meets, in agreement with the Chairman of the delegation of the other Party.

Article 5

The Contracting Parties shall propose agenda items through the Chairmen of their respective delegations.

The final agenda shall be confirmed by agreement between the Chairmen of the delegations.

Article 6

While the Commission is in session, the Chairmen of the delegations shall preside alternately.

The official languages of the Commission shall be Serbo-Croat or Slovene and Hungarian.

In addition the Commission may decide to examine individual questions in another language.

Article 7

The Commission shall reach its decisions by agreement between the Chairmen of the two delegations.

If the Chairmen of the delegations fail to arrive at an agreed decision, the delegations shall submit the question in dispute to their Governments for settlement.

A record of each meeting shall be drawn up in two copies, each in both the official languages. The record shall be signed by both Chairmen. The delegations shall submit the record to their respective Governments for approval.

Article 8

No decision of the Commission may be put into effect if either Government raises an objection. If no objection to a decision is raised by either Government within forty-five (45) days after the date of signature of the record, the decision shall be regarded as approved by both Governments.

Article 9

Each Contracting Party shall defray the expenses of its own delegation. Other expenses connected with the Commission's work shall, unless it is decided otherwise, be borne equally by the two Contracting Parties.

Article 10

In conformity with the Agreement and this Statute, the Commission shall prescribe its own rules of procedure.

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229. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA AND THE GOVERNMENT OF THE HUNGARIAN PEOPLE'S REPUBLIC CONCERNING FISHING IN FRONTIER WATERS, SIGNED AT BELGRADE ON 25 MAY 1957²

The Government of the Federal People's Republic of Yugoslavia and the Government of the Hungarian People's Republic, with a view to regulating fishing in their frontier waters, have agreed as follows:

Article 1

The Contracting Parties shall permit the exercise of fishing rights in conformity with their regulations in frontier waters within their respective territories.

¹ This Agreement entered into force on 24 December 1957, in accordance with article 12; i.e., on the date of the exchange of notes by both Governments signifying their approval.

² *Federativne Narodne Republike Jugoslavije, Medunarodni Ugovori*, 1958, N^o. 4, p. 60. (Translated from Serbo-Croat by the Secretariat of the United Nations.)

Article 2

For the purposes of this Agreement "frontier waters" means:

All flowing or standing waters forming the boundary line.

The terms "fish" and "fishing" shall also include all other useful aquatic wildlife and the capture and propagation thereof.

Article 3

The Contracting Parties shall take all the necessary steps to ensure the conservation, development and proper utilization of aquatic wildlife in the frontier waters.

Article 4

The Contracting Parties undertake to regulate the question of closed seasons and the minimum sizes of fish and other useful aquatic wildlife in their frontier waters as follows:

<i>Fish</i>	<i>Minimum size</i>	<i>Closed season</i>
Carp (<i>Cyprinus carpio</i>)	25 cm	1 May to 15 June
Perch (<i>Lucioperca lucioperca</i>)	30 cm	15 March to 30 April
Sturgeon (<i>Acipenser ruthenus</i>)	40 cm	1 April to 31 May
Huchen (<i>Salmo hucho</i>)	70 cm	15 February to 30 April
Sheath-fish (<i>Silurus glanis</i>)	50 cm	No closed season
Crayfish (<i>Astacus fluviatilis</i> and <i>Astacus leptodactylus</i>)	9 cm	15 November to 15 May
Mussels (<i>Unio pictorium</i>)	8 cm	No closed season

Fish shall be measured from the tip of the head to the tip of the tail and crayfish from the eyes to the end of the extended tail.

The above-mentioned closed seasons and minimum sizes may be changed by decision of the competent authorities of the Contracting Parties.

Article 5

It shall be prohibited to ret flax and hemp in the frontier waters and to discharge untreated waste waters and other substances harmful to aquatic wildlife, irrespective of the manner in which and the distance from which such substances reach the frontier waters. A Contracting Party failing to respect this provision shall make compensation for any damage caused.

Article 6

1. In addition to traditional fishing equipment, persons fishing in frontier waters may also use electrical devices, provided that the electric current does not destroy the fish.

2. The use for fishing in frontier waters of chemical substances which drug or destroy fish, as well as of firearms, explosives or pointed instruments and the use of nets with a mesh of less than 25 mm, measured between knots when wet, shall be prohibited.

3. The use of any fixed or movable fishing equipment longer than half the width of the main current of the frontier waters, so designed as to prevent

the free movement of the fish, shall be prohibited. A number of devices may be used simultaneously provided that their length does not exceed half the width of the river and that they are placed at least 50 metres apart along the current of the frontier waters in question.

Article 7

1. A permanent Mixed Yugoslav-Hungarian Commission (hereinafter referred to as the Mixed Commission) of six members, comprising three members from each Party, shall be set up for the application and interpretation of this Agreement. The Mixed Commission shall meet whenever required.

2. Minor disputes concerning fishing in frontier waters shall be settled by the local representatives of the competent authorities of the Contracting Parties.

3. The powers and functions of the permanent Mixed Commission and of the representatives of the local authorities shall be established at the first meeting of the Mixed Commission by regulatory order.

4. The names of the members appointed to the Mixed Commission shall be communicated by the Contracting Parties through the diplomatic channel.

Article 8

1. The Contracting Parties shall divide the frontier waters into districts. The district lines shall be established by the competent authorities of the Contracting Parties. The Contracting Parties shall also determine by agreement the districts in which fishing shall be permitted from bank to bank.

The competent authorities of the Contracting Parties shall issue to persons who have the right to fish in frontier waters an appropriate permit, in the languages of the Contracting Parties, containing the holder's photograph. The permit shall also designate the fishing district in which the permit holder is entitled to fish. Particulars relating to the issue of fishing permits shall be laid down by the Mixed Commission.

3. Persons from either Contracting Party who are entitled to fish may land in the territory of the other Contracting Party only in the case of damage to their craft or physical danger.

Article 9

Scientific and other institutions of the Contracting Parties concerned with fishing shall exchange experience and information regarding the results of their research work.

Article 10

The competent authorities of the Contracting Parties shall prepare a long-term plan for the development and the rational utilization of aquatic wildlife in the frontier waters.

The Contracting Parties shall co-ordinate these plans through the Mixed Commission.

Article 11

The Contracting Parties shall communicate to one another their rules and regulations pertaining to fishing and shall on request also provide further particulars and certified copies of the said rules and regulations.

Italy-Switzerland

230. CONVENTION¹ ENTRE LA SUISSE ET L'ITALIE ARRÊTANT DES DISPOSITIONS UNIFORMES SUR LA PÊCHE DANS LES EAUX LIMITOPHES, CONCLUE À LUGANO, LE 13 JUIN 1906²

LE CONSEIL FÉDÉRAL DE LA CONFÉDÉRATION SUISSE ET SA MAJESTÉ LE ROI D'ITALIE, dans le but de régler par des dispositions uniformes l'exercice de la pêche dans les eaux communes à la Suisse et à l'Italie et de protéger la conservation et la multiplication des espèces de poissons importantes pour l'alimentation, se sont accordés pour conclure une convention spéciale . . .

Article premier

Font l'objet de la présente convention : le lac Majeur et le lac de Lugano, ainsi que les eaux des rivières Doveria, Mellezza, Giona, Tresa, Breggia, Maira, Poschiavino et Spöl, alors même qu'elles seraient soumises à des droits de pêche privés.

Les dispositions de la présente convention sont également applicables aux eaux privées et aux eaux publiques en communication immédiate avec les eaux susindiquées, même lorsque ces eaux publiques sont soumises à un droit exclusif de pêche.³

Article 2

Les deux Etats s'obligent à prendre pour les eaux qui se jettent dans les deux lacs ou qui en sortent toutes les dispositions qu'exigent la libre circulation des poissons et, d'une manière générale, l'intérêt de la pêche.

Article 3

Il est interdit d'employer pour la pêche dans les cours d'eau, ainsi qu'à leur embouchure dans les lacs et à leur sortie de ceux-ci, des appareils fixes ou mobiles (filets, barrages et autres) qui empêcheraient la circulation

¹ Entrée en vigueur le 1^{er} février 1907. La présente Convention a été partiellement modifiée par l'acte additionnel du 8 février 1911. Les instruments de ratification de cet acte additionnel ont été échangés le 21 mars 1911 et il est entré en vigueur le 1^{er} mai 1911. On a tenu compte desdites modifications dans le présent texte.

² Confédération suisse, Chancellerie fédérale, *Recueil systématique des lois et ordonnances 1848-1947*, 14^e volume, p. 262.

³ Nouvelle teneur de cet alinéa selon l'acte additionnel du 8 février 1911. Voir la note au titre.

du poisson sur plus de la moitié de la largeur du cours d'eau, mesurée à angle droit du rivage.

La distance entre deux de ces appareils fixes ou mobiles, employés simultanément sur la même rive ou sur les deux rives opposées, ne pourra être inférieure au double du développement du plus grand de ces appareils.

Ces règles seront aussi appliquées au détroit de Lavena. Les commissaires détermineront les limites de ce détroit.

Article 4

Il est défendu d'exercer la pêche au moyen de caisses (*casse*) pour les truites, de bertavelles à branchage (*bertovelli a frascate*) pour les perches.

Article 5

Il est interdit d'ajuster ou de placer dans les eaux des filets et autres engins de pêche à une distance moindre de 30 à 50 mètres des échellés à poisson, des grilles de machines hydrauliques, des orifices et débouchés de canaux, des barrages, des écluses ou vannes, chutes et cataractes, ainsi que des arches du pont de Melide et du détroit de Lavena.

Les commissaires fixeront d'un commun accord les distances à observer pour chaque cours d'eau.

Article 6

Il est défendu en tout temps d'occuper, dans un but de pêche, le fond de la rive, la rive et le bord submergé des lacs, ainsi que de construire sur les rives des murs, des amas de pierres (*smozzi*), des digues de gravier (*ghiaroli*) et autres obstacles.

Il est également défendu de placer sur le bord submergé des lacs des engins de pêche ou des appareils fixes, excepté toutefois les bertavelles lâches et les bertavelles sans branchage (*bertovelli liberi et senza frascate*). Sont en outre exceptés les nasses et les bertavelles volantes sans branchage (*bertovelli volanti senza frascate*), les amas de bois et les fascinages sans usage de la chaux. En ce qui concerne le temps de leur emploi et les mailles des filets, des arrangements seront pris en conformité de l'article 8.

Article 7

Il est interdit de pêcher dans les deux lacs à l'embouchure et à la sortie des cours d'eau, dans un rayon égal à la moitié de la largeur du cours d'eau mesurée lors du niveau moyen des eaux et augmenté de 50 à 100 mètres suivant l'importance du cours d'eau.

Les limites du cercle d'interdiction seront signalées à l'aide de bouées ou de toute autre manière convenable.

En ce qui concerne les cas non prévus aux articles 5 et 7, où il paraît nécessaire d'instituer des zones d'interdiction ou de déterminer les distances à observer pour la pêche, ces zones et ces distances seront fixées par les commissaires des deux Etats.

Article 8

Les deux Etats publieront d'un commun accord une description des engins permis pour la pêche dans les deux lacs et leurs affluents. Cette liste

pourra, si c'est nécessaire, être modifiée d'un commun accord, sans qu'il soit besoin de reviser la présente convention.

Article 9

Il n'est permis d'employer que des filets contrôlés par l'autorité compétente et munis de marques de contrôle.

Ces marques de contrôle doivent être établies d'un commun accord par les deux États.

La visite générale des filets aura lieu au printemps, mais les agents publics ont la faculté de les contrôler, s'il est besoin, en tout autre temps.

Article 10

Il est défendu d'agiter le fond des eaux et d'arracher, avec n'importe quel instrument, les plantes aquatiques (*erbe*), ainsi que de toucher aux pierres recouvertes de frai.

La pêche au harpon (*fiocina*) est interdite du 15 septembre au 15 janvier, chacun des deux États contractants restant libre toutefois, dans les limites de son territoire, de prolonger la durée de cette interdiction et même de prononcer l'interdiction absolue.¹

Article 11

Les engins et filets dont l'usage est interdit doivent être confisqués, sans distinction de temps ou de lieu, et détruits une fois le jugement devenu définitif.

Article 12

Il est interdit de se servir pour la pêche de toutes matières étourdissantes, étouffantes, corrosives ou vénéneuses, telles que la noix vomique, la coque du Levant, la chaux, le phosphore, le noir de fumée, la suie et autres matières analogues, ainsi que de toutes matières explosibles, comme la dynamite, le fulmicoton, etc.

Sur les eaux que concerne la présente convention, ainsi que sur leurs rives et sur les embarcations il est interdit de détenir de la dynamite ou aucune autre des matières susmentionnées, à moins qu'il ne puisse être prouvé qu'elles ne sont pas destinées à la pêche.

Il est également interdit de recueillir et de vendre les poissons tués ou étourdis par les moyens susindiqués.

S'il n'est pas possible de découvrir la personne qui se sera servie des matières énumérées ci-dessus, celui qui sera surpris à recueillir des poissons tués ou étourdis par leur emploi sera considéré comme le coupable et, s'il ne peut fournir la preuve de son innocence, il sera puni en conformité de la loi.

Il est interdit de déverser ou de laisser s'écouler, dans les eaux mentionnées à l'article 1^{er}, des résidus d'usines ou d'autres matières qui, par leur nature et leur quantité, peuvent être nuisibles aux poissons et aux écrevisses.

¹ Nouvelle teneur de cet alinéa selon l'acte additionnel du 8 février 1911. Voir la note au titre.

Ces résidus doivent être éliminés par les fabricants, de manière à ne pas porter préjudice aux poissons.

L'entrée des prises d'eau de tout genre doit être munie de grilles propres à empêcher le passage du poisson.

Article 13

Il est interdit de mettre à sec des étangs, de dévier ou de mettre à sec des cours d'eau en vue de la pêche. Si ces opérations sont nécessaires dans d'autres buts, il doit en être donné avis en temps utile à l'autorité compétente et aux propriétaires ou concessionnaires de droits de pêche.

Les autorités compétentes de chacun des deux États trancheront d'un commun accord la question de savoir jusqu'à quel point les droits acquis par les légitimes possesseurs qui utilisent les eaux dans un but industriel ou agricole seront soumis aux dispositions de l'alinéa précédent.

Article 14

Sous la réserve indiquée au dernier alinéa de l'article précédent, les autorités compétentes de chacun des deux États établiront d'un commun accord dans quels cas les intérêts de la pêche sont assez prédominants pour réclamer la déviation d'eaux, de toute provenance, nuisibles aux poissons. Dans ces cas, les autorités ordonneront les mesures nécessaires.

Sous réserve toujours des droits acquis par les possesseurs légitimes, les mêmes autorités pourront ordonner aux propriétaires de digues, barrages, écluses ou autres constructions faites sur les cours d'eau énumérés à l'article 1^{er}, dans un but autre que celui de la pêche, de prendre, autant que possible, des dispositions qui permettent le passage des poissons.

Dans le cas où l'Etat ne pourrait exiger légalement des propriétaires de barrages, etc., l'établissement d'échelles à poisson ou d'autres installations appropriées, il devra créer lui-même ces installations à ses frais.

*Article 15*¹

Article 16

Les longueurs minimales, mesurées de la pointe de la tête à l'extrémité de la queue, que les poissons doivent avoir atteintes pour pouvoir être pêchés, mis en vente, vendus ou achetés, expédiés, importés ou écoulés dans les auberges, restaurants, hôtels, etc., sont les suivantes²:

	Cm
Anguille	25
Truite de lac	30
Truite de rivière	18
Ombre commun	25
Corégones	30
Tanche	20

¹ Abrogé par l'acte additionnel du 8 février 1911. Voir la note au titre.

² Nouvelle teneur de la liste selon l'acte additionnel du 8 février 1911. Voir la note au titre.

	Cm
Carpe	30
Perche et agone.	15
Alborelle	9 ¹
Omble (salmerino)	25

Article 17

Il est interdit de pêcher²:

- la truite de lac, de rivière et de ruisseau, du 15 septembre au 15 décembre;
- l'ombre commun, du 1^{er} mars au 31 mai;
- la perche, du 15 avril au 15 mai;
- la tanche et la carpe, du 1^{er} juin au 30 juin;
- l'agone et la cheppia, du 15 mai au 15 juin;
- l'alborelle, du 15 mai au 15 juin;
- les corégones, du 15 décembre au 15 janvier;
- l'omble (salmerino), du 15 décembre au 15 janvier.

Cette interdiction, sauf dans les trois premiers jours desdites périodes, s'applique aussi à la vente, à l'achat et à l'expédition des poissons ci-dessus désignés; ces poissons ne peuvent pas non plus être servis dans les auberges, restaurants, hôtels, etc.

Ne sont pas soumis à la restriction précédente les poissons mentionnés à l'article 20, lettre *a*, et les poissons importés munis de marques de contrôle.

Cette interdiction ne s'étend pas aux poissons salés, congelés, fumés ou en conserve.

Les commissaires des deux Etats sont, s'il s'avère nécessaire, autorisés à avancer, à retarder ou à prolonger les périodes prohibées fixées pour les espèces ci-dessus mentionnées, à condition toutefois de ne pas en abrégier la durée.³

Dans des cas spéciaux, ils pourront établir pour certaines parties de lac des temps différents, correspondant mieux aux époques de frai.³

De même, ils pourront introduire annuellement des périodes de protection pour des espèces de poissons autres que celles qui sont énumérées ci-dessus.³

Pour les aloses, ils pourront réduire, voire supprimer le temps prohibé.³

Si, en pêchant des poissons dont la pêche n'est pas interdite, on prend des poissons des espèces susmentionnées durant la période d'interdiction, ils devront être immédiatement rejetés à l'eau; on procédera de même à l'égard des poissons qui n'ont pas la longueur prescrite à l'article 16.

La période d'interdiction commence à midi du premier jour indiqué et expire à midi du dernier jour.

¹ Par notes échangées les 13/27 novembre 1950, la longueur minimum a été réduite à 7 cm. pour l'alborelle. [Confédération suisse, Chancellerie fédérale, *Recueil officiel des lois et ordonnances* 1951, p. 391.]

² Nouvelles teneur de la liste selon l'acte additionnel du 8 février 1911. Voir la note au titre.

³ Nouvelle teneur de cet alinéa selon échange de notes des 13 octobre/19 décembre 1947, en vigueur depuis le 1^{er} janvier 1948.

*Article 17 bis*¹

La pêche à la ligne dans les cours d'eau prévus par la présente convention est interdite pendant l'époque où la capture de la truite est prohibée.

Dans les lacs, la pêche à la ligne, excepté celle au lancer, est permise en tout temps, pourvu que le pêcheur se trouve sur terre ferme ou sur la plage submergée, mais non au delà du mont, ou sur un bateau fixé dans le voisinage immédiat de la plage.

Il est interdit, aux pêcheurs à la ligne aussi, de pêcher les différentes espèces de poissons durant les périodes prohibées établies pour chacune d'elles.

Article 18

Toute écrevisse qui n'a pas atteint la longueur minimum de 7 cm, mesurée de la pointe de la tête à l'extrémité de la queue, doit être immédiatement remise dans l'eau où elle a été pêchée.

La pêche des écrevisses est interdite du 1^{er} avril au 30 juin.

Article 19

Il est interdit en tout temps de pêcher, de vendre et d'acheter le frai de poisson, ainsi que de le servir dans les auberges, restaurants, hôtels, etc.

Article 20

Les deux hautes parties contractantes s'engagent, également d'un commun accord, à faciliter le repeuplement des eaux limitrophes par des établissements de pisciculture destinés à la fécondation artificielle, à l'incubation des œufs, à la diffusion des alevins et à l'élève des espèces reconnues utiles, etc.

Les autorités compétentes des deux Etats pourront autoriser de pareils établissements en leur accordant les faveurs suivantes:

a) La faculté de pêcher et de mettre en vente durant la période d'interdiction les poissons désignés à l'article 17, sous le contrôle toutefois du garde-pêche compétent. Les poissons destinés à la vente doivent être perforés ou munis d'une marque convenue d'un commun accord;

b) La faculté de pêcher les petits poissons de peu de valeur, lesquels toutefois ne peuvent être utilisés que pour la nourriture des jeunes poissons dans les établissements de pisciculture autorisés.

Article 21

Pour faciliter les recherches scientifiques concernant la faune aquatique, les autorités compétentes pourront d'un commun accord octroyer à des personnes expressément désignées des licences particulières, les dispensant d'observer les articles 16, 17, 18 et 19.

Ces licences seront soumises au contrôle nécessaire.

¹ Introduit par l'acte additionnel du 8 février 1911. Nouvelle teneur selon échange de notes des 13 octobre/19 décembre 1947, en vigueur depuis le 1^{er} janvier 1948.

Article 22

Sauf accord spécial préalable, aucune nouvelle espèce de poissons ne peut être introduite dans les eaux communes.

Les autorités compétentes des deux Etats s'entendront sur l'interdiction de pêcher et sur les autres mesures à prendre pour protéger la nouvelle espèce introduite.

Article 23

Chacun des deux Etats contractants prendra les mesures nécessaires pour l'exécution, sur son territoire, des dispositions de la présente convention, et édictera d'un commun accord avec l'autre Etat un règlement y relatif, au plus tard dans le délai d'une année à partir de l'échange des ratifications de la présente convention.¹

Chacun nommera son commissaire, le gouvernement italien se réservant de choisir le sien parmi les membres des commissions provinciales de pêche des trois provinces baignées par les eaux communes.

Les commissaires se réunissent au moins deux fois par an, alternativement sur l'un et sur l'autre territoire, pour discuter les mesures propres à améliorer les conditions de la pêche, ou d'autres propositions visant au même but concernant les eaux énumérées à l'article 1^{er}.

Ils auront soin d'informer chacun leur gouvernement de toutes les innovations ou modifications proposées.

Article 24

Rien n'est changé aux dispositions des traités actuellement en vigueur en ce qui concerne le droit à la pêche.

Sont également maintenues les dispositions concernant la juridiction sur l'exercice de la pêche dans la Tresa, contenues dans la convention de Lugano du 5 octobre 1861².

*Article 25*³

¹ Voir le Règlement de la pêche dans les eaux limitrophes entre la Suisse et l'Italie, du 2 mai 1913. [Confédération suisse, Chancellerie fédérale, *Recueil systématique des lois et ordonnances 1848-1947*, 9^e volume, p. 586.]

² Voir: Confédération suisse, Chancellerie fédérale, *Recueil systématique des lois et ordonnances 1848-1947*, 11^e volume, p. 80.

³ Abrogé par l'acte additionnel du 8 février 1911. Voir la note au titre. Lors de cette abrogation, il a été convenu, dans l'acte additionnel, ce qui suit: « La faculté reste réservée toutefois aux hautes parties contractantes de ne concéder le droit de pêcher dans les eaux communes, à l'intérieur de leur territoire respectif, qu'aux pêcheurs ayant obtenu un permis moyennant le paiement d'une taxe et sur la base des prescriptions que pourra édicter à cet effet chacun des deux Etats contractants. »

« Cette faculté ne s'étend pas aux droits (*privés*) de pêche reconnus par les Etats respectifs, aussi longtemps que ces droits n'ont pas été rachetés ou expropriés conformément aux lois nationales de chacune des hautes parties contractantes. »

*Article 26*¹

Il est entendu que la convention additionnelle conclue sur la matière entre les deux Etats, le 8 juillet 1898, restera en vigueur en ce qui concerne la procédure judiciaire et les pénalités pour les infractions à la présente convention.

*Article 27*²

Les deux Etats contractants s'engagent respectivement à interdire l'importation des poissons dont la pêche et le commerce sont interdits.

*Article 28*²

La présente convention restera en vigueur pendant dix années, à dater du jour où elle sera promulguée en conformité des lois de chacun des deux Etats. A partir de ce terme, elle continuera d'être obligatoire pendant une année à partir du jour où l'une ou l'autre des hautes parties contractantes l'aura dénoncée.

231. ACCORD³ ENTRE LA SUISSE ET L'ITALIE AU SUJET DE LA CONCESSION DE FORCES HYDRAULIQUES DU RENO DI LEI, AVEC PROTOCOLE ADDITIONNEL, SIGNÉ À ROME, LE 18 JUIN 1949⁴

Le Conseil Fédéral Suisse et le Gouvernement de la République Italienne, Saisis, en Suisse, par la Société anonyme « Rhätische Werke für Elektrizität », à Thusis, en Italie, par la Société anonyme « Edison », à Milan, d'une demande de concession de la force hydraulique du Reno di Lei et d'autres cours d'eau situés dans le bassin de l'Averserrhein,

Ont reconnu que le projet présenté, qui prévoit de mettre en valeur, dans une seule et même usine, la force hydraulique de sections de cours d'eau suisses et italiennes, assure l'utilisation rationnelle de cette force, mais que l'aménagement de cette dernière et son utilisation, réalisables seulement par une entreprise unique, devaient faire l'objet d'un accord international tenant compte des différences de législation des deux Etats.

Ils ont, en conséquence, convenu qu'il y avait lieu pour les deux Gouvernements de faire établir, par un concessionnaire unique, les ouvrages nécessaires à l'aménagement et à l'utilisation de la force et de procéder entre eux à un partage de l'énergie disponible, laissant ensuite chacun d'eux libre d'utiliser à son gré, et d'après les principes de sa propre législation, l'énergie qui lui serait ainsi dévolue.

A cet effet, ils ont résolu de conclure un accord . . .

¹ Nouvelle teneur selon l'article additionnel du 15 janvier 1907 à la présente convention (ch. I), en vigueur depuis le 1^{er} février 1907.

² Les anciens art. 27 et 28 ont été abrogés par l'article additionnel du 15 janvier 1907 à la présente convention. Les art. 29 à 31 du texte primitif sont devenus les art. 27 à 29.

³ Entré en vigueur le 23 avril 1955.

⁴ *Recueil officiel des lois et ordonnances de la Confédération Suisse*, année 1955, p. 611.

ARTICLE PREMIER. Le concessionnaire des deux Gouvernements établira sur le Reno di Lei, à 3 km environ en amont de l'embouchure de cette rivière dans l'Averserrhein, un grand barrage susceptible de créer un bassin d'accumulation dans le Val di Lei. Les actes de concession fixeront la même cote absolue du niveau maximum de retenue.

Seront accumulés dans ce bassin les débits naturels du Reno di Lei, les eaux prélevées dans l'Averserrhein, le Madriserrhein et l'Emetbach, qui seront amenées au moyen d'une conduite souterraine, ainsi que les eaux pompées d'un bassin de compensation près d'Innerferrera.

ARTICLE 2. Le barrage sera d'une construction offrant le maximum de sécurité. Des ouvertures suffisantes seront aménagées pour l'écoulement des eaux de crues. En outre, des ouvrages de décharge spéciaux devront être construits de manière à permettre d'abaisser le niveau du bassin d'accumulation ou de le vider rapidement.

L'usine sera construite près d'Innerferrera où l'eau sera rendue à l'Averserrhein.

ARTICLE 3. Le projet d'exécution des ouvrages sera dressé par les soins du concessionnaire; il contiendra les dispositions envisagées pour remplacer les terrains qui seront submergés par le bassin d'accumulation, dans le but de restituer l'économie agricole de la région. Il sera soumis, avec toutes justifications utiles, aux deux Gouvernements et il ne pourra être exécuté qu'après que les deux Gouvernements se seront déclarés d'accord pour son approbation. Les propriétaires intéressés seront entendus préalablement.

ARTICLE 4. Les deux Gouvernements se réservent expressément d'exercer de concert le contrôle des travaux et le droit d'autoriser ou de prescrire d'un commun accord, s'il y a lieu, toutes modifications au projet précédemment approuvé ou aux ouvrages déjà exécutés.

Tous les ouvrages seront manœuvrés et entretenus par le concessionnaire.

ARTICLE 5. Compte tenu des eaux et de la pente utilisables sur les territoires respectifs, il est convenu que la force hydraulique mise en valeur dans l'usine d'Innerferrera revient à raison de 70 pour cent à la Suisse et de 30 pour cent à l'Italie.

Chacun des deux Etats aura droit, dans cette proportion, à l'énergie électrique produite par l'usine. Il pourra en disposer dans telles formes et sous telles conditions qu'il jugera utiles.

L'énergie électrique revenant à l'Italie qui sera produite sur territoire suisse sera exemptée par la Suisse de toutes taxes, redevances ou restrictions de droit public quelconques, de telle sorte que cette énergie puisse être librement transportée en Italie et soit, à tous égards, dans la même situation que si elle était produite sur territoire italien. L'établissement, l'exploitation et l'entretien des installations électriques qui servent au transport de l'énergie électrique à destination de l'Italie demeurent cependant soumis en Suisse à la législation de ce pays en la matière.

L'énergie attribuée à chacun des deux Etats pourra être exportée dans l'autre Etat conformément aux dispositions légales sur l'exportation de l'énergie électrique en vigueur dans l'Etat exportateur. Il est entendu que celui des deux Etats qui n'aurait pas emploi sur son territoire de l'énergie

qui lui est attribuée ne mettra pas obstacle à l'exportation sur le territoire de l'autre Etat de l'énergie ainsi disponible.

ARTICLE 6. Les droits d'utilisation de la force hydraulique seront concédés, pour le territoire de chacun des deux Etats, par les autorités qui y seront compétentes.

Toutefois, les deux concessions devront être basées sur des plans identiques et les conditions des concessions devront être fixées d'une manière concordante sur tous les points qui touchent les intérêts des deux Etats et qui doivent dès lors être réglés d'une façon uniforme.

Une telle concordance est notamment nécessaire en ce qui concerne le concessionnaire, les délais pour le commencement des travaux, la mise en service de l'usine, le rachat, le retour ainsi que la fin de la concession et son renouvellement éventuel. Il est entendu que le concessionnaire sera, pendant toute la durée de la concession, une société anonyme dont le siège sera en Suisse; cette société élira en outre un domicile en Italie.

Les concessions prendront fin le 31 décembre de la quatre-vingtième année, comptée à partir de la date qui sera fixée par les deux Gouvernements pour la mise en service de l'usine.

ARTICLE 7. Les deux Gouvernements se communiqueront leurs décisions au sujet des actes de concession; et ceux-ci n'auront leur effet que lorsque les deux Gouvernements se seront déclarés d'accord sur les conditions imposées.

En tant qu'elles touchent aux intérêts des deux pays, les dispositions des actes de concession ne pourront être modifiées ultérieurement que d'un commun accord entre les deux Gouvernements. Il en sera de même pour tout transfert de concession ou retrait de droits d'utilisation concédés.

ARTICLE 8. En cas de non-achèvement de l'usine, d'interruption de l'exploitation ou de toute autre cause de déchéance prévue aux actes de concession, les deux Gouvernements prendront, d'un commun accord, les mesures qu'ils jugeront les mieux appropriées à la situation et, éventuellement, à l'octroi d'une nouvelle concession.

ARTICLE 9. Dix ans avant l'expiration de la durée des concessions, des pourparlers seront engagés entre les deux Gouvernements en vue de s'entendre sur la question de savoir:

a) Si l'exploitation de l'usine doit être poursuivie après l'expiration de cette durée. Dans ce cas, les parts de l'énergie produite revenant à la Suisse et à l'Italie seront maintenues respectivement à 70 pour cent et 30 pour cent et les conditions du nouveau régime d'exploitation seront déterminées de manière à en assurer aux deux Etats les avantages dans la même proportion;

b) Si l'exploitation de l'usine doit cesser. Dans ce cas, les deux Gouvernements prendront, d'un commun accord, les mesures qu'ils jugeront les mieux appropriées à la situation.

ARTICLE 10. Pour la période de construction, les deux Gouvernements se réservent de constituer une commission de surveillance de quatre membres,

dont deux membres seront désignés par le Gouvernement suisse et deux membres par le Gouvernement italien.

Cette commission contrôlera l'exécution des travaux et présentera ses observations sous forme de rapport aux autorités compétentes suisses et italiennes.

ARTICLE 11. Pendant la période d'exploitation, le contrôle sera exercé dans les conditions prévues aux actes de concession. Chaque Gouvernement donnera toutes facilités afin que les fonctionnaires de l'autre Etat chargés de ce contrôle ainsi que le personnel du concessionnaire puissent accomplir leur mission. Les noms des fonctionnaires seront réciproquement communiqués.

ARTICLE 12. Le règlement des questions fiscales découlant des concessions fera l'objet d'un accord particulier à conclure entre les autorités compétentes des deux pays. Une double imposition sera évitée.

ARTICLE 13. Si un litige vient à s'élever entre les deux Gouvernements au sujet de l'application ou de l'interprétation du présent accord ou de l'une des concessions visées par cet accord, il sera soumis, au cas où il n'aurait pas été réglé dans un délai raisonnable par la voie diplomatique ou par d'autres voies amiables, à un tribunal dont la sentence sera obligatoire.

Ce tribunal arbitral sera composé de deux membres et d'un surarbitre. Chacun des deux Gouvernements nommera un membre. Le surarbitre, qui ne devra pas être ressortissant de l'un des deux pays, sera désigné d'un commun accord entre les deux Gouvernements.

Si la désignation commune du surarbitre n'a pas lieu dans un délai de six mois à partir du moment où l'un des deux Gouvernements a proposé le règlement arbitral du litige, il sera procédé à cette désignation en appliquant par analogie l'article 45, 4^e alinéa et suivant, de la Convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

Tout différend qui pourrait surgir entre les deux Gouvernements concernant l'interprétation et l'exécution de la sentence arbitrale sera soumis au jugement du tribunal qui a rendu la sentence.

Il est entendu que le présent article demeurera applicable à tout litige qui, de l'avis de l'un des deux Gouvernements, concernerait soit l'application ou l'interprétation de l'accord ou de l'une des concessions visées par cet accord, soit l'interprétation ou l'exécution de la sentence arbitrale.

ARTICLE 14. Les stipulations du présent accord seront maintenues en temps de guerre.

. . . .

PROTOCOLE ADDITIONNEL

Pour tenir compte des circonstances spéciales que créera l'accumulation du Val di Lei ainsi que des intérêts des deux parties, les soussignés, dûment autorisés à cet effet par leurs Gouvernements respectifs, déclarent ce qui suit:

1. Rectification de frontière

Il est entendu que les deux Gouvernements entreprendront immédiatement, dans les limites indiquées ci-après, une rectification de la frontière italo-suisse dans le Val di Lei. Les deux Gouvernements concluront à cet effet une convention qui attribuera à la Suisse une parcelle de territoire d'environ 0,5 km², conformément au plan au 1 / 25 000 annexé au présent protocole.¹

2. Exportation d'énergie électrique en Italie

Il est entendu que, si la société concessionnaire en fait la demande, le Conseil fédéral suisse lui accordera, dans le cadre des dispositions de la législation suisse en la matière et pour une durée correspondant à celle fixée pour les concessions des deux Gouvernements, l'autorisation d'exporter en Italie le 20 pour cent de la puissance disponible et de l'énergie susceptible d'être produite dans les trois usines prévues dans le projet général de 1948-1949 établi par la Société anonyme Motor-Columbus à Baden (Suisse) et la Société « Edison » à Milan. Ce 20 pour cent comprend l'énergie électrique à laquelle l'Italie a droit, conformément à l'article 5 de l'Accord conclu en date de ce jour.

L'énergie exportée sera exemptée de toutes taxes ou autres droits, à l'exception de la redevance prévue dans l'ordonnance du Conseil fédéral suisse du 4 septembre 1924 sur l'exportation de l'énergie électrique (art. 21). Les dispositions de l'article 5, alinéa 3, de l'Accord conclu en date de ce jour demeurent réservées.

Rome, le dix-huit juin mil neuf cent quarante-neuf (18 juin 1949).

232. CONVENTION² ENTRE LA CONFÉDÉRATION SUISSE ET LA RÉPUBLIQUE ITALIENNE CONCERNANT LA CORRECTION DE LA ROGGIA MOLINARA (COMMUNES DE CHIASSO ET DE CÔME), CONCLUE À CHIASSO, LE 5 AVRIL 1951³

. . . considérant que, dans leur cours actuel, les eaux de la Roggia Molinara provoquent un état marécageux dans les terrains avoisinants et, en période de pluie, des inondations,

¹ Une Convention concernant une modification de la frontière dans le Val di Lei a été signée à Berne le 25 novembre 1952 avec un Protocole additionnel (*Ibid.*, p. 626).

² Entrée en vigueur, le 18 avril 1953. La signature de cette Convention a été précédée de la conclusion d'une Convention de rectification de la frontière le long de la Roggia Molinara, signée aussi à Chiasso le 5 avril 1951 « en vue de simplifier le cours sinueux de la frontière, de faciliter le service de surveillance douanière, ainsi que d'assainir le terrain environnant pour une nouvelle canalisation de la Roggia Molinara » (*Recueil Officiel des lois et ordonnances de la Confédération suisse*, année 1953, p. 403).

³ *Ibid.*, p. 406.

étant donné que les conditions hygiéniques qui en résultent ne sont pas satisfaisantes,

vu qu'il est donc nécessaire, pour remédier à ces défauts, de canaliser la Roggia par un nouvel ouvrage artificiel permanent et de rectifier à cet effet le cours exceptionnellement sinueux de la Roggia elle-même.

ont décidé de conclure la présente convention . . .

ARTICLE PREMIER. La Roggia Molinara entre les communes de Chiasso et de Côme doit être corrigée sur la base du projet élaboré par la commune de Chiasso en date du 9 mai 1949, projet approuvé par la commune de Côme le 9 mars 1950 et qui fait partie intégrante de la présente convention (voir annexes nos 1 et 2).

L'axe du nouveau canal s'identifie avec le tracé de la frontière rectifiée conformément à la convention concernant la rectification de la frontière conclue le 5 avril 1951.

ARTICLE 2. Les frais pour la construction du canal, ainsi que pour le démontage et la remise en œuvre du filet métallique italien posé pour la surveillance de la frontière, sont répartis de la manière suivante:

4/5 à la commune de Chiasso et 1/5 à la commune de Côme, ainsi qu'il est établi dans la convention du 8 mars 1950 entre les délégués des communes de Chiasso et de Côme.

Les frais supplémentaires pour des travaux qui se révéleraient nécessaires durant l'exécution seront supportés par les communes intéressées dans la même proportion.

ARTICLE 3. Sous réserve de l'approbation du Département des constructions publiques du canton du Tessin et des autorités italiennes compétentes, les bureaux techniques des communes de Chiasso et de Côme prendront les accords nécessaires pour l'exécution de l'ouvrage et la livraison du matériel.

Le bureau technique du canton du Tessin et le bureau compétent de la Province de Côme prendront des accords en vue de surveiller l'exécution des travaux de correction et pour l'établissement de la liquidation.

ARTICLE 4. Les installations et les machines des chantiers, ainsi que le matériel de construction employé pour l'exécution des travaux seront réciproquement exemptés des taxes douanières et de tout autre impôt. Demeurent réservées les mesures de contrôle des administrations douanières respectives.

ARTICLE 5. Les autorités suisses et italiennes compétentes procéderont au récolement du nouvel ouvrage dès que les travaux seront effectués. Le récolement implique l'acceptation définitive de l'ouvrage, sous réserve de l'exécution de travaux éventuels complémentaires de peu d'importance.

Dès la date du récolement, les autorités compétentes des deux pays s'engagent à maintenir en bon état le canal et à prendre à leur charge les frais d'entretien dans les parties de l'ouvrage soumises à leur souveraineté respective.

. . .

233. ÉCHANGE DE NOTES¹ RELATIF À L'ACCORD ENTRE LA SUISSE ET L'ITALIE AU SUJET DE LA CONCESSION DES FORCES HYDRAULIQUES DU RENO DI LEI. ROME, LE 23 AVRIL 1955²

NOTE SUISSE

Se référant à l'article 3 de l'accord italo-suisse du 18 juin 1949 au sujet de la concession des forces hydrauliques du Reno di Lei, ainsi qu'aux lettres échangées à Rome, à la même date, entre les présidents des deux délégations, la légation de Suisse a l'honneur de faire connaître au Ministère des affaires étrangères que le Conseil fédéral suisse accordera et maintiendra pour toute la durée de la concession accordée et pour celle de ses prorogations ou renouvellements éventuels, en tous cas pour toute la durée de l'exploitation de l'usine, les facilités indiquées ci-après, en vue d'une meilleure utilisation des alpages que le concessionnaire des deux gouvernements devra céder, en jouissance réelle, au « Consorzio della Valle di Lei », sur sol suisse :

I

1. Toutes les personnes intéressées à l'exploitation des alpages (propriétaires des pâturages et du bétail, exploitants, pâtres, etc.) que le concessionnaire des deux gouvernements aura cédés en compensation réelle sur territoire suisse, conformément au contrat ci-joint conclu entre la « Rhätische Werke für Elektrizität A. G. », à Thusis (Suisse), et la « Società Edison », à Milan, d'une part, et le « Consorzio Alpi Valle di Lei », d'autre part, pourront se rendre librement sur ces alpages par une voie d'accès directe, sur présentation d'un certificat d'identité délivré par l'autorité italienne et muni d'une photographie.

2. Les personnes occupées à l'exploitation des alpages seront munies d'un permis de séjour, par les soins de l'autorité cantonale grisonne, et exonérées des taxes afférentes.

3. Pour les autres personnes (propriétaires et locataires non exploitants, propriétaires de bétail, etc.) qui se rendent occasionnellement et pour une courte durée sur les alpages cédés dans le canton des Grisons, le simple certificat d'identité italien mentionné ci-dessus suffira. Ces personnes seront également exonérées de toute taxe.

4. Il est interdit à tous ceux qui se rendent sur les alpages cédés en jouissance dans le canton des Grisons d'en sortir pour gagner une autre région du territoire suisse, sauf en cas de nécessité absolue et seulement pour accéder au Village suisse le plus proche. Ils devront alors s'annoncer au bureau des douanes.

5. Le vétérinaire italien est autorisé à visiter, à la demande des intéressés, le bétail logé sur les alpages cédés en compensation réelle.

¹ Entré en vigueur à la date de l'échange desdites notes.

² *Recueil officiel des lois et ordonnances de la Confédération suisse*, année 1955, p. 618.

II

1. Le bétail des membres du « Consorzio Alpi Valle di Lei », celui des fermiers et celui qui est pris à bail par les propriétaires et par les fermiers eux-mêmes pendant la période d'alpage, pourra se rendre pour le pacage aux alpages cédés dans le canton des Grisons. Le bétail devra être reconduit en Italie.

2. Par bétail au sens des présentes dispositions on entend celui de l'espèce chevaline, bovine, caprine, porcine, ainsi que les chiens bergers.

3. Aucune taxe ni cautionnement ne sera exigé pour le bétail se rendant sur les alpages situés dans le canton des Grisons et qui sera reconduit en Italie. Aucune garantie ne sera exigée dans chaque cas d'espèce pour les droits et les taxes relatifs aux animaux importés temporairement, à condition que les autorités des communes d'où proviennent les propriétaires du bétail s'obligent à faciliter aux autorités douanières suisses la perception des droits et des taxes dus pour les animaux qui resteront éventuellement en Suisse.

III

Les denrées alimentaires, les fourrages et autres produits analogues pour l'alimentation du bétail, les objets pour les soins du bétail ou pour le traitement des produits des animaux, ainsi que le matériel pour la construction et l'entretien des chalets et des étables, et, éventuellement, le bois à brûler importés d'Italie, sont admis en franchise de douane, à la condition que ces marchandises soient importées exclusivement en corrélation avec l'exploitation des alpages cédés en compensation réelle et employées sur place. Les choses non utilisées et celles qui ne sont plus utilisables seront réexportées en Italie.

IV

1. Les marchandises et les animaux ne peuvent pas être transportés sur le reste du territoire douanier suisse sans la permission des autorités douanières suisses compétentes et sans avoir préalablement rempli les conditions posées par celles-ci. Seront également exempts de tout droit ou charge les produits laitiers fabriqués soit pendant qu'ils demeurent dans les alpages en vue de leur conservation ou assaisonnement, soit au moment où ils transiteront vers l'Italie. En aucun cas des obstacles ne seront mis à l'exportation en Italie du bétail et des produits dont il est question au présent article et aux articles précédents.

2. Etant donné qu'en ce qui concerne les denrées alimentaires, les fourrages et autres produits analogues pour l'alimentation du bétail, les objets pour les soins du bétail ou utilisés pour le traitement des produits des animaux, le bois à brûler et le matériel pour l'entretien des chalets et des étables, la franchise douanière ne peut être accordée en vertu de la législation douanière suisse en vigueur, les facilités dont il s'agit ont été mentionnées dans un protocole additionnel à la convention conclue entre les deux Etats au sujet de l'échange de territoires dans le val di Lei.

Les exploitants des alpages devront tenir une liste de contrôle indiquant clairement les marchandises et le bétail importés. La liste devra indiquer toutes les marchandises amenées aux alpages et être tenue à jour en ce qui concerne le bétail et l'outillage de l'alpage. Cette liste devra être en règle et présentée, sur leur demande, aux autorités douanières suisses.

VI

Pour ce qui a trait à la police des épizooties, l'accès du bétail aux alpages cédés en compensation réelle et son séjour sur ces alpages seront réglés par les dispositions suivantes :

1. Les alpages mis à disposition par la Suisse à titre de compensation réelle seront occupés exclusivement par du bétail absolument sain, exempt de fièvre aphteuse depuis au moins trois mois et qui aura été soumis à temps avant la montée aux alpages, à la vaccination préventive contre la fièvre aphteuse, avec du vaccin suisse ou avec du vaccin de l'institut zooprophylactique de Brescia. Les moutons sont exclus du pacage sur les alpages cédés en compensation réelle. Les frais de la vaccination préventive sont assumés par le concessionnaire des deux gouvernements.

2. Chaque année, dix jours au moins avant la montée aux alpages, la date probable sera communiquée par écrit à la direction des douanes du troisième arrondissement et à l'office vétérinaire cantonal, tous deux à Coire, ainsi qu'à l'office vétérinaire provincial, à Sondrio, une liste indiquant exactement le chef responsable des alpages et le bétail destiné à occuper ceux-ci étant jointe. Cette liste devra avoir été visée par les communes de provenance. Tout le bétail montant aux alpages sera marqué de façon nette et bien visible, la marque en question devant figurer sur la liste. Les marques utilisées seront fournies, aux frais du concessionnaire des deux gouvernements, par l'office vétérinaire de Coire et remis au « Consorzio ».

3. Les autorités vétérinaires suisses se réservent, selon les circonstances, d'arrêter, d'entente avec les autorités vétérinaires italiennes, les mesures de police sanitaire pour le cas où la peste bovine, la péripneumonie contagieuse des bovidés, voire quelque autre épizootie présentant un danger général et non connue dans ces régions, viendrait à être constatée sur les alpages cédés en compensation, dans les régions de provenance du bétail, ou dans les régions voisines.

4. L'apparition de maladies soumises à déclaration (fièvre aphteuse, peste porcine, fièvre charbonneuse, rage, morve, péripneumonie contagieuse des bovidés, peste bovine) ou d'autres épizooties, présentant un danger général, qui n'auraient pas été constatées jusqu'alors sera signalée immédiatement à l'office vétérinaire cantonal, à Coire, et à celui de la province de Sondrio. Les cadavres des animaux ayant péri seront rendus inoffensifs conformément aux dispositions de la législation suisse et détruits par incinération ou par enfouissement; ils ne devront, en aucun cas, être jetés à l'eau. En cas d'apparition de fièvre aphteuse, l'abattage du bétail n'est pas obligatoire, à moins qu'un accord intervienne entre les propriétaires de bovidés et les autorités cantonales, au sujet de l'indemnité. Ces cas seront

signalés à la direction des douanes de Coire, qui prendra toutes mesures opportunes de police douanière.

5. La montée aux alpages devra s'effectuer directement depuis l'Italie, sans passage sur territoire suisse: la Suisse se réserve de faire procéder au contrôle sanitaire, en cours de montée et pendant le séjour du bétail sur les alpages, par les organes de la police vétérinaire suisse. Le contrôle sanitaire en cours de montée sera, à la demande expresse du « Consorzio Alpi Valle di Lei », effectué rapidement dans le dernier endroit habité situé sur le territoire italien.

6. Pour ce qui concerne l'utilisation des produits animaux (beurre, lait, fromage, etc.), ainsi que celle de la viande des bêtes abattues d'urgence ou victimes de chutes, les autorités vétérinaires compétentes suisses se réservent de procéder à des arrangements et règlements spéciaux, dans la mesure où le transport vers l'Italie par la voie d'accès directe ne serait pas possible. Dans les cas de ce genre également, il y aura lieu d'informer la direction des douanes, à Coire, qui prendra les dispositions nécessaires pour le traitement en douane.

Il en sera de même lorsqu'en raison de conditions climatiques exceptionnelles ou de l'interruption du trafic sur les chemins d'accès, il ne sera pas possible aux troupeaux de descendre des alpages par les voies usuelles.

VII

1. L'inobservation, par les intéressés, des dispositions contenues dans le présent échange de notes entraînera l'application des sanctions prévues par les lois et règlements suisses en vigueur, qui concernent les objets traités ci-dessus.

2. Les mesures réprimant les infractions aux dispositions relatives à la police des étrangers ne seront prises qu'après que le chef de la police des étrangers du canton des Grisons se sera mis en rapport avec le fonctionnaire italien compétent, dirigeant la police dans le secteur. Sont réservées pour le surplus, les prescriptions générales en matière de police.

VIII

Les présentes dispositions ne portent pas atteinte à la souveraineté territoriale des deux pays, et, en particulier, au droit de prendre, dans les zones frontalières, les mesures qu'ils jugeront opportunes dans les circonstances menaçant de troubler la paix ou en cas de danger de guerre.

La légation prie le ministère de bien vouloir prendre acte de ce qui précède et de lui confirmer son acceptation, qui tiendra lieu d'accord au sujet des questions traitées ci-dessus.

La légation de Suisse saisit cette occasion pour exprimer au ministère des affaires étrangères l'assurance de sa haute considération.

Rome, le 23 avril 1955.

NOTE ITALIENNE

Le ministère des affaires étrangères a l'honneur d'accuser réception de la note verbale C.41.2, en date de ce jour, de la légation de Suisse, dont la teneur est la suivante: . . .

(Voir la note suisse)

Le ministère des affaires étrangères accuse réception, en outre, de la photocopie certifiée conforme du contrat conclu le 27 octobre 1952, à Chiavenna, entre la « Rhätische Werke für Elektrizität A.G. », à Thusis, et la « Società Edison », à Milan, d'une part, et le « Consorzio Alpi Valle di Lei », d'autre part, annexé à la note verbale ci-dessus.

Le ministère des affaires étrangères est heureux de faire connaître à la légation qu'il a pris acte du contenu de la note reproduite ci-dessus et qu'il confirme son acceptation, en sorte que cette note et la présente communication constituent un accord entre les deux gouvernements sur les questions qui y sont traitées.

Le ministère des affaires étrangères saisit cette occasion pour renouveler à la légation de Suisse l'assurance de sa haute considération.

Rome, le 23 avril 1955.

234. CONVENTION¹ ENTRE L'ITALIE ET LA SUISSE AU SUJET DE LA RÉGULARISATION DU LAC DE LUGANO, SIGNÉE À LUGANO, LE 17 SEPTEMBRE 1955²

Le Conseil fédéral suisse et le président de la République italienne, Considérant que les crues du lac de Lugano causent périodiquement des dommages importants aux régions riveraines, désireux de protéger, dans la mesure du possible, ces régions contre de nouvelles inondations et d'améliorer le régime des niveaux du lac, ont résolu de conclure une convention . . .

Article I

Les hautes parties contractantes conviennent d'entreprendre la régularisation du lac de Lugano conformément au projet de septembre 1951 et au règlement de régularisation d'août 1953 présentés l'un et l'autre par le service fédéral des eaux à Berne.

Article II

1. Les travaux de régularisation comprennent:
 - a) La correction du détroit de Lavena;
 - b) Le barrage de régularisation à la Rochetta;
 - c) La correction de la Tresa entre Ponte Tresa et Madonnone.
2. Ces travaux seront commencés dans un délai de deux ans à compter de l'entrée en vigueur de la présente convention.

Article III

1. Les hautes parties contractantes sont d'accord pour reconnaître que la régularisation du lac de Lugano est une œuvre d'utilité publique. Les

¹ Entrée en vigueur le 15 février 1958, date de l'échange des instruments de ratification à Rome, conformément à l'article XIII de la Convention.

² Nations Unies, *Recueil des Traités*, vol. 291, p. 219.

deux gouvernements accorderont en conséquence, chacun pour leur territoire, le droit d'exproprier, s'il y a lieu, les biens-fonds nécessaires à l'exécution, à l'exploitation et à l'entretien des ouvrages, ainsi que les droits qui s'y opposent.

2. Les terrains du domaine public pourront être occupés et utilisés gratuitement dans la mesure nécessaire à l'exécution, l'exploitation et à l'entretien des ouvrages.

Article IV

1. Sous réserve des attributions de la commission mixte de surveillance instituée par l'article VI de la présente convention, l'exécution des travaux incombera au canton du Tessin. Il appartiendra au Conseil d'État de ce canton de désigner la direction des travaux, de prendre, d'entente avec les autorités italiennes, les mesures nécessaires pour la publication des plans conformément aux dispositions en vigueur dans les deux pays et de passer les contrats d'entreprise.

2. Les hautes parties contractantes s'engagent à faciliter de leur mieux l'exécution des travaux de régularisation en concédant notamment les avantages suivants:

a) La direction des travaux bénéficiera du concours des autorités compétentes administratives des deux pays;

b) Le personnel employé aux travaux pourra circuler librement sur les rives du détroit de Lavena et de la Tresa. Il restera cependant soumis aux mesures de police et de douane nécessaires;

c) Les deux gouvernements accorderont le bénéfice de l'exonération des droits de douane, des taxes et licences d'importation et d'exportation pour les matériaux destinés à l'exécution et à l'entretien des ouvrages. Ces matériaux devront cependant être chaque fois déclarés à la douane compétente.

Les exonérations seront accordées sur présentation d'un certificat attestant que les matériaux sont destinés exclusivement à être utilisés pour la construction et l'entretien des ouvrages prévus dans la présente convention. Ce certificat sera délivré, pour les douanes suisses, par le ministère italien des travaux publics et pour les douanes italiennes par le département des travaux publics du canton du Tessin.

Article V

Le coût total des travaux mentionnés à l'article II de la présente convention, évalué par devis à 4.000.000 de francs suisses, sera supporté entièrement par la Suisse. De son côté, l'Italie prendra à sa charge la totalité des frais pour des travaux de protection des rives de la Tresa situées sur territoire italien à l'aval de la correction prévue à l'article II.

Article VI

1. Les deux gouvernements constitueront une commission de surveillance composée de six membres, dont trois seront désignés par le Conseil fédéral

suisse et trois par le gouvernement de la République italienne. Chaque gouvernement prend à sa charge les frais des membres qu'il a désignés.

2. En période de construction, il appartient à cette commission d'approuver les programmes d'exécution que lui soumet le Conseil d'État du canton du Tessin, de surveiller l'exécution des travaux, de statuer sur les propositions éventuelles de modification du projet, de présenter aux deux gouvernements des rapports périodiques sur la marche des travaux ainsi que sur l'observation des délais.

3. Après le récolement des travaux, la commission aura compétence pour examiner et résoudre toutes les questions concernant l'application du règlement de régularisation, le service du barrage, l'entretien et le renouvellement des ouvrages. Elle surveillera l'exécution de ses décisions et soumettra à l'approbation des deux gouvernements les modifications qu'elle jugerait utile d'apporter au règlement de régularisation.

4. La commission prendra ses décisions à l'unanimité et édictera elle-même son règlement interne. Si l'unanimité ne peut être obtenue, les points au sujet desquels l'accord n'aura pas été réalisé seront soumis aux directeurs des instituts d'hydraulique des écoles polytechniques de Zurich et de Milan. Leur décision aura force obligatoire pour les deux parties.

5. Si ces deux experts ne peuvent tomber d'accord, ils désigneront un arbitre, qui ne devra pas être ressortissant d'un des deux États. La décision de cet arbitre sera sans appel.

Article VII

1. A la fin des travaux, leur récolement sera confié à deux experts désignés l'un par le département fédéral des postes et des chemins de fer et l'autre par le ministère italien des travaux publics.

2. Le procès-verbal de récolement devra être approuvé par ces deux autorités.

Article VIII

1. La Suisse se charge du service du barrage et s'engage à observer le règlement de régularisation, ainsi que les modifications qui pourraient y être apportées conformément à l'article VI, chiffre 3, de la présente convention.

2. Les frais du service du barrage seront à la charge de la Suisse.

3. Les personnes chargées de ce service auront libre accès à la rive italienne, à l'endroit du barrage. Elles resteront cependant soumises aux mesures de police et de douane nécessaires.

Article IX

1. Les frais d'entretien et de renouvellement du barrage de régularisation seront entièrement supportés par la Suisse.

2. La Suisse et l'Italie prennent chacune à leur charge les frais d'entretien des rives et du chenal du détroit de Lavena et de la Tresa situés sur leur territoire. Les deux États s'engagent à prendre les mesures nécessaires pour

prévenir les glissements de rives ou modifications du chenal préjudiciables à la régularisation. Si de tels glissements ou modifications se produisent tout de même, la remise en état sera entreprise sans retard. La commission de surveillance réglera les modalités d'exécution des travaux d'entretien lorsque ceux-ci devront s'étendre aux territoires suisse et italien.

Article X

1. Dans les limites de son territoire, chacun des gouvernements pourvoira à ce que, dans le cas d'établissement ou de modification d'ouvrages tels que routes, installations permanentes de pêche ou d'irrigation, ponts, bâtiments, travaux hydrauliques, etc., sur le détroit de Lavena ou sur la section internationale de la Tresa, il soit pris les mesures nécessaires pour empêcher que la régularisation ne soit entravée ou compromise et que la rive appartenant à l'autre État ne soit endommagée.

2. A cet effet, les projets seront soumis aux autorités compétentes, qui prendront l'avis de la commission de surveillance.

Article XI

Tout différend relatif à l'interprétation ou à l'application de la présente convention, qui ne pourrait être réglé par voie de négociations directes, pourra être soumis, à la requête d'un des deux gouvernements, à la cour internationale de justice.

Article XII

La présente convention abroge les dispositions contraires des conventions précédentes conclues entre les deux États riverains.

. . .

PROTOCOLE ADDITIONNEL À LA CONVENTION DU 17 SEPTEMBRE 1955 ENTRE L'ITALIE ET LA SUISSE AU SUJET DE LA RÉGULARISATION DU LAC DE LUGANO

Il est entendu que le projet et le règlement de régularisation mentionnés à l'article I de la convention sont ceux qui furent communiqués à la délégation italienne, conformément au procès-verbal de la réunion tenue à Milan les 11 et 12 décembre 1953.

235. CONVENTION¹ ENTRE LA CONFÉDÉRATION SUISSE ET LA RÉPUBLIQUE ITALIENNE AU SUJET DE L'UTILISATION DE LA FORCE HYDRAULIQUE DU SPÖL ET PROTOCOLE ADDITIONNEL,¹ SIGNÉS À BERNE LE 27 MAI 1957²

¹ Entrés en vigueur le 8 avril 1959.

² *Recueil officiel des lois et ordonnances de la Confédération suisse*, année 1959, p. 432.

... estimant que l'utilisation des eaux du Spöl présente un intérêt majeur pour le développement des ressources électriques des deux pays et la satisfaction des besoins de leurs économies,

considérant que la dérivation d'une partie de ces eaux sur le versant italien de l'Adda, selon la proposition italienne d'une part, et la création du bassin d'accumulation de Livigno, selon la proposition suisse d'autre part, constituent deux modes d'utilisation de la force hydraulique de sections de cours d'eau situées, dans leur partie à l'amont, sur le territoire de l'Italie et, dans leur partie à l'aval, sur celui de la Suisse,

ont reconnu que chacun des deux Etats avait droit à une partie de la force hydraulique, proportionnelle à la chute et aux débits naturels qui lui appartiennent dans ces sections, et que leur utilisation, réalisable dans deux systèmes distincts, devait faire l'objet de décisions concertées, tenant compte des intérêts en présence et des différences de législation des deux Etats.

Elles ont, en conséquence, convenu qu'il y avait lieu pour les deux Etats de concéder d'un commun accord, aux requérants italiens et suisses, le droit d'établir les ouvrages nécessaires à l'aménagement de la force hydraulique, de fixer les parts de puissance hydraulique auxquelles chacun des deux Etats a droit dans les deux systèmes d'utilisation et de procéder ensuite, sur cette base, à un échange des parts correspondantes de puissance et d'énergie électrique, de telle sorte que les usiniers puissent chacun en disposer autant que possible dans la même situation que si la force hydraulique mise en valeur relevait de la souveraineté d'un seul et même Etat.

A cet effet, elles ont résolu de conclure une convention internationale

...

I. DÉRIVATION SUR LE BASSIN VERSANT DE L'ADDA

ARTICLE PREMIER. Le Gouvernement suisse donne son accord à l'octroi, par le Gouvernement italien, de la concession de dériver de leur cours naturel une partie des eaux du Spöl qui s'écoulent successivement du territoire de l'Italie dans celui de la Suisse et d'utiliser la force hydraulique correspondante sur le versant italien de l'Adda, sur la base des clauses de la présente convention et moyennant l'octroi, par le Gouvernement suisse, d'une concession complémentaire dont l'objet sera la partie de la force hydraulique qui relève du territoire suisse.

ARTICLE 2. La concession complémentaire suisse sera accordée et, s'il y a lieu, transférée au bénéficiaire désigné par le Gouvernement italien.

ARTICLE 3. Le concessionnaire établira, dans le bassin versant supérieur du Spöl, un collecteur situé au-dessus de la cote 1960 (I.G.M. [s.m.m.]) et qui permettra de rassembler les apports naturels d'une surface de 105 km² au maximum, puis de les conduire par gravité dans les bassins d'accumulation de San Giacomo et de Cancano, dans la vallée de Fraele, en Haute-Valtelline. La quantité d'eau ainsi dérivée ne devra pas dépasser sensiblement 97 millions de m³ par année, en moyenne.

Les eaux ainsi dérivées de leur cours naturel seront utilisées dans l'usine de Premadio, près de Bormio sur l'Adda.

Il est entendu que la Confédération suisse n'assume à l'égard de la République italienne aucune obligation de compenser les pertes d'eau et d'énergie

électrique qui pourraient se produire en cas de mauvais fonctionnement des ouvrages de prise et de dérivation ou pour toute autre cause.

ARTICLE 4. Compte tenu de la dérivation de 97 millions de m³ d'eau vers l'Adda et de la chute disponible en Suisse à l'aval du lieu dit « Punt dal Gall », il est convenu que la force hydraulique revenant à la Suisse est de 26 850 chevaux théoriques, en moyenne.

En représentation de cette part, la Suisse aura droit à une quantité correspondante d'énergie électrique susceptible d'être produite dans l'usine de Premadio, ainsi qu'à une partie de la puissance disponible dans cette usine. L'énergie et la puissance revenant ainsi à la Suisse sont fixées respectivement à 128 millions de kilowattheures par année et à 64 000 kilowatts. La Confédération suisse pourra en disposer dans telles formes et sous telles conditions qu'elle jugera utile.

L'énergie et la puissance électriques revenant à la Suisse et livrées dans ce pays seront exemptées par la République italienne de toutes taxes, redevances ou restrictions de droit public quelconques, de telle sorte que cette énergie puisse être librement transportée en Suisse et soit, à tous égards, dans la même situation que si elle était produite sur territoire suisse. L'établissement, l'exploitation et l'entretien des installations électriques qui servent au transport de cette énergie à destination de la Suisse demeurent cependant soumis, en Italie, à la législation de ce pays en la matière.

L'énergie et la puissance électriques attribuées à la Suisse ne pourront être utilisées hors de son territoire que conformément aux dispositions légales suisses sur l'exportation de l'énergie électrique. Il est entendu que le Gouvernement suisse ne mettra pas obstacle à l'emploi en Italie de la partie de cette énergie correspondant à la quantité revenant à l'Italie conformément à l'article 10 de la présente convention, ceci pour autant que le Gouvernement italien accorde, en échange, l'autorisation d'utiliser en Suisse cette quantité.

II. ACCUMULATION DE LIVIGNO

ARTICLE 5. Le droit d'utiliser la force hydraulique du Spöl en créant un bassin d'accumulation dans les vallées de Livigno et de l'Ova dal Gall sera concédé pour le territoire de chacun des deux Etats contractants par leurs autorités compétentes.

ARTICLE 6. La concession italienne sera accordée au bénéficiaire désigné par le Gouvernement suisse. Elle s'étendra à la partie italienne des sections de cours d'eau dont la chute et les débits seront mis en valeur dans l'usine dite de Livigno.

En cas de changement du bénéficiaire de la concession suisse, le Gouvernement italien transférera la concession italienne au nouveau bénéficiaire désigné par le Gouvernement suisse.

ARTICLE 7. Le concessionnaire des deux Etats contractants établira, près du confluent du Spöl et de l'Ova dal Gall, en dehors de la limite du Parc national suisse, un barrage susceptible de créer une retenue à la cote 1808 au maximum (I.G.M. [s.m.m.]), dont la capacité utile sera de 180 millions de m³ environ.

Le bassin d'accumulation sera alimenté par les eaux qui s'y écoulent naturellement et qui n'auront pas été dérivées conformément au chapitre I de la présente convention ainsi que par celles qui y seront refoulées au moyen d'installations de pompage.

ARTICLE 8. Le barrage sera d'une construction offrant le maximum de sécurité pour la Suisse, conformément à la législation en vigueur dans ce pays. Il sera disposé de manière à offrir aux eaux un débouché libre suffisant, pour que les crues puissent s'écouler à tout moment sans produire aucune surélévation au-dessus de la cote fixée à l'article précédent.

L'emplacement de la centrale hydro-électrique sera fixé soit dans l'acte de concession suisse, soit lors de l'approbation des plans de construction.

ARTICLE 9. Il appartiendra au concessionnaire désigné par le Gouvernement suisse d'acquérir en territoire italien, selon la législation de ce pays, les biens-fonds et droit des tiers nécessaires à la construction et à l'exploitation du bassin d'accumulation de Livigno. Le Gouvernement italien mettra à cet effet le concessionnaire au bénéfice du droit d'expropriation.

Il est entendu que le concessionnaire sera tenu de remplacer le bâtiment des douanes italien de Ponte del Gallo et de rétablir les voies de communication interceptées soit par le barrage, soit par le bassin d'accumulation.

Le Gouvernement suisse se réserve d'imposer au concessionnaire les obligations nécessaires pour protéger le Parc national suisse.

ARTICLE 10. Compte tenu des eaux et de la chute utilisables sur les territoires respectifs des deux Etats, il est convenu que la force hydraulique qui sera mise en valeur dans l'usine à accumulation de Livigno et qui revient à l'Italie est de 8 750 chevaux théoriques, en moyenne.

En représentation de cette part, l'Italie aura droit à une quantité correspondante d'énergie électrique susceptible d'être produite dans l'usine à accumulation de Livigno ainsi qu'à une partie de la puissance disponible dans cette usine. L'énergie et la puissance revenant ainsi à l'Italie sont fixées respectivement à 36,5 millions de kilowattheures par année et à 18 250 kilowatts. La République italienne pourra en disposer dans telles formes et sous telles conditions qu'elle jugera utile.

L'énergie et la puissance électriques revenant à l'Italie et livrées dans ce pays seront exemptées par la Confédération suisse de toutes taxes, redevances ou restrictions de droit public quelconques, de telle sorte que cette énergie puisse être librement transportée en Italie et soit, à tous égards, dans la même situation que si elle était produite sur territoire italien. L'établissement, l'exploitation et l'entretien des installations électriques qui servent au transport de cette énergie à destination de l'Italie demeurent cependant soumis, en Suisse, à la législation de ce pays en la matière.

L'énergie et la puissance électriques attribuées à l'Italie ne pourront être utilisées hors de son territoire que conformément aux dispositions légales italiennes sur l'exportation de l'énergie électrique. Il est entendu que le Gouvernement italien ne mettra pas obstacle à l'emploi en Suisse de cette énergie, en échange d'une autorisation du Gouvernement suisse d'utiliser en Italie une partie correspondante de l'énergie revenant à la Suisse, conformément à l'article 4 de la présente convention.

III. DISPOSITIONS COMMUNES

ARTICLE 11. Les plans d'ensemble, de même que les projets de construction des ouvrages, seront dressés par les soins des concessionnaires.

Ils seront soumis, avec toutes justifications utiles, aux Gouvernements des deux Etats contractants et ils ne pourront être exécutés qu'après que les autorités compétentes des deux Etats se seront déclarées d'accord pour leur approbation.

Tous les ouvrages seront exploités et entretenus par les concessionnaires.

ARTICLE 12. Les Gouvernements des deux Etats contractants se communiqueront leurs décisions au sujet des actes de concession; ceux-ci n'auront leur effet que lorsque les deux Gouvernements se seront déclarés d'accord sur les conditions imposées. Ces dernières devront concorder sur tous les points où cela est nécessaire. Elles pourront s'écarter des normes de la législation nationale dont l'application ferait obstacle à l'harmonisation des actes de concession.

Les concessions prendront fin le 31 décembre de la quatre-vingtième année, comptée à partir de la date qui sera fixée par les actes de concession pour la mise en service des ouvrages. Les bénéficiaires des concessions auront pendant toute la durée des concessions un for dans chacun des deux Etats contractants

La limitation ultérieure ou le retrait de l'une des concessions ne pourront être décidés qu'à la suite d'une entente entre les deux Gouvernements.

ARTICLE 13. Les deux Etats contractants s'engagent à faciliter de leur mieux, dans le cadre de leurs législations, la construction et l'exploitation des ouvrages projetés et à prendre les dispositions nécessaires à cet effet, notamment sous les rapports des douanes, de l'importation et de l'exportation des matériaux de construction, du financement et du service de paiements.

Les dispositions de la présente convention ne s'appliquent pas aux impôts directs de l'Etat et des communautés locales.

En cas de double imposition les autorités italiennes et suisses se consulteront pour conclure un accord évitant la double imposition.

ARTICLE 14. En cas de non-achèvement des ouvrages, d'interruption de l'exploitation ou de toute autre cause de déchéance, prévue aux actes de concession, les Gouvernements des deux Etats contractants prendront, d'un commun accord, les mesures qu'ils jugeront les mieux appropriées à la situation et, éventuellement, à l'octroi de nouvelles concessions.

ARTICLE 15. Dix ans avant l'expiration de la durée des concessions, des pourparlers seront engagés entre les deux Gouvernements en vue de s'entendre sur la question de savoir:

- a) Si les concessions doivent être renouvelées et à quelles conditions;
- b) Si et à quelles conditions les deux Etats doivent chacun faire usage de leur droit de retour;
- c) Si l'exploitation des ouvrages doit cesser.

Dans les cas visés sous *a* et *b* du premier alinéa de cet article, les parts des forces hydrauliques revenant à la Suisse et à l'Italie seront maintenues aux

chiffres indiqués aux articles 4 et 10 de la présente convention et les conditions du nouveau régime seront déterminées de manière à en assurer aux deux Etats les avantages dans la même mesure.

Le droit de retour de chaque Etat s'applique aux installations situées sur son propre territoire.

ARTICLE 16. Pour la période de construction, les deux Gouvernements se réservent de constituer une commission de surveillance de quatre membres, dont deux membres seront désignés par le Gouvernement suisse et deux membres par le Gouvernement italien.

Cette commission contrôlera l'exécution des travaux et présentera ses observations sous forme de rapport aux autorités compétentes suisses et italiennes.

ARTICLE 17. Pendant la période d'exploitation, le contrôle sera exercé dans les conditions prévues aux actes de concession. Chaque Gouvernement donnera toutes facilités afin que les fonctionnaires de l'autre Etat chargés de ce contrôle ainsi que le personnel du concessionnaire puissent accomplir leur mission. Les noms des fonctionnaires seront réciproquement communiqués.

ARTICLE 18. Si un litige vient à s'élever entre les deux Gouvernements au sujet de l'application ou de l'interprétation de la présente convention ou de l'une des concessions visées par cette convention, il sera soumis au cas où il n'aurait pas été réglé dans un délai raisonnable par la voie diplomatique ou par d'autres voies amiables, à un tribunal arbitral dont la sentence sera obligatoire.

Ce tribunal arbitral sera composé de deux membres et d'un surarbitre. Chacun des deux Gouvernements nommera un membre. Le surarbitre, qui ne devra pas être ressortissant de l'un des deux pays, sera désigné d'un commun accord entre les deux Gouvernements.

Si la désignation commune du surarbitre n'a pas lieu dans un délai de six mois à partir du moment où l'un des deux Gouvernements a proposé le règlement arbitral du litige, il sera procédé à cette désignation en appliquant par analogie l'article 45, 4^e alinéa et suivants, de la convention de La Haye du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

Tout différend qui pourrait surgir entre les deux Gouvernements concernant l'interprétation et l'exécution de la sentence arbitrale sera soumis au jugement du tribunal qui a rendu la sentence.

Il est entendu que le présent article demeurera applicable à tout litige qui, de l'avis de l'un des deux Gouvernements, concernerait soit l'application ou l'interprétation de la convention ou de l'une des concessions visées par cette convention, soit l'interprétation ou l'exécution de la sentence arbitrale.

ARTICLE 19. Les stipulations de la présente convention seront maintenues en temps de guerre.

. . .

PROTOCOLE ADDITIONNEL

Pour assurer la bonne exécution des dispositions contenues aux articles 4 et 10 de la Convention, conclue en date de ce jour, entre la Confédération

suisse et la République italienne au sujet de l'utilisation de la force hydraulique du Spöl, les Hautes Parties contractantes ont déclaré ce qui suit :

I

Le Gouvernement italien accorde au bénéficiaire de la concession de l'usine à accumulation de Livigno, l'autorisation d'utiliser en Suisse, pendant toute la durée de la concession, l'énergie électrique et la puissance revenant à l'Italie, conformément à l'article 10, 2^e alinéa, de ladite convention.

En échange, le Gouvernement suisse accorde au bénéficiaire de la concession de la dérivation vers l'Adda (usine de Premadio) l'autorisation d'utiliser en Italie, pendant toute la durée de la concession, une partie correspondante de l'énergie électrique et de la puissance revenant à la Suisse, conformément à l'article 4, 2^e alinéa, de ladite convention.

Dans le cadre de cet échange, les deux Etats renoncent à percevoir des taxes ou redevances d'importation ou d'exportation quelconques.

II

Compte tenu de l'échange prévu au chiffre I et sous réserve d'un ajustement sur la base des ouvrages exécutés, il reste, dans l'usine de Premadio, un solde en faveur de la Suisse qui s'élève à 91,5 millions de kWh par année et à 45 750 kW. Le concessionnaire de cette usine sera tenu de mettre cette quantité d'énergie et cette puissance à la disposition du concessionnaire de l'usine de Livigno moyennant paiement du prix de revient du kWh produit dans la centrale de Premadio.

Au cas où, dans un délai d'une année, compté à partir de l'entrée en vigueur de la concession suisse de la dérivation sur le bassin versant de l'Adda le concessionnaire de l'usine de Livigno n'aurait pas fait usage du droit de prendre tout ou partie de cette énergie et de cette puissance, le Gouvernement suisse accordera au concessionnaire de l'Usine de Premadio, sur sa demande, une autorisation d'utiliser en Italie le solde indiqué ci-dessus.

L'autorisation susdite ne sera pas soumise par la Confédération suisse au paiement d'une somme supérieure à celle perçue en cas d'exportation d'énergie électrique.

Une première autorisation sera accordée, le cas échéant, pour une durée de vingt ans.

III

Les dispositions du présent protocole additionnel ne concernent pas les impôts directs.

IV

Les dispositions de la convention et du présent protocole additionnel ne pourront être interprétées dans le sens :

Que le Gouvernement suisse aura le droit de prélever des impôts, taxes et contributions de nature fiscale sur l'énergie électrique et la puissance revenant à la Suisse, produites et utilisées en Italie, exception faite des prestations qui seront fixées dans l'acte de concession ;

Que le Gouvernement italien aura le droit de prélever des impôts, taxes et contributions de nature fiscale sur l'énergie électrique et la puissance revenant à l'Italie, produites et utilisées en Suisse, exception faite des prestations qui seront fixées dans l'acte de concession. . .

Italy-Yugoslavia

236. ACCORD ENTRE LE GOUVERNEMENT DE LA RÉPUBLIQUE ITALIENNE ET LE GOUVERNEMENT DE LA RÉPUBLIQUE POPULAIRE FÉDÉRATIVE DE YOUGOSLAVIE CONCERNANT L'ALIMENTATION EN EAU DE LA COMMUNE DE GORIZIA CONFORMÉMENT AU PARAGRAPHE 5 DE L'ANNEXE V AU TRAITÉ DE PAIX AVEC L'ITALIE¹, ET ÉCHANGE DE NOTES, SIGNÉ À NOVA GORICA, LE 18 JUILLET 1957²

Le Gouvernement de la République italienne et le Gouvernement de la République populaire fédérative de Yougoslavie, dans l'intention commune de continuer à assurer l'alimentation en eau de la commune de Gorizia, jusqu'alors régie par l'Accord de Rome du 26 juillet 1954³ qui vient à expiration le 15 septembre 1957, sont convenus de ce qui suit, conformément au paragraphe 5 de l'Annexe V au Traité de paix avec l'Italie:

Article premier

OBJET DE L'ACCORD

La République populaire fédérative de Yougoslavie continuera à assurer grâce à ses installations de Mrzlek (Fontefredda), gérées par l'Uprava Goriških Vodovodov de Nova Gorica, l'alimentation en eau de la partie de la commune de Gorizia qui, aux termes du Traité de paix, est restée à l'Italie.

Article 2

MODALITÉS DE LA FOURNITURE

L'Uprava Goriških Vodovodov de Nova Gorica fournira l'eau à la commune de Gorizia grâce à la conduite principale actuelle, d'un diamètre de 450 mm, qui amène l'eau au réservoir situé sur le château de Gorizia.

¹ Voir *supra*, traité n° 120, p. 415.

² *Raccolta Ufficiale delle Leggi e dei Decreti della Repubblica Italiana*, Anno 1957, vol. 13, p. 5060.

³ *Ibid.*, Anno 1954, vol. 13, p. 4580.

Article 3

QUANTITÉS À FOURNIR

L'Uprava Goriških Vodovodov de Nova Gorica assurera à la commune de Gorizia, sur la base de la quantité qui lui a été habituellement fournie par le passé, une alimentation en eau d'un volume annuel maximum de 4 500 000 (quatre millions cinq cent mille) mètres cubes d'eau, volume qui représente 85 p. 100 de la capacité actuelle des installations de Mrzlek (Fontefredda), les 15 p. 100 restants étant destinés à la consommation en territoire yougoslave.

En principe, la quantité d'eau réservée à la commune de Gorizia sera fournie à raison de 12 400 (douze mille quatre cents) mètres cubes environ par jour. Ce volume pourra être augmenté suivant les besoins de la commune de Gorizia, mais ne pourra dépasser 13 800 (treize mille huit cents) mètres cubes par jour, et la quantité annuelle ne pourra dépasser le chiffre prévu au premier alinéa du présent article.

Article 4

VARIATIONS DE LA QUANTITÉ FOURNIE

S'il devenait nécessaire de fournir des quantités d'eau supérieures à celles qui sont fixées à l'article 3, la Commission mixte prévue à l'article 11 examinera la question et l'exposera, en formulant les propositions appropriées, aux deux Gouvernements intéressés.

Au cas où, pour une raison quelconque, les disponibilités en eau provenant des sources d'alimentation de Mrzlek (Fontefredda) viendraient à diminuer, la quantité effectivement disponible sera répartie entre la commune de Gorizia et la Yougoslavie dans les proportions indiquées au premier alinéa de l'article 3.

Si, pour des raisons autres que des causes naturelles, l'alimentation en eau devait subir des diminutions ou des interruptions totales ou partielles, la commune de Gorizia et l'Uprava Goriških Vodovodov de Nova Gorica feront, chacune sur son territoire, le nécessaire pour rétablir dans le plus bref délai possible un service normal, en prenant le cas échéant les contacts voulus.

Article 5

MESURE DES QUANTITÉS D'EAU FOURNIES

La quantité d'eau reçue par la commune de Gorizia conformément à l'article 3 sera mesurée au moyen des deux compteurs installés de part et d'autre de la frontière.

Le chiffre à retenir pour la quantité d'eau à payer sera la moyenne arithmétique des indications des deux compteurs.

Au cas où les chiffres relevés sur les deux compteurs accuseraient une différence supérieure à 3 p. 100, il sera procédé à la revision des compteurs pour faire disparaître cette différence, et le chiffre à retenir pour la quantité d'eau à payer sera celui qu'indiquera le compteur en bon état.

Les indications des compteurs seront conjointement relevées à la fin de chaque mois par les représentants des services compétents de la commune de Gorizia et de l'Uprava Goriških Vodovodov de Nova Gorica.

Les représentants de la Commune de Gorizia et de l'Uprava Goriških Vodovodov de Nova Gorica qui seront chargés de relever les indications des compteurs pourront, à cette fin, franchir la frontière suivant les modalités prévues à l'article 13.

Article 6

ENTRETIEN DES INSTALLATIONS

La commune de Gorizia et l'Uprava Goriških Vodovodov de Nova Gorica veilleront en permanence à l'exploitation et à l'entretien des sources et installations situées sur leurs territoires respectifs, afin d'en assurer le plein rendement et de garantir la régularité et la continuité de l'alimentation en eau.

Article 7

ÉPURATION DE L'EAU

L'Uprava Goriških Vodovodov de Nova Gorica continuera à assurer l'épuration (filtrage et stérilisation) constante et régulière de l'eau dans les installations appropriées situées à Mrzlek (Fontefredda), suivant les méthodes et systèmes utilisés jusqu'à présent.

La Commission mixte prévue à l'article 11 veillera à l'application de ces méthodes et systèmes et, le cas échéant, pourra les modifier selon les principes modernes de la technique sanitaire.

Dans l'accomplissement de ces fonctions, la Commission mixte aura recours aux services de deux experts sanitaires nommés respectivement par la commune de Gorizia et par l'Uprava Goriških Vodovodov de Nova Gorica.

La Commission mixte continuera à assurer auxdits experts sanitaires la possibilité de rester constamment en contact et d'effectuer toutes les inspections et tous les prélèvements d'eau nécessaires.

Article 8

FOURNITURE DE MATÉRIEL

A la demande de l'Uprava Goriških Vodovodov de Nova Gorica, la commune de Gorizia continuera à fournir, dans la limite du possible, les produits et le matériel ci-après nécessaires à l'exploitation et à l'entretien des sources et des installations de Mrzlek (Fontefredda);

a) Chlore gazeux ou sels de chlore pour la stérilisation de l'eau, ainsi que tous autres produits nécessaires à l'épuration;

b) Pièces de rechange pour les installations électriques de l'aqueduc, les pompes, les appareils d'épuration et les canalisations.

La valeur de ces fournitures ne pourra dépasser chaque mois le prix mensuel moyen de l'eau fournie à la commune de Gorizia, et sera déduite de la somme qui, aux termes du premier alinéa de l'article 10, sera due par la commune pour le mois au cours duquel les fournitures auront été livrées.

Pour les autres fournitures importantes intéressant directement le fonctionnement des installations de Mrzlek (Fontefredda), la Commune de Gorizia s'emploiera à en faciliter l'acquisition directe en Italie. Les demandes de l'Uprava Goriških Vodovodov de Nova Gorica relatives à ces fournitures seront présentées à la commune de Gorizia par l'intermédiaire d'un membre yougoslave de la Commission mixte prévue à l'article 11.

Le paiement des fournitures visées à l'alinéa précédent sera effectué par la Yougoslavie conformément à la réglementation concernant les paiements de caractère commercial qui sera en vigueur entre l'Italie et la Yougoslavie lors du versement des sommes considérées.

Le Gouvernement italien délivrera les licences d'exportation nécessaires pour les fournitures en question.

Article 9

PRIX DE L'EAU

Le prix de l'eau fournie par l'Uprava Goriških Vodovodov de Nova Gorica pour la consommation de la commune de Gorizia reste fixé d'un commun accord à 13 (treize) lires le mètre cube.

Ce prix s'appliquera aux quantités d'eau faisant l'objet des relevés effectués conformément aux dispositions de l'article 5 du présent Accord.

Article 10

CALCUL DES SOMMES À PAYER

Les sommes dues par la commune de Gorizia à l'Uprava Goriških Vodovodov de Nova Gorica pour la fourniture d'eau seront calculées chaque mois sur la base du prix fixé à l'article 9 du présent Accord.

La commune de Gorizia paiera mensuellement, au plus tard dans les quinze jours de la réception des factures, la somme calculée selon les dispositions du premier alinéa du présent article, diminuée le cas échéant du prix des produits et du matériel fournis en application des dispositions du premier et du deuxième alinéa de l'article 8 du présent Accord.

Les sommes dues par la commune de Gorizia à l'Uprava Goriških Vodovodov de Nova Gorica seront transférées conformément à la réglementation concernant les paiements de caractère commercial qui sera en vigueur entre l'Italie et la Yougoslavie lors du versement de ces sommes.

Article 11

COMMISSION MIXTE

Afin d'assurer l'application pratique du présent Accord, la Commission mixte composée de deux représentants de chacune des parties contractantes est confirmée dans ses fonctions.

Les nominations des représentants seront réciproquement notifiées par la voie diplomatique dans le mois de l'entrée en vigueur du présent Accord et la Commission s'installera à Nova Gorica dans les deux mois de cette même date.

Les changements éventuels de représentants seront également notifiés de part et d'autre par la voie diplomatique.

La Commission mixte pourra s'assurer les services d'experts des deux parties.

La Commission mixte, sauf en cas d'urgence, se réunira au plus tard dans les trois jours de la demande de convocation présentée par écrit par l'une des deux parties intéressées. Les réunions auront lieu alternativement à Gorizia et à Nova Gorica et seront présidées à tour de rôle par l'un des représentants des parties contractantes.

Pour chaque réunion, il sera dressé un procès-verbal commun en deux originaux, chacun d'eux étant rédigé en italien et en slovène et signé par tous les membres de la Commission mixte.

Article 12

ATTRIBUTIONS DE LA COMMISSION MIXTE

La Commission mixte prévue à l'article 11 devra :

- a) Surveiller l'exécution du présent Accord;
- b) Assurer la liaison et la collaboration entre la commune de Gorizia et l'Uprava Goriških Vodovodov de Nova Gorica;
- c) S'efforcer de résoudre toute question relative à l'exécution du présent Accord;
- d) S'acquitter de toutes les autres fonctions qui lui sont dévolues par le présent Accord.

Les questions sur lesquelles la Commission mixte ne parviendrait pas à un accord seront déferées aux deux gouvernements.

Article 13

INSPECTIONS ET LIAISON TÉLÉPHONIQUE

Pour pouvoir s'acquitter des attributions visées à l'article 12, la Commission mixte, chacun de ses membres, les experts sanitaires visés à l'article 7 et les autres experts pourront accéder, moyennant entente préalable, à toutes les installations de l'aqueduc.

Les membres de la Commission mixte, les experts sanitaires et les agents visés au dernier alinéa de l'article 5 seront munis d'un passeport revêtu d'un visa valable un an pour un nombre illimité de passages de la frontière.

Les deux Parties donneront aux experts visés au quatrième alinéa de l'article 11 toutes les facilités possibles pour accéder à toutes les installations de l'aqueduc.

Afin d'éliminer promptement toute difficulté et dans l'intérêt réciproque des Parties, la liaison téléphonique existante entre la commune de Gorizia et l'Uprava Goriških Vodovodov de Nova Gorica sera maintenue.

Nova Gorica, le 18 juillet 1957

Monsieur le Président,

Me référant à l'Accord signé ce jour au sujet de l'alimentation future en eau de la commune de Gorizia, et notamment aux articles 1 et 3, j'ai

l'honneur de vous confirmer ce qui vous a déjà été communiqué verbalement, à savoir que le débit de la source de Kromberk (Moncorona), par un phénomène naturel qui remonte à 1933 et qui est connu également des experts de la commune de Gorizia, est sujet à une diminution progressive. C'est pourquoi il n'a pas été possible, dans le nouvel Accord, de faire état de cette source en même temps que de celle de Mrzlek (Fontefredda). Néanmoins, aux termes de l'article 3 du nouvel Accord, les quantités d'eau garanties sont demeurées inchangées par rapport à celles que prévoyait l'Accord précédent.

Si votre Gouvernement est d'accord sur ce qui précède, j'ai l'honneur de vous proposer que la présente lettre et votre réponse soient considérées comme faisant partie intégrante du nouvel Accord.

Veillez agréer, Monsieur le Président, les assurances de ma haute considération.

Ivo MURKO

Monsieur le Ministre Francesco Macchi di Cellere
Président de la délégation italienne, Gorizia

Gorizia, le 18 juillet 1957

Monsieur le Président,

J'ai l'honneur d'accuser réception de votre lettre en date d'hier, dont le texte est le suivant:

(Voir la Note yougoslave ci-dessus)

J'ai l'honneur de vous informer que ce texte rencontre l'agrément du Gouvernement italien.

Veillez agréer, Monsieur le Président, les assurances de ma haute considération.

FRANCESCO MACCHI DI CELLERE

Monsieur Ivo Murko
Président de la délégation yougoslave, Nova Gorica

Norway-Sweden

237. CONVENTION¹ BETWEEN NORWAY AND SWEDEN ON CERTAIN QUESTIONS RELATING TO THE LAW ON WATERCOURSES, SIGNED AT STOCKHOLM, MAY 11, 1929²

¹ Came into force on the thirtieth day after the exchange of ratifications done at Oslo on 2 July 1930, in accordance with article 35. On the entry into force of this Convention, the Convention of October 26, 1905 [*British and Foreign State Papers*, vol. 98, p. 828], was annulled.

² League of Nations, *Treaty Series*, vol. 120, p. 277.

SCOPE OF THE CONVENTION

Article 1

1. The Present Convention relates to installations or works or other operations on watercourses in one country 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. The Convention also refers to communications 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 watercourse.

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

Article 2

If an undertaking includes the transfer of water from one drainage area to another, either country may 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 this Convention. The term "drainage area" shall be held to mean the entire area from which water has a common outlet to the sea.

APPLICATION OF THE LAWS

GENERAL RULES

Article 3

1. Subject to compliance with the provisions of this Convention, the question whether and on what conditions an undertaking may be carried out shall be decided according to the laws of the country in which the undertaking is to be carried into effect.

2. The relations between the other country and interested parties in its territory, and also the relations between such parties, shall be governed by the laws of that country.

EQUALITY OF INTERESTS

Article 4

Authorisations for an undertaking may be granted independently of the question to which of the two countries a waterfall or immovable property or transport or floating on account of which the undertaking is to be carried out belongs.

Article 5

In deciding whether an undertaking may be carried out, its effects in both countries 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.

COMPENSATION

Article 6

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.

LIMITATION OF TIME

Article 7

Authorisation for an undertaking may be granted for a specified period.

CHARGES AND FUNDS

Article 8

1. The laws in force in the country in which the undertaking is to be carried out in respect of the obligation to pay charges or deposit funds may also be applied, subject to the following regulations, to waterfalls or other immovable property, situated in the other country, on account of which the undertaking is to be carried out. The term "funds" shall in the present case include compensation for the use of lakes, which are not entirely subject to property law.

2. The charges and funds referred to in paragraph 1 shall be payable to the State in which the undertaking is to be carried out and shall be fixed with due reference to any interests existing in that country. If such charges and funds are conditional upon an increase in power, they shall be based on the increase in power obtained by means of the undertaking, whatever part of it be utilised.

3. Taxes payable annually shall be paid from and including the calendar year following the year in which the undertaking has been completed in accordance with provisions issued by the competent authority.

4. The owners of waterfalls or other immovable property in one of the countries may not be required to pay charges or deposit funds in the other country in addition to those arising out of the provisions of this Article.

TRANSMISSION OF POWER

Article 9

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.

PARTICIPATION IN UNDERTAKINGS

Article 10

The laws of either country regarding rights or obligations to take part in an undertaking may not be applied to the advantage or detriment of waterfalls or other immovable property or interests within the other country. Agreements between the interested parties in both countries regarding participation in an undertaking shall, however, be valid, provided they are approved by the competent authority in each country.

SECURITY

Article 11

Either country may demand security for the fulfilment of conditions established in respect of an undertaking and of any other obligations which may result therefrom.

APPROVAL OF THE OTHER COUNTRY

Article 12

1. One country may not authorise an undertaking unless the other country has given its approval, if the undertaking is likely to involve any considerable inconvenience in the latter country in the use of a water-course for navigation or floating or to hinder the movement of fish to the detriment of fishing in that country, or if the undertaking is likely to cause considerable disturbance in conditions governing the water-supply over an extensive area.

2. If there is no reason to believe that the undertaking will produce the effects mentioned in paragraph 1 in the other country, that country cannot oppose the execution of the undertaking.

Article 13

If the other country's consent is necessary, the question shall be decided in accordance with the principles applicable to similar installations, works or operations under that country's laws, subject, however, to the provisions of Articles 4 and 5. The consent may not be subjected to other conditions than those referring to the planning of the work or the prevention or reduction of public damage or nuisances.

PROCEDURE

APPLICATIONS

Article 14

1. Applications for authorisations for an undertaking shall be addressed to the competent authority in the country in which the undertaking is to be carried out. 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 the other country, the application shall be accompanied by a declaration from that State to the effect that it has no objection to the application being considered.

2. Applications shall be accompanied by the plans, specifications and particulars required to enable the effects which the undertaking will produce in both countries to be determined.

3. When an application has been received by the authority in the country in which the undertaking is to be carried out, a copy, together with the enclosures, shall be transmitted to the other State.

PUBLICATION

Article 15

The laws in force in the country in which the undertaking is to be carried out in respect of the publication of the application and communications and consultations regarding the application shall not apply within the other country. The inhabitants of the latter shall, however, be informed of the application and of the action taken upon it by the competent authority in that country in such manner as it may deem fit. For this purpose the necessary information on the subject shall be communicated to that authority by the competent authority in the former country.

REQUESTS FOR INFORMATION

Article 16

Each State may ask the competent authority in the other country for the information necessary to enable it to determine what effects the undertaking will produce in the former country.

EXAMINATION OF QUESTIONS BY A COMMISSION

Article 17

Each State may require that, in order to examine the question, a Commission should be appointed consisting of two, four or six members, half of whom shall be nominated by each State.

Article 18

1. The Commission shall examine the questions which concern both countries and may for that purpose call in expert assistance. It shall establish its own rules of procedure.

2. Parties whose rights are affected by the undertaking shall receive at reasonable notice an opportunity of defending their interests before the Commission.

3. Each State shall fix and pay the remuneration of the members of the commission which it has appointed. The other costs of the Commission shall be paid by the applicant, but shall be advanced by the State which

has called for the appointment of the Commission. The applicant may be required to pay an appropriate sum on account or to give security for such costs.

Article 19

1. The Commission shall give its opinion as to whether the undertaking should be carried out, and in that case shall decide in so far as circumstances require:

(a) How the work is to be executed so that the object may be attained without excessive cost and with the minimum damage and inconvenience, and also what measures may be considered necessary to prevent or decrease the damage to or detrimental effect upon public interests;

(b) What rules should be laid down regarding the conservancy and outflow of the water;

(c) The amount of the charges to be paid and the funds to be deposited in accordance with the provisions of Article 8;

(d) Whether the arrangements provided for in Article 10 regarding participation in the work should be approved;

(e) What security is to be given for fulfilling the stipulated conditions governing the work and for any obligations which may result therefrom;

(f) Within what period the work is to be begun and completed;

(g) For what period the authorisation is to be valid;

(h) Any other questions concerning the two countries in connection with the work.

2. When the Commission's enquiry has been concluded, its opinion shall be communicated to both States. Each State may ask the Commission for further information, which shall also be communicated to both States.

COMPETENT AUTHORITY TO GIVE DECISIONS

Article 20

The question whether the consent of the other State is required for an undertaking and if so whether such consent should be given and on what conditions, shall be decided by the King. If such consent is required and if it has been subjected to special conditions, the question whether the undertaking is permissible and on what conditions shall also be decided by the King in the country in which the work is to be carried out.

CONTENTS OF THE AUTHORISATION

Article 21

1. Authorisation for an undertaking shall be granted by the competent authority in the country in which it is to be carried out. The authorisation shall contain not only the conditions stipulated by that State but also any conditions which may have been submitted for the other State's approval in accordance with Article 13. The authorisation shall further stipulate

that it is not valid in the other country unless the applicant has obtained the certificate mentioned in Article 22 from the competent authority of that country.

2. When the final decision has been reached by the State in which the undertaking is to be carried out, a copy thereof shall be transmitted to the other State at the same time as the decision is sent to the applicant.

LEGAL EFFECT OF THE AUTHORISATION IN THE OTHER COUNTRY

Article 22

1. When authorisation for an undertaking has been granted and has acquired legal effect, the applicant must within 180 days obtain from the competent authority in the other country a certificate that authorisation has been granted in the manner provided for in this Convention. If the certificate is not applied for within the above-mentioned period, the undertaking may not be carried out without fresh authorisation.

2. If a waterfall, immovable property or transport or floating interest on account of which authorisation for an undertaking has been granted belongs to the other country, the certificate may not be issued unless a decision has been taken regarding the regulations to be established under Article 3, paragraph 2.

3. When such a certificate has been issued, any inhabitant of the country shall be obliged, always subject to compliance with the laws of the country and provided he receives compensation therefor, to give up the 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.

CHARGE FOR DEALING WITH AN APPLICATION

Article 23

If the legislation of either country provides for the payment of a charge as a contribution to the costs of dealing with the application in that country, the amount of such charge may be reduced, according to circumstances, below any figure which may otherwise have been established.

SUPERVISION AND MAINTENANCE

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 provisions of the present Article regarding supervision and maintenance shall apply *mutatis mutandis* to the conservancy and outflow of water.

ABANDONMENT OF UNDERTAKINGS

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 possess an equal right to safeguard their interests. In this respect the provisions of Articles 15 and 16 shall apply *mutatis mutandis*.
2. The provisions of Article 6 shall apply *mutatis mutandis* to any damage or nuisance caused by the stoppage of an undertaking.

TRANSPORT AND FLOATING

Article 26

With regard to the opening, maintenance or use for transport or floating of the water-courses mentioned in Article 1, paragraph 2, the inhabitants of each country shall have the same rights and be subject to the same obligations in the other country as the inhabitants of that country. Each State may, however, issue special regulations regarding the liability of inhabitants of the other country to give security for obligations which they incur by carrying on floating.

MISCELLANEOUS PROVISIONS

INVESTIGATORY WORK

Article 27

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

TIME-LIMITS

Article 28

If, under the laws of either country, any undertaking must be begun or completed within a specified time after it has been authorised, such time shall be calculated from the date on which the certificate mentioned in Article 22 is issued.

AGENTS

Article 29

1. Any person authorised to carry out an undertaking may be requested by the competent authority of the country in which he is not domiciled to appoint an agent approved by that authority and domiciled in the country, 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 undertaking. The agent's name and address shall be com-

municated to the competent authority in the said country for publication. If these provisions are not complied with, such authority may appoint an agent.

2. If a person engaged in floating in either country is not domiciled in that country, the provisions of paragraph 1 shall apply *mutatis mutandis* unless he is represented by a floating association formed in accordance with the laws of that country.

EXECUTION

Article 30

1. A final judgment or an award which has acquired legal force in one country in respect of an undertaking or in respect of transport or floating to which the present Convention applies shall, provided such judgment or award can be executed in that country and does not prescribe a penalty, be immediately executed on request in the other country.

2. If the person affected by the judgment or award is not a national of or is not domiciled in the country where the judgment or award is given, 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 29, has been lawfully summoned in due time.

3. The provisions of paragraph 1 regarding a judgment or award shall apply *mutatis mutandis* to any other decision or claim in either country which may be executed or recovered in the same manner as a legal judgment under the laws of that country.

4. Application for execution shall be made and received in Norway by the competent department and in Sweden by the legal section of the Ministry of Foreign Affairs, or by the competent provincial administrations. The application shall be accompanied by a certificate issued by the authority from which it emanates to the effect that the judgment, award, decision or claim fulfils the above-mentioned provisions in respect of its execution.

5. Execution shall be effected in each country in accordance with the laws in force therein. The right of priority granted by the laws of either country to claims for charges or funds may, however, not be applied. Sums recovered shall be transmitted to the authority which applied for execution.

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

UNDERTAKINGS WITHOUT AUTHORISATION

Article 31

If an undertaking has been carried out without authorisation, the inhabitants of both countries shall, in respect of the legality of the undertaking, possess equal rights, as regards the safeguarding of their interests.

ASSOCIATIONS

Article 32

The provisions of this Convention in respect of the rights and obligations of the inhabitants of either country in the other country shall also apply to the state and its communes, and to companies, associations and institutions belonging to that country. The term "commune" shall be held to include administrative subdivisions known as "landsting" or "fylkeskommun".

STATE UNDERTAKINGS

Article 33

If either State undertakes work on its own account, the procedure laid down in the Convention shall be applied *mutatis mutandis*.

. . .

Norway-Union of Soviet Socialist Republics

238. AGREEMENT¹ BETWEEN THE ROYAL NORWEGIAN GOVERNMENT AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS CONCERNING THE RÉGIME OF THE NORWEGIAN-SOVIET FRONTIER AND PROCEDURE FOR THE SETTLEMENT OF FRONTIER DISPUTES AND INCIDENTS, SIGNED AT OSLO, ON 29 DECEMBER 1949²

. . .

PART II

FRONTIER WATERS AND REGULATIONS FOR THEIR USE
(NAVIGATION, TIMBER RAFTING, FISHING)

Article 7

1. The term frontier waters in this Agreement means the Pasvikelv (Patso-joki) river and the lakes formed by it from frontier marks Nos. 9 and 10 to frontier mark No. 196, and the Jakobselv (Voriema) river and the lakes formed by it from frontier mark No. 302 to frontier mark No. 415.

2. Each Contracting Party shall take the necessary measures to ensure that the provisions of this Agreement are observed in the use of frontier waters and that the rights and interests of the other Contracting Party in frontier waters are respected.

¹ Came into force on 30 October 1950, by the exchange of the instruments of ratification at Moscow.

² United Nations, *Treaty Series*, vol. 83, p. 342.

Article 10

1. Both Parties may float timber freely along the Pasvikelv (Patso-joki) river and the lakes formed by it from frontier posts Nos. 9 and 10 to frontier posts Nos. 218 and 219, including reaches where both banks belong to one Contracting Party.

2. Dates and precedence of timber launching and floating under paragraph 1 of this article shall be fixed annually in good time and not later than 1 April by negotiation between the competent authorities of the Contracting Parties. If the Parties are unable to agree on precedence, Norway shall be entitled to float first in odd-numbered and the USSR in even-numbered years.

Article 11

1. In order to ensure regular floating, the competent authorities of the Contracting Parties shall, in accordance with articles 10 and 33 of this Agreement, and if notified not less than five days before floating begins, permit foremen with sufficient lumbermen to cross the water and move about on the opposite bank in order to construct there the usual temporary floating equipment, keep logs moving and clear the bank of floating timber. Workmen shall remain on the opposite bank only during daylight, and it shall be prohibited to light fires or cause any material damage to the other Party.

2. Timber of a Contracting Party floated along the Pasvikelv (Patso-joki) river shall be free of customs duty or other charge.

Article 12

1. All floated timber shall be marked. The competent authorities of the Contracting Parties shall by agreement in good time determine marks and exchange drawings thereof.

2. All floated timber shall be barked and care shall be taken that no bark enters the water of the Pasvikelv River. Timber floated in cradles or rafts need not be barked.

Article 13

1. Nationals of the two Contracting Parties may fish waters up to the frontier line; but in the Pasvikelv (Patso-joki) and Jakobselv (Voriema) Rivers and in the lakes formed by them it is prohibited:

(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 9, paragraph 1.

2. Preservation and hatching of fish in frontier waters, protection of fish in specified reaches, fishing seasons and other economic measures

in connexion with fishing may be regulated by special agreement between the Contracting Parties.

Article 14

1. The Contracting Parties shall ensure that the frontier waters are kept clean and are not artificially polluted or fouled in any way. They shall also take the necessary measures to prevent damage to the banks of frontier rivers and lakes.

2. Questions relating to the construction or management of any work or building on the Pasvikelv (Patso-joki) or Jakobselv (Voriema) Rivers and their tributaries capable of affecting the level and volume of those rivers shall be settled by special agreement between the Contracting Parties.

Article 15

The competent authorities of the Contracting Parties shall exchange as regularly as possible such information concerning level and volume of, and ice on, frontier waters as might avert damage or danger from flooding or ice.

. . .

239. AGREEMENT¹ BETWEEN NORWAY AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE UTILIZATION OF WATERPOWER ON THE PASVIK (PAATSO) RIVER, SIGNED AT OSLO, ON 18 DECEMBER 1957²

The Government of Norway and the Government of the Union of Soviet Socialist Republics,

Desirous of further developing economic co-operation between Norway and the Soviet Union, and

Desirous, to this end, of utilizing the water-power of the Pasvik (Paatso) river, situated on the frontier between Norway and the Soviet Union, for their mutual benefit on the basis of an equitable apportionment between the two countries of the rights to utilize this water-power,

Have decided to conclude this Agreement . . .

Article 1

This Agreement concerns the apportionment between Norway and the Soviet Union of the rights to utilize the water-power of the Pasvik (Paatso) river from the river mouth up to the point 70.32 m above sea level where the river intersects the Norwegian-Soviet State frontier between boundary markers 9 and 10.

The altitudes given in this and other articles of this Agreement are based on the Norwegian levelling of the Pasvik (Paatso) river, as published in 1940.

¹ Came into force on 27 June 1958, the date of the exchange of the instruments of ratification at Moscow, in accordance with article 17.

² United Nations, *Treaty Series*, vol. 312, p. 274.

Article 2

The Soviet Union shall have the right to utilize the water-power of the Pasvik (Paatso) river:

(a) In the lower section, from the river mouth to altitude 21.0 m above sea level at Svan (Salmi) lake;

(b) In the upper section, from Fjaer (Høyhen) lake 51.87 m above sea level to altitude 70.32 m above sea level, where the river intersects the Norwegian-Soviet State frontier between boundary markers 9 and 10.

Norway shall have the right to utilize water-power in the middle section of the Pasvik (Paatso) river from Svan (Salmi) lake 21.0 m above sea level to altitude 51.87 m above sea level at Fjaer (Høyhen) lake.

Article 3

For the purposes of utilizing water-power in those sections of the Pasvik (Paatso) river in which, under article 2, water-power is allocated to the Soviet Union, the Soviet Union shall have the right to construct and operate water-power installations containing the following main features:

A. At Skolte (Boris Gleb) rapids in the lower section:

(1) A water-lifting dam with discharge channels.

The dam, with intake, spillway, timber apron and other installations, including a coffer-dam, shall be constructed partly in Norwegian territory.

In determining the size of the spillway and the discharge channels, it shall be understood that the water-level at the dam must not exceed a maximum of 21.0 m above sea level.

If closer investigation should reveal the need for clearing and blasting to ensure that the water-level in Svan (Salmi) lake does not exceed 21.0 m above sea level when the water discharges normally and that in times of flood it is no higher than under the present natural conditions, such work shall be carried out by the Soviet Party.

(2) A power-station with inlet and outlet channels and other accessory installations such as transformer and switch gear, etc.

The power-station shall be constructed entirely in Norwegian territory.

B. At Heste (Hävös) rapids in the upper section:

(1) A water-lifting dam with discharge channels and a water-stop wall.

The dam, with intake, spillway, timber apron and other installations, including a coffer-dam, shall be constructed partly in Norwegian territory. The water-stop wall shall be constructed entirely in Norwegian territory.

In determining the size of the spillway and the discharge channels, it shall be understood that the water-level at the water-lifting dam must not exceed a maximum of 61.0 m above sea level.

(2) A power-station with inlet and outlet channels and other accessory installations such as transformer and switch gear, etc.

These installations shall be constructed entirely in Soviet territory.

C. At Tange (Purnu) rapids in the upper section:

(1) A water-lifting dam with discharge channels.

The dam, with intake, spillway, timber apron and other installations, including a coffer-dam, shall be constructed partly in Norwegian territory.

In determining the size of the spillway and the discharge channel, it shall be understood that the water-level at the dam must not exceed a maximum of 70.32 m above sea level.

(2) A power-station with inlet and outlet channels and other accessory installations such as transformer and switch gear, etc.

These installations shall be constructed entirely in Soviet territory.

The position of the water-power installations in both Norwegian and Soviet territory shall in the main be as shown on the attached map and in the longitudinal section of the river, annexes Nos. 1 and 2.

During the construction of the water-power installations, the consent of the Norwegian Party must be obtained for any alterations affecting Norwegian interests.

The water-power installations shall be solidly constructed and properly maintained.

Article 4

For the purposes of utilizing water-power in that section of the Pasvik (Paatso) river in which, under article 2, water-power is allocated to Norway, Norway shall have the right to construct and operate, on the Skog (Männika) rapids in the middle section, water-power installations containing the following main features:

(1) A water-lifting dam with discharge channels in the main course of the river and a water-stop wall intercepting the Männika-river channel.

The dam, with spillway, timber apron and other installations, including a coffer-dam, shall be constructed partly in Soviet territory. The water-stop wall intercepting the Männika-river channel, the coffer-dam and a tunnel for circulation shall be constructed entirely in Soviet territory.

In determining the size of the spillway and the discharge channels, it shall be understood that the water-level at the water-lifting dam must not exceed a maximum of 51.87 m above sea level.

If closer investigation should reveal the need for clearing and blasting to ensure that the water level in Fjaer (Høyhen) lake does not exceed 51.87 m above sea level when the water discharges normally and that in times of flood it is no higher than under the present natural conditions, such work shall be carried out by the Norwegian Party.

(2) A power-station with inlet and outlet tunnels and other accessory installations, such as transformer and switch gear, etc.

These installations shall be constructed entirely in Norwegian territory.

The position of the water-power installations in both Norwegian and Soviet territory shall in the main be as shown on the attached map and in the longitudinal section of the river, annexes Nos. 1 and 2.

During the construction of the water-power installations, the consent of the Soviet Party must be obtained for any alterations affecting Soviet interests.

The water-power installations shall be solidly constructed and properly maintained.

Article 5

The land in Norwegian territory on which the Soviet water-power installations referred to in article 3 are built, and the land in Norwegian territory required for the operation and future maintenance of these installations, shall be made available free of charge by Norway for use by the Soviet Union for as long as the water-power installations exist.

Such land shall be surveyed and marked after further consultation between the Parties. The land, with the exception of the area required for building and operating the water-stop wall at the Heste (Hävös) rapids, shall be fenced in by the Norwegian Party.

While the construction of the water-stop wall at the Heste (Hävös) rapids is in progress, the Soviet Union may also use land in Norwegian territory free of charge to build a road and install telephone and power lines to the said water-stop wall.

Article 6

The land in Soviet territory on which the Norwegian water-power installations referred to in article 4 are built, and the land in Soviet territory required for the operation and future maintenance of these installations, shall be made available free of charge by the Soviet Union for use by Norway for as long as the water-power installations exist.

Such land shall be surveyed and marked after further consultation between the Parties. The land, with the exception of the area required for building and operating the water-stop wall intercepting the Männika-river channel, shall be fenced in by the Soviet Party.

While construction of the water-stop wall on the Männika river is in progress, Norway may also use land in Soviet territory free of charge to build a road and install telephone and power lines to the said water-stop wall.

Article 7

While the construction of the water-power installations is in progress, the two Parties shall, without charge and for the purposes of such construction, authorize each other:

(a) To use land in the territory of the other Party that may be required for storage or other purposes;

(b) To take sand, gravel, clay, stone and peat which may be found in the territory of the other Party at a reasonable distance from the construction site. The search for and extraction of the said materials shall require the consent of the Party to which the land belongs. At the conclusion of the work, the user shall restore the extraction site to proper order.

Article 8

While the construction of the installations is in progress and while they are being operated, each Party shall accord to nationals of the other Party who are concerned in such construction and operation the right of unimpeded access to and sojourn in those parts of its territory which are referred to in

articles 5, 6 and 7. Military personnel and persons bearing arms shall not, however, have such access.

To ensure unimpeded access to the installations situated on the fenced-in sites referred to in articles 5 and 6, frontier guards shall not be posted on such sites.

The procedure for giving effect to the foregoing provisions shall be regulated by the authorities of the two Parties.

Article 9

The Soviet Union shall not pay any compensation to Norway, Norwegian nationals or other persons for unavoidable damage caused to Norwegian territory or to Norwegian interests in general by flooding in connexion with the construction and operation of the water-power station in the lower section as provided in article 3.

Article 10

Norway shall not pay any compensation to the Soviet Union, Soviet nationals or other persons for unavoidable damage caused to Soviet territory or to Soviet interests in general by flooding in connexion with the construction and operation of the water-power station in the middle section as provided in article 4.

Article 11

The Soviet Union shall make a lump-sum payment to Norway in compensation for unavoidable damage caused to Norwegian territory or to Norwegian interests in general by flooding in connexion with the construction and operation of the water-power stations in the upper section as provided in article 3.

The compensation shall be paid when construction in the upper section begins. The amount of the compensation shall be N kr 1 million, which shall be determined on the basis of the official Norwegian wholesale-price index as at 1 January 1957 and shall be adjusted in accordance with the official Norwegian wholesale-price index as at 1 January of the year in which payment is made.

Such compensation shall cover all unavoidable damage which may be caused to the Norwegian Party in connexion with the construction and operation of the water-power stations in the upper section.

Article 12

Compensation for damage caused by a break in the dam resulting from poor workmanship and compensation for any other kind of unforeseen damage shall be paid by the Party which carries out or has contracted with others to carry out the construction or operation of the installations which have caused the damage.

Article 13

Before flooding takes place, each Party shall clear those parts of its territory that are to be flooded in connexion with the construction of the water-

power stations. Bushes and trees of more than one metre in height shall be cut at the roots and removed.

Article 14

It shall be the duty of the Parties to provide lockable timber-aprons at the water-power installations. Each Party may in future, and at its own expense, construct, operate and maintain timber-float installations at the water-power plants of the other Party. The land required for this purpose shall be made available by the Parties without charge.

For the purpose of using and operating the timber-float installations which may be set up, floatage personnel shall have access to the dam and land of the other Party.

Article 15

A Party constructing water-power installations in accordance with this Agreement shall inform the other Party of the beginning of the work not later than two months beforehand and shall at the same time furnish the other Party with a time-table for the execution of the work.

Such information need not, however, be supplied for preparatory work connected with the building of roads, telephone and power lines, barracks and other auxiliary installations on the Party's own territory.

Construction work in connexion with the water-power installations shall be completed and the construction site shall be cleared within five years from the beginning of the work. Where an installation is constructed in two stages, each stage may cover five years.

Article 16

In the operation of the water-power installations referred to in articles 3 and 4, the water level in the intake reservoir of the dam shall not exceed the relevant embankment limits. Such limits shall be indicated at the reservoir site by means of durable and plainly visible water-level marks.

The dam-control machinery shall at all times be in good condition, and spillways shall not be blocked by ice or any other objects.

Poland-Union of Soviet Socialist Republics

240. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE POLISH REPUBLIC AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS CONCERNING THE RÉGIME ON THE SOVIET-POLISH STATE FRONTIER. SIGNED AT MOSCOW, ON 8 JULY 1948²

¹ Came into force on 20 January 1949, the date of its ratification by both Contracting Parties, in accordance with article 38.

² United Nations, *Treaty Series*, Vol. 37, p. 66.

CHAPTER II

PROCEDURE FOR THE USE OF FRONTIER WATERS AND RAILWAYS AND HIGHWAYS
CROSSING THE FRONTIER LINE*Article 11*

1. All rivers and lakes along which the frontier line runs shall be deemed to be frontier waters.
2. The Contracting Parties shall take appropriate steps to ensure that when frontier waters are used the provisions of this Agreement are observed and the corresponding rights and interests of the other Contracting Party are respected.

Article 12

1. On frontier rivers where the frontier line follows the middle of the main channel (thalweg), the craft (ships, boats) of the two Contracting Parties shall have the right to navigate freely along the main channel, regardless of the course of the frontier line.
2. On lakes, ships (boats) shall be permitted to navigate only up to the frontier line.
3. Crafts (ships, boats) of the Contracting Parties shall be permitted to put in at either bank of a river (lake) only if they are in distress (due to storm, accident, etc.). In such cases the appropriate frontier authorities must render each other the necessary assistance.

Article 13

1. The craft of the Contracting Parties shall be permitted to navigate in frontier waters only by day. At night they must be moored to their own bank or anchored in their own waters.
2. All craft navigating in frontier waters must fly respective national flags and be designated by white or black numbers clearly visible from both banks.
3. Craft proceeding along the main channel of frontier waters shall not be permitted to anchor in the middle of the channel except when compelled to stop.
4. The craft of one Contracting Party which are proceeding along the main channel of a frontier river, and are observing the regulations set forth in paragraphs 1 and 2 of this article, may not be detained by the authorities of the other Contracting Party, compelled to anchor or tie up, or subjected to a search or inspection of their papers.

Article 14

1. The Contracting Parties shall see that frontier waters are kept in proper order. They shall also take appropriate steps to prevent deliberate destruction of the banks of frontier rivers and lakes.

2. If, through the fault of one Contracting Party material damage is caused to the other Contracting Party as a result of failure to carry out the provisions of paragraph 1 of this article, compensation for such damage shall be paid by the Party responsible therefor.

3. The position and direction of frontier watercourses shall as far as possible be maintained unchanged. To this end the competent authorities of the Contracting Parties shall jointly take the necessary steps to remove such obstacles as may cause displacement of the bed of frontier rivers, streams or canals, or obstruct the natural flow of water. Should appropriate joint works be undertaken in this connexion, the competent authorities of both Parties shall decide how the works are to be executed and the expenses involved shall, unless a special agreement is concluded on this question, be divided equally between the two Contracting Parties.

4. In order to prevent displacements of the beds of frontier rivers, streams or canals, their banks must be strengthened wherever the competent authorities of the Contracting Parties jointly consider it necessary. These operations shall be executed and the relevant expenditure defrayed by the Contracting Party to which the bank belongs.

5. Should the bed of a frontier river, stream or canal be displaced naturally or as the result of the action of the elements, the Contracting Parties shall be bound jointly and in the same proportion to make a correction of the bed, if this is deemed necessary by their competent authorities. The operations shall be carried out by mixed commissions set up by the Contracting Parties, which shall determine the method of carrying out the work, engaging labour, purchasing the necessary materials and defraying the expenses.

Article 15

1. The natural flow of water in frontier watercourses and in the adjacent areas inundated in time of flood may not be altered or obstructed to the detriment of the other Party by the erection or reconstruction of buildings either in the water or on the banks.

2. The competent authorities of the Contracting Parties will agree upon the method of regulating the discharge of water into, and the removal of water from, frontier waters, and upon all other questions relating to frontier waters.

Article 16

1. Frontier watercourses shall be cleaned out on the sectors where such work is jointly considered essential by the competent authorities of the two Contracting Parties. The cost of cleaning in such cases shall be equally divided between the two Contracting Parties.

2. The cleaning of those sectors of frontier waters which are situated wholly on the territory of one of the Contracting Parties, shall be carried out by that Party at its own expense as the need arises.

3. In cleaning out frontier watercourses, the earth and stones removed shall be thrown out to such a distance from the bank, and levelled down in

such a way as to avoid any danger of the banks falling in or of the river-bed being polluted and so as to prevent the flow of water in time of flood being obstructed.

Article 17

1. The competent authorities of the Contracting Parties shall take appropriate steps to maintain the frontier waters in a proper state of cleanliness so as not to allow the waters to be poisoned or polluted by acids or refuse from factories or industrial establishments, the steeping of flax or hemp, or otherwise contaminated.

Article 18

1. Existing bridges, dykes, sluices, dams and similar installations on frontier watercourses shall be preserved and may be operated with the exception of those whose removal is considered necessary by the competent authorities of the two Contracting Parties.

2. If it is necessary to reconstruct or remove any of the installations referred to in paragraph 1 of this article, thus entailing a change in the level of the water in the territory of the other Contracting Party, the work in question may be undertaken only after the agreement of that Party has been received.

3. New bridges, dykes, sluices, dams and other hydraulic installations may not be erected or operated on frontier watercourses except by agreement between the Contracting Parties.

Article 19

1. The competent authorities of the Contracting Parties shall exchange information concerning the level and volume of water and ice conditions on frontier waters, if such information may help to avert the dangers created by floods or floating ice. If necessary, the said authorities shall also agree upon a regular system of signals in times of flood or floating ice. Delays in communicating or failure to communicate such information may not constitute grounds for claiming compensation in respect of damage caused by flood or floating ice.

Article 20

1. The two Contracting Parties may freely engage in the floating of timber throughout the whole length of the frontier watercourses, including those places where both banks belong to one only of the Contracting Parties.

2. The dates and order of priority for the launching and floating of timber, in accordance with paragraph 1 of this article, shall be determined each year by the competent authorities of the two Contracting Parties in good time and, in any case, not less than two months before navigation opens on the frontier watercourses. Each Contracting Party shall notify the other Party of the date of commencement of floating operations not less than five days beforehand.

Article 21

1. In order to ensure the normal floating of timber the competent authorities of the two Contracting Parties may by common agreement, in accordance with article 32, paragraph (b), of the present Agreement, permit workmen to land and move about on the bank of the other Party for the purpose of constructing temporary installations for timber floating, and clearing the bank of floating timber.

2. Details concerning the place, time, and the number of workmen requiring access to the bank of the other Party, in order to carry out the work referred to in paragraph 1 of this article, shall be agreed upon by the competent authorities of the Contracting Parties in good time, namely, not less than five days before the work begins.

3. The timber of the two Contracting Parties which is being floated down frontier watercourses shall not be subject to any customs duties or other dues.

Article 22

1. All floating timber must be marked, for which purpose the Contracting Parties shall, by mutual agreement beforehand, establish specimen markings and communicate them to each other.

2. In cases where the floated timber is stripped of its bark by the Contracting Parties, the bark so removed must not be deposited in the basins of frontier watercourses.

Article 23

1. Communication by railways, main roads and waterways intersected by the frontier, and the frontier transit points on such railways, main roads and waterways shall be regulated by special agreements between the Contracting Parties.

2. At points where the frontier line is intersected by railways, main roads and waterways, each Contracting Party shall erect special signs and barriers on its territory and shall maintain them in proper condition.

3. The Contracting Parties will take appropriate steps to see that the railway lines, main roads and waterways which intersect the frontier and which are open to traffic, are maintained in proper condition. Each Contracting Party shall keep them in repair at its own expense up to the frontier line.

Article 24

1. Bridges open to traffic which are intersected by the frontier shall be maintained in proper condition and repaired by each Contracting Party at its own expense up to the frontier line indicated on the bridge, unless a special agreement is concluded on this subject. The method, timing and nature of repairs shall be agreed upon beforehand by the competent authorities of the Contracting Parties.

2. Each Contracting Party may, as required, make a technical inspection of the sections of frontier bridges, dykes and sluices situated in the territory of

the other Contracting Party; the competent authorities of that Party must be notified not less than forty-eight hours in advance of the intended inspection and of the date of its beginning, and when it is completed shall be informed of its results, while the inspection itself should be carried out in the presence of the competent authorities of the other Party.

3. Traffic on frontier bridges and other crossings shall be regulated by agreement between the representatives of the competent authorities.

4. The provisions of the present article shall not apply to railway bridges.

5. The erection of new bridges, foot-bridges or ferries shall be carried out with the agreement of the representatives of the competent authorities of the Contracting Parties. These representatives shall agree beforehand on the site of the construction, the type of bridge, foot-bridge or ferry and the way in which the cost of erecting the said bridges, foot-bridges or ferries shall be divided. The protocols embodying the agreements shall be ratified by the appropriate authorities.

CHAPTER III

FISHING, HUNTING, FORESTRY AND MINING

Article 25

1. Residents of each Contracting Party may fish in frontier waters up to the frontier line in accordance with the regulations in force on their territory, subject to a prohibition:

(a) To use explosive, poisonous or narcotic substances entailing the mass destruction and mutilation of fish;

(b) To fish in frontier waters at night.

2. The Contracting Parties may conclude special agreements concerning the protection and breeding of fish in frontier waters, the prohibition of fishing for special species of fish in certain sectors, the dates of the fishing season and other measures of an economic nature relating to fishing.

. . .

Portugal-Spain

241. FRONTIER TREATY¹ BETWEEN SPAIN AND PORTUGAL SIGNED ON 29 SEPTEMBER 1864²

. . .

ART. 26 . . .

¹ The exchange of the instruments of ratification took place at Lisbon on 19 May 1866.

² *Recopilación de acuerdos internacionales con Francia y Portugal*, Ministry of Finance, Madrid, 1948, p. 279. (Translated from the Spanish by the Secretariat of the United Nations.)

Considering the damage sustained by various towns situated on certain border rivers, in particular the Minho, and the obstacles to navigation caused by works constructed on the banks of the said river and the resulting alteration of the course of its waters, and desiring to correct abuses and to regularize the exercise of legitimate rights, the two Contracting Parties agree that after the necessary studies have been completed a special code of regulations shall be drafted which, taking into due account the damage done in the past, shall establish and fix for the future appropriate rules governing the construction of works of any kind on the banks of border rivers, particularly those of the Minho and its islands.

. . .

ART. 28.

As the international line follows the watercourses and the direction of the roads in various places and touches certain springs, it is agreed that such waters, roads and springs shall be used jointly by the towns of both Kingdoms. Bridges built over the rivers delimiting the frontier shall belong half to one State and half to the other, subject to fair adjustment between the two Governments of the costs of construction of such bridges.

. . .

242. REGULATION¹ ANNEXED TO THE BOUNDARY TREATY
BETWEEN SPAIN AND PORTUGAL OF 29th SEPTEMBER,
1864, SIGNED AT LISBON, NOVEMBER 4, 1866²

ANNEX I

Regulations concerning the Conterminous Rivers between the two Nations

In consequence of the stipulation in Article XXVIII of the Boundary Treaty concluded at Lisbon on the 29th of September, 1864, in which it is provided that the waters, of which the course determines the international line at various tracts of the frontier, shall be used in common by the people of both kingdoms; and, moreover, in fulfilment of the provision in Article XXVI for the formation of regulations to put a stop in future to the abuses in regard to the construction of works on the banks of the rivers, and especially on those of the Minho and its islands, both because the navigation is obstructed, and public use and benefit are impeded, and because the course of the waters is changed, to the injury at the same time of private property situated on the river borders, and of the territorial sovereignty of the two States.

Considering that the separating rivers, although when by the operation of nature they suddenly and completely change their direction, yet do not

¹ The exchange of the instruments of ratification took place at Lisbon on 20 November 1866.

² *British and Foreign State Papers*, Vol. 62, p. 952.

alter the boundary of the nations, since this is still determined by the ancient channel; on the contrary, when they change slowly and gradually by the work of man, produce alteration in the frontier line and injuries to the lands of private owners:

Considering, therefore, that in order to prevent the artificial diversion of the course of the rivers, as well as to make the common use thereof practicable, it is expedient to set forth and apply the recognised principles of international law in the matter;

The Plenipotentiaries of the two States, having examined in general the circumstances of the rivers which divide the two countries, and particularly the special situation of the River Minho, having before them the necessary documents and the respective plans at the part of the said river most subject to disputes; and after duly examining the reclamations on the subject presented of late years by various proprietors on both banks, have agreed to draw up the regulations recommended to them, which are of the following tenour:

I. The rivers which serve for the international frontier between Spain and Portugal, on the line comprised in the Boundary Treaty of 1864, shall be used in common by the people of the two countries, though by the moiety of their currents they still belong to the two nations; and in order that the said people may avail themselves of them conveniently, as well as in order that the international boundary determined by the course of the waters may not suffer alteration, the said rivers shall be subject to the continual supervision of the authorities of the adjacent towns.

II. In virtue of the common use of the conterminous rivers which appertains to the people of the two nations, those people may freely navigate the Minho, the Douro, and the Tagus, for the whole of their respective practicable extent, as well as the other frontier rivers where the circumstances admit of it; but they must always conform, both in regard to the navigation itself, and in regard to the traffic or trade which they carry on, to the existing compacts between the two Governments, and the special regulations in force in each country.

The inhabitants of the two territories may likewise pass from one bank to the other with all kinds of craft, and make use of the waters for all purposes that suit them, provided that in such cases they do not infringe the existing public agreements or the recognised customs amongst the people of the two banks, nor alter in the very least the conditions of the rivers in regard to their fitness for the public and common use.

. . .

IV. As a consequence of the stipulations in the preceding Articles, and for the purpose of preserving the navigation of the rivers uninterrupted, and the use of them free, as well as of maintaining the limit appointed for their courses unalterable, it shall not be lawful to construct in the rivers or on their banks, or on those of their islands, works of any kind that may prejudice the navigation or alter the course of the waters, or damage in any manner the condition of the rivers for the common and public use. Wherefore, as a general rule, the construction is prohibited of all kinds of works, such as mills or water-mills, fixed or movable moles, dykes, fisheries, canals,

palisades, or any others whatever, that may cause obstacle or injury to the public interest in the aforesaid respects.

V. If, however, any of the works mentioned above, or others of a different kind, which the private owners of either bank may wish to construct, can be executed without any prejudice to the common use and advantage of the two countries, the respective authorities may grant special permission for the purpose, in virtue of the requirements and proceedings hereinafter stated.

VI. If any subject of one of the two States should consider it necessary or useful to construct a certain work in the rivers, whether to defend his property against inundations, or to benefit his interests and improve his estate, without prejudice in any case to the public or other persons, he must, before he executes any work, solicit and obtain permission to do so. For this purpose he is to apply by means of a memorial to the chief officer of the administrative district (at present the Civil Governor of a province in Spain, and the Civil Governor of a district in Portugal) explaining his desire and the circumstances that justify it, and accompanied by a sketch of the work which he intends to construct, and a plan of the corresponding part of the river, as necessary data and such as are considered sufficient for estimating the probable results of the projected work.

The Civil Governor, after receiving reports from the Alcalde (or municipal administrator) of the town, and hearing such scientific or professional opinions as may be deemed expedient, shall decide in conformity therewith. In case the work be considered prejudicial at present or in future, to the interests of the riverain inhabitants, or to the common use of the river, the permission solicited shall be refused. If, on the contrary, the work should not be capable of inflicting public or private damage, a copy of the memorial shall be sent to the Governor of the frontier administrative department, and he after receiving in his turn the necessary reports, and acting as befits neighbours with common interests, shall send an answer stating his opinion and either granting his consent to the construction of the work, if it appear to be inoffensive for all, or refusing his consent with a statement of the reasons for which he considers it inexpedient. In the first case the Civil Governor to whom the petition was addressed, shall comply with it and send the necessary licence to the person interested; in the second case he shall refuse the permission, and in both cases the matter shall be considered as settled without further appeal.

VII. The licences for the construction of works granted by the competent authority shall expire in six months from the date of their issue, if within that time the grantee shall not have commenced the work.

They shall likewise expire if the works after commencement should be interrupted or suspended for the space of a year.

VIII. Contraventions of the provisions of these Regulations, whether by constructing works or otherwise perverting the conditions of the rivers, may be denounced either by private persons in legal form, or by the warders and other agents, or by the local authorities.

Without prejudice to the informations and proceedings to which the infractions or abuses committed may give rise at any time, and for the purpose of maintaining and preserving the good condition of the rivers, an examina-

tion thereof shall take place annually, in conformity with the general provision contained in Article XXV of the Boundary Treaty.

In consequence whereof, every year in the month of August the Spanish Alcaldes and the Portuguese Municipal Administrators, accompanied by municipal delegates, shall examine the fluvial part of the frontier to the extent belonging to their jurisdictional department; they shall agree upon official demarcations if there be facts on which to ground them, and they shall draw up a record of their examination, and send a copy thereof to the superior administrative authorities, in order that the latter may determine what they consider expedient within the compass of their powers.

IX. The penalties to be imposed by the administrative authorities above mentioned for infraction of the provisions of these Regulations shall be as follows:

Those who construct works in the rivers without having obtained proper permission to do so, as prescribed in the preceding Articles, shall be obliged:

1. To destroy at their own expense all the works done, and to restore everything entirely to its original state.
2. To pay a fine of not less than 10 crowns in Spanish coin (4,500 reis in Portuguese coin), nor more than 100 crowns (45,000 reis), and which shall at the same time be in proportion with the cost of the work, and with the damages which it might have occasioned according to professional estimation.
3. To pay all the expenses incurred in the proceedings and measures taken on the part of the authorities until the demolition of the work unduly executed has been completed.

The same or similar penalties will be incurred by all those who by any means not here specified, turn or alter the current of the waters, or obstruct the navigation, or deteriorate in any other way the condition of the rivers in respect to the common use thereof by the inhabitants of the frontiers of both kingdoms.

X. The provisions contained in the foregoing Articles shall be observed and fulfilled by the inhabitants and by the authorities of both States as soon as the present Regulations are declared to be in force.

. . . .

243. TREATY¹ BETWEEN PORTUGAL AND SPAIN CONCERNING COMMERCIAL RELATIONS AND NAVIGATION, SIGNED AT MADRID ON 27 MARCH 1893²

. . . .

¹ Ratifications exchanged at Lisbon on 5 September 1893.

² *British and Foreign State Papers*, vol. 85, p. 416.

Article 19

The coast and fishery police service in both countries will be subject to the provisions contained in the Regulations (Appendix No. 6 to this Treaty).

Appendix No. 6: Regulations for the Police service of the Coast and Fisheries.

Section I: Provisions applicable to the waters under the respective jurisdiction of either country.

. . .

Article 5

The fisheries in the boundary Rivers Minho and Guadiana will continue, as heretofore, to be carried out in common by the Portuguese and Spaniards, in accordance with the provisions and regulations which may be agreed upon; for the River Minho, by the Captain of the Port of Caminha and the Marine Adjutant of Guardia; and for the River Guadiana, by the Captain of the Port of Villa Real de San Antonio and by the Adjutant of Marine of Ayamonte, and sanctioned by the respective Governments.

. . .

244. REGULATIONS¹ FOR FISHING IN THE MIÑO RIVER, DRAWN UP BY A MIXED SPANISH-PORTUGUESE COMMISSION PURSUANT TO ARTICLE V OF APPENDIX VI TO THE TREATY OF COMMERCE AND NAVIGATION BETWEEN SPAIN AND PORTUGAL OF 27 MARCH 1893, MADRID, 15 MAY 1897²

CHAPTER I

FISHING OPERATIONS AND REGISTRATION OF FISHING VESSELS

ARTICLE 1. Fishing operations on the Miño river may be performed by both Spanish and Portuguese subjects, subject to observance of the rules established by these Regulations.

ARTICLE 2. The prohibition of fishing by Portuguese fishermen immediately off the Spanish shore and by Spanish fishermen immediately off the Portuguese shore shall be maintained.

ARTICLE 3. No Portuguese or Spanish vessel may engage in fishing on the Miño river unless registered and authorized for that purpose.

ARTICLE 4. The registration of fishing vessels shall take place at the office of the harbour master at La Guardia or Caminha, according to the

¹ Approved by an exchange of notes of the same date. Promulgated at Madrid and Lisbon on 17 and 19 May 1897.

² Marquis de Olivart, *Colección de los Tratados, Convenios y Documentos Internacionales*, vol. 12, p. 115.

nationality of the vessel, where the name of the owner and the number of each vessel shall be recorded.

ARTICLE 5. Fishing vessels may be registered at any time during the course of the year. The harbour masters at La Guardia and Caminha shall communicate to one another monthly any changes which have occurred. They shall also communicate all such changes to the commander of their country's gunboat for the purpose of such supervision as may be required.

ARTICLE 6. Fishing licences shall be valid only until the end of the current year and from the date on which they were issued.

ARTICLE 7. All owners of fishing vessels operating on the Miño river shall be in possession of a document, to be provided free of charge by the office of their respective harbour master, showing the number of the vessel, the name of the owner and the date of issue and bearing the *endorsement* of the gunboat commander, who shall validate it on behalf of the policing authorities of the opposite shore even if the latter have not received the notification referred to in article 5.

ARTICLE 8. In view of the considerable extent of the fisheries policing zone, the gunboat commanders shall be authorized to issue temporary fishing licences within the area extending from Goyan and Vilanova da Cerveira upstream as far as these Regulations apply. The gunboat commander shall apply to the harbour master at Caminha or La Guardia for the regular licence which they shall deliver to the applicant.

ARTICLE 9. The harbour masters at La Guardia and Caminha may issue licences for fishing on the river to any applicant in the area extending from Goyan and Vilanova da Cerveira upstream as far as these Regulations apply; in the area extending from the same points to the mouth of the river, they shall issue permits only to persons who can prove that they have an adequate knowledge of the river.

ARTICLE 10. If any payment is required for issue of the regular licence, the gunboat commanders shall be authorized to collect such payment and forward it to the harbour master concerned.

CHAPTER II

FISHING NETS

SOLE ARTICLE. The nets and tackle which are permitted for fishing operations on the Miño river are the following:

1. *Algerife*. Used for fishing salmon and shad. This net shall have a mesh measuring not less than 59 millimetres, or 118 millimetres when stretched.

2. *Trammel-net (trasmallo)*. Used for the same purposes as above and having a mesh measuring not less than 70 millimetres or 140 millimetres when stretched.

3. *Lamprey net (lampreeira)*. The mesh of this net shall not measure less than 35 millimetres, or 70 millimetres when stretched.

4. *Estacada*. The mesh of this net may not measure less than 35 millimetres, or 70 millimetres when stretched.
5. *Sacada*. The mesh of this net may not measure less than 25 millimetres or 50 millimetres when stretched.
6. *Sole "varga" (varga de solla)*. The mesh of this net may not measure less than 35 millimetres, or 70 millimetres when stretched.¹
7. *Mullet "varga" (varga de mugil)*. The mesh of this net may not measure less than 25 millimetres, or 50 millimetres when stretched.¹
8. *Solleira*. The mesh of this net may not measure less than 35 millimetres, or 70 millimetres when stretched.
9. *Long-lines (palangres or espineles)*. These may be used in areas not occupied by nets.
10. *Other lines*. May be used in all areas.
11. *Harpoons (fiskas)*. Lamprey and sole harpoons may be used but must measure not less than 5 centimetres between barbs.
12. *Biturones*. This type of net may be used in the area extending from Porto and Lapella upstream as far as these Regulations apply. The mesh shall measure not less than 60 millimetres, i.e. not less than 30 millimetres in any direction.
13. *Cabaceira*. Subject to the same rules as the *biterón*.

CHAPTER III

FISHING SEASONS

ARTICLE 1. Fishing with *algerife* nets shall commence on 15 February and terminate on 30 June.

ARTICLE 2. Fishing with *trammel-nets* shall commence on 15 February and terminate on 30 June.

ARTICLE 3. Fishing with *lamprey nets (red lampreeira)* shall be allowed from 1 January to 30 June.

ARTICLE 4. Fishing with *estacada nets* shall be allowed from 15 September to 15 December, but only when the operation is performed around a shoal, i.e. by forming circuits around shoals. In no case may be laid across the stream of the river or its tributaries.

ARTICLE 5. Fishing with the net known as the *sacada* shall be allowed from 15 September to 1 July in the area extending from San Pedro da Torre upstream as far as these Regulations apply and from 31 October to 1 September from San Pedro da Torre to the mouth of the river.

ARTICLE 6. Fishing with the *mullet varga (varga de mugil)* shall be allowed during the period specified in the preceding article.

¹ Revised text in accordance with the Exchange of notes of 20 February 1904.

ARTICLE 7. Fishing with the *sole varga* (*varga de solla*) shall be allowed from 15 August to 15 January.

ARTICLE 8. Fishing with *solleira* nets shall be allowed during the period specified in the preceding article.

ARTICLE 9. Fishing with the sole harpoon (*fisga de solla*) shall be allowed during the period specified for the two preceding nets.

ARTICLE 10. Fishing with the lamprey harpoon (*fisga de lamprea*) is lawful throughout the year.

ARTICLE 11. Fishing with long-lines (*palangres*) or *espineles* shall be lawful throughout the year provided it does not interfere with net fishing operations.

ARTICLE 12. Fishing with *liñes* or hand lines (*volantines*) shall be lawful throughout the year.

ARTICLE 13. Fishing with *biturones* or *cabeceiras* shall be allowed from 15 February to 30 June.

CHAPTER IV

CASTING OF NETS

ARTICLE 1. Casting of *algerife* nets shall commence at sunrise and terminate at sunset.

ARTICLE 2. Casting of trammel (*trasmallo*) nets shall commence at sunset and terminate at sunrise.

ARTICLE 3. Notwithstanding the provisions of the two preceding articles, the gunboat commanders may change the prescribed order if such change is requested by the fishermen themselves, who must provide a valid reason therefor, such as turbidity of the water, etc.

ARTICLE 4. The other nets and tackle authorized under these Regulations may be used both by day and by night.

ARTICLE 5. Both trammel (*trasmallo*) nets and lamprey nets (*lampreeiras*) must be placed at least twenty-five metres apart. The same rule shall apply to other nets whenever several of them are operated together.

CHAPTER V

ROTATION OF CASTING

ARTICLE 1. The *Spanish* term "*quebrada*" and the *Portuguese* term "*cobrada*" shall be understood to mean a group or fleet of fishing vessels which operate together.

ARTICLE 2. Fishing with *algerife* nets shall be governed by the following rotation arrangement when two "*quebradas*", one *Spanish* and the other *Portuguese*, meet at the same bank or shoal:

1. The "*quebrada*" which is first to arrive in the area shall be entitled

to cast its nets first. The next casts shall be made on an alternating basis by the two “*quebradas*”, a vessel of one “*quebrada*” casting after a vessel of the other, until the last vessel of the “*quebrada*” having the smallest number of vessels, has cast its net. The remaining vessels of the “*quebrada*” having the most vessels shall then cast in uninterrupted sequence until the last vessel of that “*quebrada*” has cast. This alternating sequence of casts shall be repeated as many times as possible, but only for the period of a single tide. The rotation shall therefore recommence in the same manner at each subsequent tide even if some vessels of one or both “*quebradas*” have not yet cast their nets.

2. The “*quebrada*” which is first to arrive may not prevent another “*quebrada*” which arrives after it from casting its nets, if the latter “*quebrada*”, for any reason, does not desire to do so immediately.

3. If the “*quebradas*” have to suspend operations because of rising seas, abnormal tide or for any other reason of *force majeure* and, after this reason has ceased to exist, desire to recommence operations, they shall continue to cast in alternating turns, as before and as if the fishing had not been interrupted.

4. If a “*quebrada*” ceases fishing for reasons other than *force majeure*, it shall be deemed to have renounced its further turns at casting during that tide and the other “*quebrada*” shall therefore fish alone until the end of the tide.

ARTICLE 3. If two “*quebradas*” from location on opposite shores cannot cast their nets simultaneously owing to the narrowness of the stream, they shall be obliged to fish in turns as explained in the preceding article.

ARTICLE 4. Two “*quebradas*” from the same country may not fish simultaneously on the same shoal or bank.

ARTICLE 5. The gunboat commanders shall decide by agreement, in respect of each locality, the number of boats which each “*quebrada*” may comprise, in order that the latter may be neither too large nor too small.

ARTICLE 6. The casting of a net may not be commenced until half of the net cast before it has been hauled in.

ARTICLE 7. The gunboat commanders shall decide each day the order in which the “*quebradas*” shall fish on each shoal. If a new one appears, the established rotation may not be altered and the new shoal may not be fished until the said commanders establish a new rotation.

CHAPTER VI

POLICING OF FISHERIES

ARTICLE 1. The maintenance of order on and policing of the river, as well as measures to ensure strict observance of the provisions of these Regulations shall be the responsibility of the gunboat commanders of the two countries, who shall always operate in co-ordination with their respective

port authorities. The latter shall take no decision in the above-mentioned matters without first having consulted the said commanders.

ARTICLE 2. For the purpose of strict enforcement of the requirements and rules established by these Regulations, the gunboat commanders shall be provided with equipment and personnel appropriate for the function they have to perform.

ARTICLE 3. The gunboat commanders shall have permanently on the river a sufficient number of full-time *deputies or chief fish-wardens* to ensure compliance with the foregoing, who shall have at their disposal adequate supplies and personnel. These *deputies or chief fish-wardens* shall be stationed at intervals along the banks of the river, as the gunboat commanders deem necessary.

ARTICLE 4. The maritime authorities at La Guardia and Caminha shall delegate to a fisherman of each "*quebrada*", in whom they have confidence, authority to settle in the first instance any disputes or problems which may arise between fishermen of their country in the performance of their work, it being understood that this service shall always be performed without compensation.

ARTICLE 5. If the said fishermen cannot themselves settle a dispute or problem which has arisen, they shall refer the matter to the *deputy or chief fish-warden* who, if unable to settle it on the basis of such instructions as he may have received, shall bring the matter before the gunboat commander.

ARTICLE 6. It is urged upon the gunboat commanders that, where matters of minor importance are involved, they seek to reach agreement and to maintain good relations between themselves as authorities of friendly nations and to settle on their own initiative all matters which do not require to be referred to higher authority.

ARTICLE 7. Whenever fishermen from one bank of the river hire vessels from the opposite bank, the harbour master of that bank shall delete any such hired vessels from his register for the period of the hire, in order to preclude fishing by the vessel from both shores.

ARTICLE 8. Persons fishing on the river, regardless of nationality, shall be required to heed the patrols from both banks, such patrols being representatives of the maritime authority.

ARTICLE 9. The gunboat commanders of both countries may hold vessels violating these regulations, as well as their crews, and hand them over to the appropriate authority.

ARTICLE 10. The master of a vessel shall always be of the same nationality as the vessel except in the case of a hired vessel which shall have, temporarily, the nationality of the person hiring it. *However, in both cases, the entire crew must consist of persons having the same nationality as the owner, or at most one-quarter of the crew may consist of foreign subjects.*

In both cases, moreover, the master shall always be held responsible for

any violation of these Regulations committed on board a vessel which he owns or has hired, unless the offenders themselves submit to their maritime authority.¹

ARTICLE 11. Whenever a person commits a violation of these Regulations on the shore of the neighbouring country and escapes to his own country, avoiding detection by the authority of the country in which the offence was committed, the maritime authority of the latter country shall inform the maritime authority of the country of the offender in order that appropriate sanctions may be taken against him and the same maritime authority shall inform the maritime authority of the neighbouring country when the sanctions have been imposed.

ARTICLE 12. Units of the revenue police (*Guardia fiscal*), rural police (*Guardia civil*), coast guard (*Carabineros*) and other civil or military forces shall assist the forces responsible for the policing of fisheries and shall inform the gunboat commanders of any violations which occur.

CHAPTER VII

STATIONARY FISH TRAPS

ARTICLE 1. Existing stationary traps, known as *pesqueras* or *caneiros*, intended exclusively for fishing, on a temporary basis or otherwise, shall be registered at the office of the harbour master at La Guardia or Caminha within six months following the date of publication of these Regulations.

ARTICLE 2. The owners of such traps shall submit to their respective harbour masters particulars thereof, including the name of the owner, the name of the *pesquera*, and the municipality, parish and location in which it is situated.

ARTICLE 3. When registered at the office of the appropriate harbour master, each *pesquera* shall be assigned a serial number, the number being issued by order of registration at the office, and this number shall be displayed in a place where it is visible to vessels belonging to the *pesquera*.

ARTICLE 4. The port authorities at La Guardia and Caminha shall issue to the owners of *pesqueras* a document which shall have entered upon it, in addition to the registration serial number, all the rules governing operation of the *pesquera*.

ARTICLE 5. The document referred to in the preceding article shall be validated at the office of the appropriate harbour master during the first two months of each year.

ARTICLE 6. *Pesqueras* may be registered directly by the owners themselves or through the commander of the gunboat of the country of the owner, in accordance with the procedure indicated in articles 8 and 10 of chapter I. The annual validation of the registration document may be effected in the same manner.

¹ Revised text in accordance with the exchange of notes of 14 September 1901.

ARTICLE 7. On the occasion of the annual validation of the said document the owners of *pesqueras* shall be required to state in writing the number of salmon, shad and lamprey caught during the preceding year and the approximate value of the said fish caught during the same period.

CHAPTER VIII

PENALTIES

ARTICLE 1. The harbour masters at La Guardia and Caminha shall have authority to judge cases of violation of these Regulations by nationals of their respective countries and to impose the sanctions herein prescribed.

ARTICLE 2. While engaged in fishing operations, the vessels of each country shall in all matters concerning ordinary offences and violations of the law, remain subject to the jurisdiction of the country to which they belong.

ARTICLE 3. If the offence or violation was committed on board a vessel which is connected with the shore or is in such close proximity thereto that it may be boarded dry-shod, both the vessel and its crew shall be subject to the jurisdiction of the country in whose territory they are.

ARTICLE 4. The owner of a vessel who engages in fishing without first having registered the vessel shall pay a fine of twenty-five pesetas or 5,000 reis.

ARTICLE 5. The owner of any vessel which does not display its number in a clearly visible manner shall pay a fine not to exceed ten pesetas or 2,000 reis.

ARTICLE 6. Any vessel found fishing with any tackle at a time when the use of such tackle is prohibited by these Regulations shall pay a fine of twenty-five pesetas or 5,000 reis and the tackle shall be held by the gunboat commander or by his deputies or fish wardens until the beginning of the season during which its use is permitted.

ARTICLE 7. Any vessel found fishing with a net having a mesh smaller than that prescribed in these Regulations shall pay a fine not to exceed twenty-five pesetas or 5,000 reis. In addition, the net shall be seized and shall immediately be destroyed.¹

ARTICLE 8. Any person unloading fish of a less size than the minimum size prescribed for public consumption and usable only as soil fertilizer shall pay a fine not to exceed twenty-five pesetas or 5,000 reis.

ARTICLE 9. Any person who ties an extended trammel net to a pole fixed to the bottom shall pay a fine not to exceed five pesetas or 1,000 reis.

ARTICLE 10. Beating operations (*valar*), i.e. striking the water with oars,

¹ Revised text in accordance with the Exchange of notes of 14 September 1901.

sticks or stones, are strictly prohibited and offenders shall be subject to a fine not to exceed ten pesetas or 2,000 reis.

ARTICLE 11. If a vessel is found navigating or fishing without the master authorized by the authority concerned, the person substituting for the master shall pay a fine not to exceed fifteen pesetas or 3,000 reis.

ARTICLE 12. If two vessels collide as a result of faulty handling by either of the masters, the one responsible shall pay a fine of fifteen pesetas or 3,000 reis. If both were responsible, each one shall pay a fine of half that amount.

ARTICLE 13. Any person who, while fishing, causes his net to become entangled with the net of another fisherman, when this occurrence could have been avoided, shall pay a fine of five pesetas or 1,000 reis.

ARTICLE 14. Any person who orally insults the crew members of another vessel shall pay a fine of ten pesetas or 2,000 reis. Should he commit any act of violence, he shall be arraigned before the competent tribunal.

ARTICLE 15. Any person who fishes immediately off the shore of the other country shall have his fish, net and vessel confiscated.

ARTICLE 16. Simple failure to obey an order given by any agent of the authorities shall be punishable by up to five days imprisonment, depending on the circumstances.

ARTICLE 17. The gunboat commanders shall hold the vessels and nets of offenders until the latter have paid their fines.

ARTICLE 18. In the cases referred to in the preceding article and in article 6, the persons concerned shall not be entitled to compensation for any damage sustained by the seized tackle.

ARTICLE 19. Failure to register a *pesquera* as provided in Chapter VII, article 1, shall be punishable by a fine of one hundred pesetas or 20,000 reis.

ARTICLE 20. Failure to comply with the provisions of article 7 of the preceding chapter shall be punishable by a fine of twenty-five pesetas or 5,000 reis; the offenders shall not, however, be exempted from the requirement to submit the information specified in the said article.

ARTICLE 21. Owners of *pesqueras* who use in them nets other than those prescribed in these Regulations or who use the nets otherwise than during the periods prescribed herein shall pay a fine of twenty-five pesetas or 5,000 reis.

ARTICLE 22. The fines provided shall be payable in respect of the first offence. A fine of double the amount prescribed shall be payable if the offence is repeated.

ARTICLE 23. Any offence for which no penalty is provided herein shall be punishable by a fine not to exceed twenty-five pesetas or 5,000 reis.

ARTICLE 24. Fishing with dynamite or any substance which poisons water or stuns fish shall be punishable by a fine of not less than two hundred

pesetas or 40,000 reis. If the explosion of dynamite or any other type of explosive device causes physical damage to persons or constructions, the appropriate charges shall be made and the offenders shall be punished in accordance with their national laws.

ARTICLE 25. All illegally caught fish which is seized shall be sent immediately to the nearest charitable institution.

ARTICLE 26. The fines payable shall be paid at the office of the harbour master concerned in the manner prescribed by the relevant legislation of each country.

ARTICLE 27. The sanctions provided for in these Regulations are purely disciplinary in character and shall be imposed only where the offence does not involve any criminal act. Where such is the case, the offender must be judged by the competent tribunal.

ARTICLE 28. Any person throwing *asidas*, even if he succeeds only in making the fishing grounds temporarily unusable, shall be subject to a fine of one hundred pesetas or 20,000 reis, as well as to confiscation of his vessel and withdrawal of his fishing licence. However, if the *asidas* are equipped with blades or are of such form and design that they also destroy nets, the offender shall be brought before the competent tribunal and charged with a criminal offence.

ARTICLE 29. If a fine prescribed by these regulations has not been paid within the period specified by the harbour master concerned, it shall be replaced by short-term local imprisonment of the offender at the rate of one day for each five pesetas or 1,000 reis.

CHAPTER IX

GENERAL PROVISIONS

ARTICLE 1. These Regulations shall have effect from the bar of the river to the point at which the river ceases to be an international waterway.

ARTICLE 2. If any violation of these Regulations causes damage to third parties, the offender shall compensate the party sustaining the damage. The amount of the compensation to be paid shall be determined by the maritime authorities at La Guardia and Caminha who shall appoint experts for the purpose if they deem this necessary. However, the compensation may in no case exceed the value of the vessel and nets of the offender.

ARTICLE 3. The maritime authorities at La Guardia and Caminha and the gunboat commanders shall submit annually to their respective Governments a report including such observations as they deem appropriate concerning the application of these Regulations. The Governments shall agree to make such changes herein as they consider necessary.

ARTICLE 4. It is understood that these Regulations do not affect in any way the internal laws and regulations of each country.

ARTICLE 5. As soon as these Regulations are approved by both Governments, the harbour masters at La Guardia and Caminha shall be provided with the number of printed copies they deem desirable and shall distribute them along the shore of each country, in order that all parties concerned may be fully apprised hereof.

245. GENERAL ACT¹ DEMARCATING THE FRONTIER BETWEEN SPAIN AND PORTUGAL FROM THE MOUTH OF THE RIVER MIÑO TO THE CONFLUENCE OF THE CAYA AND GUADIANA, SIGNED AT LISBON ON 1 DECEMBER 1906²

SECOND PART

ARTICLE 3. It being established in the Boundary Treaty of 1864, annex I, article I, that the waters of rivers, where they constitute boundaries, shall belong by moieties to the adjoining countries, it has been agreed that the frontier along the Rivers Miño, Duero, Tuerco, Basaviga, Eljas, Tagus and Sever shall be determined by an imaginary line deemed to be drawn on the surface of the water equidistant from both shores so as to bisect the waters of the said rivers; such division shall not prevent the peoples of either State from making use of those rivers in conformity with the existing conventions between the two Realms and with the regulations in force.

ARTICLE 4. Because of the extensiveness of the boundary section of the River Miño, the large number of works constructed along its banks, and the disputes, sometimes of a serious character, that have arisen in former times between the riverside populations in both countries, a large amount of data and background information has been accumulated concerning that river, in which all the rights and obligations of the peoples of both States are clearly established.

In this connexion, the works existing on the banks of the said river in the summer of 1896 are listed in two memoranda accompanying the relevant partial deed of transfer, signed on 30 May 1897, the originals of which are in the respective archives of the Ministries of State and of Foreign Affairs, as well as in those of both delegations.

In each of the said memoranda, the works on either bank of the river are specified respectively in detail, together with information regarding their type, ownership and site, together with relevant comments in each case, the

¹ Approved by an exchange of Notes on 1 December 1906.

² Spain, Ministry of Finance, *Recopilación de Acuerdos internacionales con Francia y Portugal sobre límites y otros servicios de frontera*, Madrid 1948, p. 303. (Translated from Spanish by the Secretariat of the United Nations.)

parish district (*feligresía*) in which each item is situated being listed in the left-hand margin, and the municipalities (*ayuntamientos*) and names of owners in the right-hand margin.

ARTICLE 5. The survey of the River Miño shows: (1) that most of the works constructed on both banks do not affect the natural flow of the waters over the section where the river is flanked by rocky escarpments; (2) that those constructed along the section where the banks are low or consist of earthen embankments have a gradual effect, the consequences of which can only be appreciated over the long term; (3) that this latter circumstance places an added onus on the respective municipalities of both countries to comply with the provisions of the Boundary Treaty of 1864, annex I, article 8, which apply to all municipalities finding themselves in such a position.

ARTICLE 6. The general description of each of the rivers concerned, together with their respective survey maps prepared by the Joint Commissions of Officials of the Spanish and Portuguese Delegations, and the memoranda of works supplied by these officials, shall suffice for the purpose of determining the characteristics of the boundary line, the sinuosities of the said rivers, the sites of the works, if any, constructed on their banks, and the possible effect of such works on the flow of the waters, the aforesaid documents having been drawn up in such manner as to comply fully with annex I of the Boundary Treaty of 1864.

246. EXCHANGE OF NOTES¹ CONSTITUTING AN AGREEMENT BETWEEN SPAIN AND PORTUGAL ON THE EXPLOITATION OF BORDER RIVERS FOR INDUSTRIAL PURPOSES. MADRID, ON 29 AUGUST AND 2 SEPTEMBER 1912²

I

Mr. Jose Relvas, Envoy Extraordinary and Minister Plenipotentiary of Portugal, to His Excellency the Marquis de Alhucemas, Minister of State of His Catholic Majesty

Madrid, 29 August 1912

Sir,

I had the honour to inform you that the Portuguese Technical Stations have approved the conclusions reached by the Portuguese and Spanish Delegates, Mr. José Cecilio da Costa and Mr. Emilio Ortuño, appointed by the Governments of Portugal and Spain to consider rules for the exploi-

¹ Entered into force on 17 September 1912, the date of publication in the official journals of Spain and Portugal.

² Collected Laws of Spain (official edition), *Legislación y disposiciones de la Administración central*, Book XLV, Vol. 2 for 1912, p. 493. (Translated from the Spanish by the Secretariat of the United Nations.)

tation of the waters in the border rivers of the two countries for industrial purposes; and on behalf of the Government of the Republic I proposed to you that those rules should be given diplomatic approval so that they could enter into force. You were good enough to inform me of the consent of His Catholic Majesty's Government to this procedure.

I now have the honour to propose to you that the conclusions signed by the aforesaid Delegates in a document dated 10 August 1910, which are to be considered a binding addition to the provisions of the Treaty of 29 September 1864 and annex I thereto, should be approved in an exchange of diplomatic Notes so that they may be given effect in respect of the rivers referred to in that Treaty.

The conclusions to which I refer are as follows:

I. The two nations shall have the same rights in the border sections of the rivers, each accordingly being entitled to half the flow of water existing at the various seasons of the year.

In the case of waterfalls, the relative positions of the elements involved are covered by the following combinations:

- (a) Water taken and returned in the border section;
- (b) Water taken in Spain and returned in the border section;
- (c) Water taken in Spain and returned in Portugal;
- (d) Water taken in the border section and returned in Portugal.

II. Any entity desiring to exploit a waterfall for industrial purposes shall submit a technical plan to both nations, together with the appropriate application.

III. Before the concession is granted, an international commission composed of two engineers shall fix the provisions to which the works shall be required to conform.

IV. The rights of private persons shall remain protected by the legislation in force in each country.

V. The inspection and supervision of the works in construction and operation shall be carried out by both nations.

VI. A concession granted by one of the two nations shall not oblige the other to grant a corresponding concession.

It is understood that the High Contracting Parties shall by agreement draw up such supplementary rules as may be necessary for the implementation of these provisions.

If you agree, the conclusions set forth above could be considered to have received final diplomatic approval on your reply to this Note and the agreement would enter into force on the date of the simultaneous publication of the two Notes in the official journals of Portugal and Spain.

. . .

II

The Marquis of Alhucemas, Minister of State of His Catholic Majesty, to Mr. José Relvas, Envoy Extraordinary and Minister Plenipotentiary of Portugal

Ministry of State
Madrid, 2 September 1912

Sir,

I have received your Note of 29 August 1912, in which you propose on behalf of the Portuguese Government the confirmation, as an international agreement between Spain and Portugal, of the conclusions signed on 10 August 1910 by Mr. Emilio Ortuño and Mr. José Cecilio da Costa, Delegates respectively of the two nations, with a view to fixing rules for the exploitation of the waters in the border rivers between the two countries for industrial purposes, which conclusions were agreed upon in accordance with the following provisions:

[See the provisions contained in Nos. I to VI of the letter from the Portuguese Government]

His Majesty's Government being in full agreement with the proposal transmitted by you, the above-mentioned document of 10 August 1910 becomes by virtue of this note so informing you, an international treaty which shall be considered an annex to the Treaty of 29 September 1864 and shall enter into force on the date of the publication of both Notes in the official journals of Spain and Portugal.

247. CONVENTION¹ BETWEEN PORTUGAL AND SPAIN DELIMITING THE FRONTIER BETWEEN BOTH COUNTRIES, FROM THE CONFLUENCE OF THE RIVER CUNCOS WITH THE GUADIANA TO THE MOUTH OF THE LATTER, SIGNED AT LISBON ON 29 JUNE 1926²

Article 11

The part of the frontier defined in this Convention shall be subject to the principles laid down in the Boundary Treaty of 29 September 1864 and the annexes thereto, in respect of navigation, fishing, watercourses, roads, springs and international bridges, without prejudice to any special

¹ Ratifications exchanged at Lisbon on 17 June 1927.

² Spain, Ministry of Finance, *Recopilación de Acuerdos internacionales con Francia, y Portugal sobre límites y otros servicios de frontera*, Madrid 1948, p. 430. (Translated from Spanish by the Secretariat of the United Nations.)

provisions that the two Governments may have adopted or may see fit to adopt.

248. CONVENTION¹ BETWEEN SPAIN AND PORTUGAL TO
REGULATE THE HYDRO-ELECTRIC DEVELOPMENT OF
THE INTERNATIONAL SECTION OF THE RIVER DOURO.
SIGNED AT LISBON, AUGUST 11, 1927²

THE GOVERNMENT OF THE PORTUGUESE REPUBLIC and THE GOVERNMENT OF HIS CATHOLIC MAJESTY, with a view to preparing a draft Convention to regulate the hydro-electric development of the international section of the River Douro, have resolved to appoint a Mixed Commission, . . . composed as follows:

This Commission, having submitted to the two Governments the draft convention it had been instructed to prepare, has set forth with respect to the international section of the Douro rules supplementary to the Agreement of 1912 relative to the industrial utilisation of the waters of the boundary rivers between the two States. Both Governments, being sincerely desirous of strengthening the ties of friendship and the solidarity of economic interests existing between the two nations have resolved to transform the draft into a Convention, . . .

Article 1

The hydro-electric development of the international section of the Douro shall be carried out in the interests of both frontier States, in accordance with Article 1 of the Agreement of 1912 and the provisions of the present Convention.

All the other rights of both frontier States on the said international section defined in the Frontier Treaty of 1864, and its annex No. 1, ratified on November 26, 1866, shall remain in force in so far as they are not incompatible with the provisions laid down in the present Convention.

Article 2

The power capable of being developed on the international section of the Douro shall be distributed between Portugal and Spain as follows:

(a) Portugal shall have the exclusive right of utilising the entire fall in level of the river in the zone included between the beginning of the said section and the confluence of the Tormes and the Douro.

¹ The exchange of ratifications took place at Lisbon on 22 August 1927. The Convention came into force eight days later after the exchange of ratifications, in accordance with article 23.

² League of Nations, *Treaty Series*, vol. 82, p. 131.

(b) Spain shall have the exclusive right of utilizing the entire fall in level of the river in the zone included between the confluence of the Tormes and the Douro and the lower limit of the said international section;

(c) With a view to obtaining the full benefit of the fall caused by the barrage nearest to the frontier under construction on the Portuguese Douro, Portugal may utilise the necessary fall in level at the lower end of the international section, without however going beyond the mouth of the Huebra.

(d) Each State shall have the right to utilise for the production of electric power the entire volume of water which flows through the zone of development allotted to it in accordance with the provisions of paragraphs (a) and (b) of the present Article, with the exception of whatever may be necessary for common needs.

(e) Both States undertake mutually not to reduce the volume of water which should reach the beginning of each zone of utilization of the international section of the Douro or of the Portuguese Douro by leading off water with a view to obtaining hydro-electric power by means of barrages placed below the higher level of the regulating reservoirs at Ricobayo on the Esla and at Villardiegua on the Douro, provided for in Article 10 of the Royal decree law of August 23, 1926.

Article 3

Each State shall proceed to the hydro-electric utilisation of its zone directly or by means of concessions granted in accordance with its laws.

Should the works be built under concession, the firm or firms receiving the concession in each zone must be constituted in accordance with the internal legislation of the State granting the concession, and may not transfer the rights except to a firm of a like nature.

The chairman and the majority of the members of the board of directors of each firm must necessarily be nationals of the State granting the concession.

Such boards shall have their headquarters and hold their meetings in the territory of the State to whose jurisdiction the firm in question is amenable.

Article 4

The off-lets, canals, buildings and, generally, all the works and installations necessary for the utilisation of each zone shall be situated on the national territory of the State entitled to such utilisation, with the exception of the dams and works for the discharge of water or other accessories which have to be built in the bed or on the bank of the river belonging to the other State.

Article 5

Each of the High Contracting Parties undertakes to establish on a private footing, in favour of the works of the other Party, on Government lands within its territory, the servitudes with respect to reservoirs, dam-supports, off-lets or installations of any other kind whatsoever which may be necessary for the construction and operation of the said works of development.

The High Contracting Parties further reciprocally undertake, in accordance with the requirements of each case, to establish servitudes on the landed

property belonging to the State, public organisations or private individuals, which it may be necessary to occupy on the territory of one State for the purpose of the works situated within the zone of utilisation of the other State, and to decree their expropriation or the temporary occupation necessary in order to obtain building material or to establish the installations and auxiliary services essential for the construction of the works.

The High Contracting Parties likewise undertake to decree the expropriation of other works of development at present being used or operated in the international section which render difficult or prevent the complete utilisation of the hydro-electric power allotted to each State according to the provisions of Article 2 of the present Convention.

Article 6

With a view to applying the above Article, the two Contracting States declare to be of public utility and urgent all works which either Party may have to carry out for the hydro-electric development of the international section; they further declare that they will not recognise the river as a navigable waterway or one capable of being used for floating purposes in the zones of the international section, where such a character would be incompatible with the full use of the zones of development.

Should both Governments consider it advisable, with a view to improving communications between the two countries to organize a system of navigation by stages on the section of the river capable of being used for that purpose, or on the industrial canals, they shall come to an agreement beforehand by means of a special convention concerning the method of carrying out the work and of effecting transport without interfering with the hydro-electric operations.

Under this special Convention the general Regulations for the Free Navigation of Rivers adopted at the Congress of Vienna in 1815 shall be applied equally to Spanish and Portuguese merchant vessels in such a manner as may appear suitable for the navigation of the Douro. Arrangements shall also be made regarding the works which each State must carry out in order to make navigation possible, and regarding the system by which the respective States shall recoup themselves for costs incurred, proportionately to the labour expended by each Party in accordance with the said special Convention.

Article 7

The servitudes, expropriations and temporary occupations which have to be established or decreed in the territory of one State with a view to carrying out work for the benefit of the zone of development of the other State shall be subject to the following rules of procedure:

(a) The International Commission provided for under Article 14 of the present Convention shall be competent:

To fix the situation and extent of the property which is to be expropriated or occupied in any other way whatsoever, either wholly or in part, in accordance with the approved plans:

To assess finally the value of such property or the amount of compensation;

To fix, if the occasion should arise, the amount to be deposited as a preliminary condition for the temporary occupation of the property.

The Commission shall in every case hear the interested parties before taking a decision.

(b) The decisions referred to in the above paragraph shall only be binding for the owners of property and concessionnaires if the execution of such decisions is decreed by the competent territorial authority.

The examination carried out by such authority cannot affect the substance of the decisions, but must be confined to the question whether the formalities laid down in the present Convention have been observed.

If, within a fortnight from the date of the application to the competent authority, the latter has not raised any objection on account of any defect in form which must be corrected, the decision of the Commission shall become executory.

The territorial authority shall alone be responsible for the execution of these decisions in the manner laid down by its own legislation.

(c) The International Commission shall prepare and submit for the approval of the two Governments draft Regulations based on the principles set forth in the present Article, adapting them as far as possible to the provisions in force in the two countries; further, a summary procedure shall be devised to meet cases in which the votes in the Commission may be equally divided.

Article 8

In the zone of development of the international section, no part of the water used in virtue of the present Convention may be led off except for reasons of public health or other special purposes and only after agreement between the two States.

The International Commission shall fix the maximum volume of water that may be led off in each case, as also the amount of compensation to be paid.

Article 9

The Governments of Portugal and Spain shall reciprocally grant each other all the facilities necessary for carrying out the surveys required for preparing the final plans of the works to be built in the zones allotted to them, and for this purpose they shall give suitable instructions to the civil and military authorities of the frontier zones in the international section.

Article 10

The Government of the State in whose zone of development the works are situated shall be responsible for the examination and approval of the final plans and any changes that may be effected at the time of building.

The Governments shall communicate these plans to each other before approving them in order to avoid works being carried out in one zone which might prejudice the development and interests of the other zone.

Article 11

The works referred to in Article 10 of the Royal Decree law of August 23, 1926, to be carried out in Spanish territory, the immediate object of which is to regulate the course of the Douro in the international section, shall begin with the construction of the dam of Ricobayo on the river Esla in the province of Zamora.

Article 12

The power belonging to each country shall be used exclusively in the territory of that country and may not be transferred, leased or ceded to another country in whole or in part in any manner whatsoever.

Should the two States consider it advisable to export power from one State to the other, such exportation shall in each case form the subject of a special agreement, which shall always be based on the widest principles of reciprocity.

Should the production of power in the two countries exceed the needs of the market, and should this surplus production be such as to give rise to a ruinous competition with other industries already established, or be seriously harmful to the national economy, the two Governments shall examine the manner in which this surplus can be applied, in agreement with the concessionnaires, to manufactures and industries the products of which are mainly intended for export to third countries.

Article 13

The jurisdiction of each State in the international section shall not extend beyond the boundary fixed in Article 18 of the Treaty of 1864.

On the dams the said boundary shall be situated at an equal distance from each end, and on the reservoirs at an equal distance from each bank.

Article 14

With a view to facilitating the application of the present Convention, a Spanish-Portuguese International Commission shall be appointed, the special duty of which shall be to regulate the exercise of the rights recognised on either side and to decide the judicial or technical questions to which such rights may give rise.

This Commission shall be composed of three members appointed by the Portuguese Government and of three members appointed by the Spanish Government.

It shall sit alternately at Lisbon and Madrid. At each session the President of the Commission shall be a member who is a national of the State in which the meeting takes place.

The place where the first session shall be held shall be decided by drawing lots at the time of the exchange of the ratifications, and the result shall be noted in the relevant document.

Each State shall contribute one half of the expenditure incurred by the Commission, and shall lay down in the respective concessions the proportion to be paid by the concessionnaires for the maintenance of this common organisation.

As soon as the Commission has been appointed it shall draw up a draft Statute governing its procedure, which it shall submit for the approval of the two Governments.

The said Statute shall provide for the distribution of work among the members of the Commission, and shall set forth the questions to be reserved for examination and decision by the plenary Commission.

Article 15

At the end of every six years, or earlier, should one of the two Governments so request, the Statute of the International Commission and the powers conferred upon it by the present Convention shall be revised.

Should it be considered advisable in the light of experience, and should the two Governments agree to abolish this international body, so long as the works are under construction or in course of operation, one representative from each State shall continue to be responsible, in the common interest, for ensuring a permanent connection between the States and the concessions.

Article 16

The duties of the International Commission shall be threefold: advisory, deliberative and supervisory, within the limits laid down in the three following Articles.

The decisions it may take in the exercise of the rights conferred upon it by Article 18 shall be final when adopted unanimously. If adopted by a majority vote, they shall only enter into force in each case with the express approval of the Governments or competent authorities, or after the expiration of thirty days as from the date on which they were communicated, provided the Governments or the said authorities have raised no objection during that period, and provided there is no occasion to apply Article 22 of the Convention, except in the case referred to in Article 7, paragraph (b).

The International Commission shall request the co-operation of the competent authorities in the execution of these decisions.

The Commission's reports and resolutions shall always be communicated to the two Governments.

Article 17

The International Commission must be heard by the Governments before a decision is taken on the following questions:

(a) Approval of the final plans of the works required for hydro-electric development, and of modifications affecting the site and arrangement of the dams, barrages, and discharge works.

(b) Authorisation to carry out works for public or private services connected with hydro-electric development or situated less than 100 metres horizontally from its works or reservoirs.

(c) Preparation of special agreements governing the exportation from one country to another of electrical power of whatever origin.

(d) Authorisation to transfer or modify the concessions.

(e) Abolition of the Commission or changes in its composition, duties and operations.

The Commission shall also give its opinion on all questions referred to it by the Governments of the two States either jointly or separately.

Article 18

The Commission shall be competent to take cognisance of and decide the following questions:

(a) Regulations concerning the joint development works and co-ordination thereof with the hydro-electric works.

(b) Incidents which might arise owing to the existence of other services and installations on the river incompatible with the rights which the two States grant to each other with respect to hydro-electric development.

(c) Decisions with respect to servitudes, expropriations or temporary occupations which affect simultaneously the private installations of one State and the territory of the other.

In such cases the action and powers of the Commission shall be governed in the manner laid down in Article 7.

(d) Decisions relative to the volume of water utilised and the compensation to be paid for the utilisations of an exceptional nature referred to in Article 8.

(e) Incidents which might arise between the concessionnaires of the two zones of development as a result of the execution of the works, in so far as they affect the rights recognised to each State.

(f) Disputes between the said concessionnaires, which are harmful to the organic and technical unity of the operations in the international zone, or impede its industrial development.

(g) Delimitation of the part of the international section which the Portuguese Government may use in virtue of Article 2, paragraph (c) of the present Convention, and of the period during which it may avail itself of that right, taking the legitimate interests of the two countries into account.

(h) Placing of boundary-marks to show the limits of the zone assigned to each State, and the part of the international section referred to in the preceding paragraph, should it be utilised.

Article 19

The supervisory duties of the International Commission shall be as follows:

(a) To ensure the policing of the waters and the bed of the river in the international section, in accordance with the laws in force in each country;

(b) During the period of construction, to inspect and supervise the works which concern the territories of both States, and those which one State may build on the territory of the other, taking into consideration the conditions of each concession and the plans which have been approved;

(c) During the period of operation to exercise a like supervision over these works and the hydraulic system of development.

The remaining works and installations shall be subject exclusively, during

both periods, to the inspection and supervision established by the laws of each State.

Article 20

Should the concessionnaires of the two zones agree to form a consortium with a view to industrial and economic co-operation, enabling them to benefit jointly by the available technical experience and resources in material and staff and to attain the greatest possible economy and efficiency in the works and services during the periods of construction and operation, the organisation of the said consortium and its Statutes must be submitted beforehand for the approval of the two Governments, after communication to the International Commission, which shall supervise the operations of the consortium.

Article 21

The decisions of the International Commission shall be taken by a majority vote.

Should the votes be equally divided, the question shall be submitted to a fresh vote at a subsequent meeting, and, if no agreement has been reached, the Commission shall bring the dispute before the two Governments.

Should the Governments not arrive at an agreement by direct negotiations, the question shall be submitted for decision to an arbitral tribunal, composed of the members of the International Commission themselves and presided over by an umpire.

If the dispute refers to a legal question, the umpire shall be a legal expert appointed by the Permanent Court of International Justice at The Hague; if the question is of a technical nature the umpire shall be an engineer appointed by the Zurich Polytechnical Institute, in both cases at the request of the two Governments.

Should the two Governments not agree as to whether the dispute is of a legal or technical nature, this previous question shall be decided by the Hague Court itself.

Article 22

Both High Contracting Parties undertake to submit to the arbitration procedure provided for in the above Article any dispute arising between the two States out of the application of the present Convention or the interpretation of its clauses.

. . .

249. EXCHANGE OF NOTES¹ AMENDING ARTICLE 14, PARAGRAPH 2, OF THE CONVENTION OF 11 AUGUST 1927, LISBON, 2 JUNE AND 27 SEPTEMBER 1951²

I

The Embassy of Spain presents its compliments to the Ministry of Foreign Affairs and has the honour to draw its attention to the following:

¹ Entered into force on 27 September 1951 by the exchange of the said Notes.

² Ministry of Foreign Affairs, *Aproveitamento Hidroeléctrico do Troço Internacional do Rio Douro*, Lisbon, 1955, p. 53. (Translated from the Spanish by the Secretariat of the United Nations.)

Under the terms of article 14 of the Convention of 11 August 1927 to regulate the hydroelectric development of the Douro River, a joint commission was set up consisting of three voting members for each of the signatory countries, appointed by both Spain and Portugal on the same basis, representatives being designated by the Ministries of Foreign Affairs and Public Works and the State Legal Department, so that no provision was made for representation on the afore-said commission of the Departments or Directorates of Industry, although these were required to play an important part in the regulation of the hydroelectric developments contemplated, both in the planning and, to an even greater extent, in the operational stage.

Accordingly, the Spanish Government ventures to suggest to the Portuguese Government that it would be desirable to expand the commission referred to to include one more voting member for each country. On Spain's side this fourth member would represent the General Directorate of Industry, and on Portugal's side he would represent the corresponding administrative body.

It would likewise be understood that each Government could designate a deputy for each of the four voting members on the commission and that the concessionaires would also be represented on the commission by a fifth deputy for each side.

In submitting this proposal to the Ministry for its information and for transmittal to the competent authorities, the Embassy of Spain also wishes to point out that in view of the economic importance of this matter for both countries it would be desirable for the commission envisaged in the Convention of 1927 to be able to begin its work as soon as possible.

The Embassy of Spain thanks the Ministry of Foreign Affairs in advance for its attention to this matter.

Lisbon, 2 June 1951

II

[*There follows the note from the Minister of Foreign Affairs dated 27 September 1951 addressed to the Spanish Embassy at Lisbon, in which the Portuguese Government signifies its agreement to the Spanish Government's proposals.*]

Romania-Union of Soviet Socialist Republics

250. TREATY¹ BETWEEN THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE GOVERNMENT OF THE ROMANIAN PEOPLE'S REPUBLIC CONCERNING THE RÉGIME OF THE SOVIET-ROMANIAN STATE FRONTIER AND FINAL PROTOCOL, SIGNED AT MOSCOW, ON 25 NOVEMBER 1949²

¹ The exchange of the instruments of ratification took place at Bucharest on 20 June 1950.

² *Treaties, Agreements and Conventions in force, concluded by the USSR, with foreign countries* (Published by the Ministry for Foreign Affairs of the USSR), Vol. XIV, p. 157. (Translated from Russian by the Secretariat of the United Nations.)

. . .
 . . .

CHAPTER II

Regulations governing the use of frontier waters and of railways and highways intersecting the frontier line

ARTICLE 11. 1. All rivers and marine lakes along which the frontier line runs shall be deemed to be frontier waters.

2. Each Contracting Party shall take appropriate steps to ensure that in the use of frontier waters the provisions of this Treaty are observed and the relevant rights and interests of the other Contracting Party are respected.

. . .

ARTICLE 14. 1. The Contracting Parties shall ensure that the frontier waters are kept in proper order. They shall also take steps to prevent deliberate damage to the banks of frontier rivers.

2. Where one Contracting Party occasions material damage to the other Contracting Party by failing to comply with the provisions of paragraph 1 of this article compensation for such damage shall be paid by the Party responsible therefor.

3. The position and direction of frontier watercourses shall so far as possible be preserved unchanged. To that end, the competent authorities of the Contracting Parties shall jointly take the necessary steps to remove such obstacles as may cause changes in the beds of frontier rivers or streams, or in the line of canals, or impede the natural flow of water along them. Where any necessary joint works are undertaken in this connexion, the competent authorities of both Parties shall make arrangements for carrying out the works, and the expenses involved shall be divided equally between the two Contracting Parties, unless a special agreement is concluded on the matter.

4. In order to prevent changes in the beds of frontier rivers or streams or in line of canals, their banks must be strengthened wherever the competent authorities of the Contracting Parties jointly consider it necessary. These works shall be executed and the relevant expenses defrayed by the Party to which the bank belongs.

5. Should the bed of a frontier river or stream or the line of a canal be changed as a result of natural phenomena, the Contracting Parties shall be bound jointly and on equal terms to correct the bed, if this is deemed necessary by their competent authorities. The works shall be executed by mixed commissions set up by the Contracting Parties, which shall make arrangements for carrying out the works, engaging labour, purchasing the necessary materials and defraying the expenses.

ARTICLE 15. 1. The natural flow of water in frontier watercourses and in adjacent areas inundated in time of flood may not be altered or obstructed to the detriment of the other Party by the erection or reconstruction of installations or structures in the water or on the banks.

2. The competent authorities of the Contracting Parties shall agree on arrangements for regulating the discharge of water into, and the removal of water from, frontier waters, and on all other questions relating to frontier waters.

ARTICLE 16. 1. Frontier watercourses shall be cleaned out in sectors where such work is jointly considered essential by the competent authorities of the Contracting Parties. The cost of cleaning in such cases shall be divided equally between the two Contracting Parties.

2. The cleaning of frontier waters in sectors situated wholly in the territory of one of the Contracting Parties shall be carried out by that Party at its own expense as need arises.

3. In cleaning out frontier watercourses, the earth removed shall be dumped on the banks or at dumps on the river in such a way as to avoid any subsidence of the banks, choking up of the river-bed, or obstruction of the flow of water in time of flood.

ARTICLE 17. The competent authorities of the Contracting Parties shall take steps to maintain the frontier waters in such due state of cleanliness as to prevent the waters from being poisoned or polluted by acids or refuse from factories or industrial establishments, or from being fouled by any other means.

ARTICLE 18. 1. Existing bridges, dikes, and similar installations on frontier watercourses shall be preserved and may be used, with the exception of those whose demolition is considered necessary by the competent authorities of the two Contracting Parties.

2. If it becomes necessary to re-equip or demolish any of the installations referred to in paragraph 1 of this article in such a way as to cause a change in the level of the water in the territory of one of the Contracting Parties, the work in question may be undertaken only after the consent of that Party has been obtained.

3. No new bridges, dams, sluices, dikes or other hydraulic installations may be erected or used on frontier watercourses except by agreement between the Contracting Parties.

ARTICLE 19. The competent authorities of the Contracting Parties shall exchange information concerning the level of frontier waters, and concerning ice conditions in such waters, if this information may help to avert danger from floods or from drifting ice. If necessary, the said authorities shall also agree upon a regular system of signals to be used during periods of high water or drifting ice. Delay in communicating, or failure to communicate, such information shall not constitute ground for a claim to compensation for damage caused by floods or drifting ice.

ARTICLE 20. Timber-floating may be freely carried out by both Contracting Parties throughout the whole length of the frontier watercourses, including places where both banks belong to only one of the Parties.

2. The dates and sequences of operations for launching and floating timber in accordance with paragraph 1 of this article shall be determined

each year by the competent authorities of the two Contracting Parties in good time, and in any case not later than two months before navigation opens on the frontier watercourses. Each Contracting Party shall notify the other Party of the date of commencement of floating operations not less than five days in advance.

ARTICLE 21. 1. In order to ensure that timber-floating operations proceed smoothly, the competent authorities of the two Contracting Parties may by agreement, in accordance with article 32, paragraph (b), of this Treaty, permit workmen to land and move about on their respective banks in order to construct temporary floating installations for timber launching and to clear the bank of floating timber.

2. Details concerning the number of workmen requiring access to the bank in question in order to carry out the work referred to in paragraph 1 of this article and concerning the place and time of landing shall be agreed upon by the competent authorities of the Contracting Parties in good time, that is, not later than five days before the work begins.

3. Timber belonging to either Contracting Party which is floated down frontier watercourses shall not be subject to any customs duties or other charges.

ARTICLE 22. 1. All floating timber must be marked; for this purpose the Contracting Parties shall, by agreement, establish and exchange specimen markings in advance.

2. Where the floated timber is peeled by the Contracting Parties, the bark removed must not be deposited in the basins of frontier watercourses.

. . .

CHAPTER III

Fishing, hunting, forestry and mining

ARTICLE 25. 1. Residents of each Contracting Party may fish in frontier waters up to the frontier line in accordance with the regulations in force in their territory, provided that their tackle does not take up more than two-thirds of the width of the river, but shall be prohibited:

(a) From using explosive, poisonous or narcotic substances which cause the mass destruction and mutilation of fish;

(b) From fishing in frontier waters at night.

2. Measures relating to the conservation and breeding of fish in frontier waters, the prohibition of the taking of particular species of fish in certain sectors and the dates of the fishing seasons, and other measures of an economic nature relating to fishing, may be authorized by special agreements between the Contracting Parties.

. . .

FINAL PROTOCOL

On concluding the Treaty between the Government of the Union of Soviet Socialist Republics and the Government of the Romanian People's

Republic concerning the régime of the Soviet-Romanian State frontier, the undersigned plenipotentiaries of the Contracting Parties have adopted the following provisions, which form an integral part of the Treaty.

. . . .

Ad article 11 of the Treaty

Rivers, streams and canals shall be deemed to be frontier rivers, streams and canals within the limits of the sectors along which the frontier line runs.

Ad articles 12, 13, 14, 15, 16 and 17 of the Treaty

Special agreements may be concluded on questions relating to the regulations governing the use and maintenance of frontier waters.

. . . .

Ad articles 14, 15, 16 and 18 of the Treaty

The term "frontier watercourses" means sections of rivers, streams and canals along which the frontier line runs.

. . . .

Ad articles 20, 21 and 22 of the Treaty

Special agreement may be concluded on questions relating to timber-floating on frontier watercourses.

. . . .

Ad article 24 of the Treaty

At the frontier demarcation carried out in 1948-1949 it was agreed that the frontier line divided bridges at the middle of the river, regardless of the course of the frontier line in the water.

. . . .

251. CONVENTION¹ BETWEEN THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE GOVERNMENT OF THE ROMANIAN PEOPLE'S REPUBLIC CONCERNING MEASURES TO PREVENT FLOODS AND TO REGULATE THE WATER RÉGIME OF THE RIVER PRUT. SIGNED AT KISHINEV, 25 DECEMBER 1952²

The Government of the Union of Soviet Socialist Republics and the Government of the Romanian People's Republic, desiring to prevent

¹ Entered into force on the date of its signature, according to article 15 of the Convention.

² *Treaties, Agreements and Conventions in force, concluded by the USSR with foreign countries* (Published by the Ministry for Foreign Affairs of the USSR), Vol. XV, p. 21 (Translated from Russian by the Secretariat of the United Nations.)

floods and to ensure the proper regulation of the water regime of the Prut river basin in the Soviet-Romanian frontier area, have decided to conclude a Convention concerning joint measures to prevent floods and to regulate the water regime . . .

Article 1

Each Contracting Party pledges itself not to undertake any unilateral activity in the water systems of the Prut river basin in connexion with the erection or removal of hydraulic installations or to carry out any other measures connected with these water systems which might under present conditions cause damage, on discharge of water, to floodwater areas of the other Contracting Party.

Article 2

The Contracting Parties undertake to carry out works for the purpose of regulating the water systems of the Prut river basin, and to develop the existing hydraulic installations and construct new ones in order to protect their territories against floods.

The works shall be carried out by each Party in its own territory. The extent and nature of the works shall be determined by agreement between the Parties.

Article 3

All the planning and survey operations necessary for execution of the measures provided for in article 2 of this Convention shall be carried out by each Party in its own territory, with its own staff and materials.

If need arises for one of the Contracting Parties to carry out survey work with its own staff and materials in the territory of the other Contracting Party, the latter Contracting Party, after the plan and organization of the work has been agreed on, shall duly authorize it.

Article 4

All expenses connected with the planning, survey and construction works provided for in articles 2 and 3 of this Convention shall be borne by the Parties in their respective territories.

Article 5

All the hydraulic works referred to in article 2 of this Convention must be completed within such time-limits as shall be determined by agreement between the Parties.

Article 6

The Contracting Parties undertake to exchange all data in their possession which are necessary for technical planning and for carrying out survey work.

Article 7

The Contracting Parties pledge themselves to maintain the operation of the water control system (of rivers, canals and hydraulic installations) in good order. With a view to the execution of the necessary measures and, in particular, to the prevention of floods and the prompt execution of repairs during periods of high water, the Contracting Parties undertake to keep in readiness, in adequate quantity and in good condition, the materials and also tools required for protection purposes.

The cost of operating the installations referred to in this article and maintaining them in good working order shall be borne by the State in whose territory the said installations have been or are to be constructed.

Article 8

Should either Contracting Party wish to entrust to the other Party the execution of the works referred to in articles 2 and 3 of this Convention, the commission must be registered in official form, the other Contracting Party's consent having been obtained, through the signature of a protocol concerning the execution and cost of the works and the procedure for the reimbursement of expenses.

The parties shall not entrust the execution of the said works to any third State.

Article 9

On the execution of the measures referred to in article 8 of this Convention, construction materials, tools and equipment imported from the territory of one Contracting Party into the territory of the other shall be exempt from duties, fees and other taxes. On completion of the work, the tools and equipment must be returned.

Article 10

With a view to the discharge of the functions specified in article 11 of this Convention, each Party shall appoint, not later than thirty days after the signature of the Convention, one Commissioner and two Deputy Commissioners; the Commissioners shall be entitled to call in experts as necessary.

Article 11

The functions of the Commissioners shall *inter alia* be:

(a) To co-ordinate the works referred to in articles 2 and 3 of this Convention;

(b) To inspect periodically the condition of the protective dikes and other hydraulic installations on both banks of the river Prut. With an inspection of the said installations is to be carried out by representatives of one Party in the territory of the other, the competent authorities of the latter Party must be notified of such inspection, which must be carried out in the presence of its competent authorities, not later than forty-eight hours in advance, with an indication of the time at which it is to begin, and must be informed on completion of the inspection of its results.

- (c) To prepare specific measures in matters relating to joint protection against floods;
- (d) To co-ordinate and agree plans of works for the following year;
- (e) To agree on all other matters arising out of the execution of this Convention.

Article 12

The results of negotiations between the Commissioners and Deputy-Commissioners on the matters referred to in articles 2, 3 and 9 of this Convention shall be recorded in bilateral protocols which shall be signed by the Commissioners of both Contracting Parties or, in the absence of the Commissioners, by their Deputies. The decisions recorded in such protocols shall be submitted to the competent authorities of each Party for confirmation. Save as may be otherwise agreed, the Commissioners shall meet as necessary, in the territory of each Contracting Party alternately.

Article 13

Commissioners, Deputy-Commissioners, experts called in by them and technical personnel shall cross the frontier in accordance with the following arrangements:

The Commissioner of the USSR, his deputy, experts and technical staff — on presentation of a special certificate signed by the Minister for Agriculture of the USSR and visaed by the frontier authorities of the USSR and the Romanian People's Republic; the Commissioner of the Romanian People's Republic, his deputy, experts and technical staff — on presentation of a special certificate signed by the Minister for Agriculture of the Romanian People's Republic, also visaed by the frontier authorities of the USSR and the Romanian People's Republic.

The certificates shall be drawn up in the Russian and Romanian languages in accordance with the models shown in annexes Nos. I and II.

Article 14

The Contracting Parties shall notify each other of the competent authorities responsible for giving effect to this Convention. The said authorities, as also the Commissioners of the two Contracting Parties, for matters relating to this Convention, may correspond with each other directly in the languages of the Contracting Parties.

Romania-Yugoslavia

252. PROTOCOL¹ BETWEEN THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA AND THE PEOPLE'S REPUBLIC OF ROMANIA GOVERNING CROSSING OF THE FRONTIER BY OFFICIALS OF THE WATER CONTROL SERVICES, SIGNED AT BELGRADE, ON 31 DECEMBER 1948²

The Government of the Federal People's Republic of Yugoslavia and the Government of the People's Republic of Romania, deeming it necessary to restore co-operation between the water control services of the two countries in measures and works necessary for the maintenance and improvement of the water control systems traversed by the frontier . . .

. . .

ARTICLE 1. Officials of the water control service of either State may enter the territory of the other State in accordance with the provisions of this Protocol.

. . .

ARTICLE 13. For the purpose of co-ordinating measures and works, specified places shall be inspected and visited jointly by officials of the water control services of both States.

. . .

ARTICLE 16. For the purpose of urgent action to protect dams from destruction, or to guard against high water and flood peril, large groups of workmen shall be allowed to cross the frontier with the necessary equipment and material.

ARTICLE 17. In case of rapid rise of waters, flooding, destruction of a dam or other similar emergency, frontier residents also shall be allowed to cross the frontier.

. . .

ARTICLE 19. Frontier crossings provided for in articles 16 and 17 of this Protocol shall be effected:

(a) For the purpose of mutual assistance, but only if at the place threatened by flood in the territory of the other State there is at the time of the emergency insufficient man-power, technical staff, material or equipment;

(b) For the purpose of rescuing the population.

. . .

¹ Came into force on 31 December 1948, as from the date of signature, in accordance with article 20.

² United Nations, *Treaty Series*, vol. 116, p. 122.

253. AGREEMENT BETWEEN THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA AND THE ROMANIAN PEOPLE'S REPUBLIC CONCERNING QUESTIONS OF WATER CONTROL ON WATER CONTROL SYSTEMS AND WATERCOURSES ON OR INTERSECTED BY THE STATE FRONTIER, TOGETHER WITH THE STATUTE OF THE YUGOSLAV-ROMANIAN WATER CONTROL COMMISSION, SIGNED AT BUCHAREST ON 7 APRIL 1955¹

The Government of the Federal People's Republic of Yugoslavia and the Government of the Romanian People's Republic, in order to settle questions of water control, of interest to both States, on water control systems and watercourses and in valleys and depressions on or intersected by the State frontier, have decided to conclude an Agreement . . .

Article 1

Water control questions, measures and works on water control systems and watercourses and in valleys and depressions on or intersected by the State frontier which may affect the regime and quality of the waters and which are of interest to both Contracting States shall be examined and regulated by the two Contracting States in accordance with the provisions of this Agreement.

The provisions of this Agreement relate to the following questions:

- (a) The discharge of water in permanent watercourses and the drainage of internal waters;
 - (b) The regulation of watercourses and the maintenance of the beds;
 - (c) Protection against flooding and ice;
 - (d) Water supply;
 - (e) Protection of waters against pollution;
 - (f) Land reclamation;
 - (g) The utilization of water power;
 - (h) The navigability of the Bega canal;
 - (i) Protection against erosion;
 - (j) The exchange of hydrometeorological data;
 - (k) The preparation of studies and projects and the execution of works;
- and
- (l) The communication of data on the above questions.

This Agreement also relates to the Danube in so far as any of the questions enumerated above is not settled by the 1948 Convention regarding the regime of navigation on the Danube.²

¹ *Federativne Narodne Republike Jugoslavije, Medunarodni Ugovori*, 1956, No. 73, p. 5. (Translated from the Serbo-Croat and Romanian by the Secretariat of the United Nations.)

² See *supra*, Treaty No. 121, p. 420.

Questions arising out of the provisions of this Agreement, and measures and works undertaken pursuant thereto, shall fall within the competence of the Yugoslav-Romanian Water Control Commission (hereinafter referred to as the Mixed Commission) which shall be established for this purpose. The composition, terms of reference, procedure and method of work of the Mixed Commission shall be as laid down in the detailed provisions of the Statute, which shall constitute an integral part of this Agreement.

Article 2

1. The two Contracting States undertake, each in its own territory and jointly on the frontier line, to maintain the beds and installations in good condition, and where necessary to improve their condition, and to keep the installations in operation on water control systems and watercourses and in valleys and depressions on or intersected by the State frontier.

2. The erection of any new installations and the execution of any new works, in the territory of either Contracting State, which may change the existing regime of the waters, interfere with the free discharge of the waters where it now exists, change the quality of the waters, or cause flooding on water control systems or watercourses or in valleys or depressions on or intersected by the State frontier shall be referred to the Mixed Commission for examination.

With a view to improving the existing situation as regards the discharge of internal waters in the frontier district, the Mixed Commission shall examine and propose to the Governments of the Contracting States the amplification of existing water control systems and the erection of new installations and structures on water control systems and watercourses and in valleys and depressions on or intersected by the State frontier.

The Mixed Commission shall also examine the possibilities and propose the measures required for draining off internal waters by pumping or otherwise.

3. Where it is found necessary, in order to achieve the objects prescribed by this Agreement, that joint works should be carried out by the two Contracting States, the said States undertake, on the proposal of the Mixed Commission, to bear the expenses involved, the apportionment of which shall be determined by agreement between the Governments of the two Contracting States. The Governments of the two Contracting States shall also determine, on the proposal of the Mixed Commission, the method of carrying out the works and the method of payment.

Article 3

The co-ordination of the prompt exchange of information on the occurrence of high water, ice and other dangers, of measures for protection against flooding, ice and other dangers, of the operation of water control installations, and of the maintenance of water control systems, shall be examined urgently by the Mixed Commission, which shall propose to the Governments of the Contracting States in this connexion joint regulations for protection against flooding or any other provision under which such

co-ordination is to be effected by the competent authorities of the two Contracting States.¹

Article 4

1. Construction materials and fuel transferred from the territory of one Contracting State to the territory of the other Contracting State for the purpose of carrying out works under this Agreement shall be exempt from all import and export taxes and from all import and export restrictions.

2. Pursuant to the preceding paragraph of this article, equipment (machinery, vehicles, tools and the like) shall be provisionally exempt from taxes provided that the articles concerned are declared to the customs authorities for identification and are returned within the time-limit laid down by the customs authority. The deposit of security for this purpose shall not be required. The appropriate taxes shall be payable in respect of any articles not returned within the prescribed time-limit. Any such article which is completely worn out and thus unusable, and which consequently cannot be returned, shall be exempted from taxes.

3. The two Contracting States guarantee to facilitate for each other the customs procedure for the transit — from the Federal People's Republic of Yugoslavia through the Romanian People's Republic into the Federal People's Republic of Yugoslavia or from the Romanian People's Republic through the Federal People's Republic of Yugoslavia into the Romanian People's Republic — of construction materials, fuel and equipment which are exempt from taxes.

4. Construction materials, fuel and other materials imported and exported shall be subject to customs supervision by the Contracting States.

5. The Mixed Commission shall determine in each individual case the extent, and the conditions for the enjoyment, of the privileges provided for in this article of the Agreement.

Article 5

For the purpose of applying and giving effect to the provisions of this Agreement, the Mixed Commission may carry out investigations *in situ* on either side of the State frontier on the occasion of its regular sessions, and on special and other occasions with the approval of, and subject to the conditions laid down by, the Contracting State in whose territory the investigation is made.

For the purpose of carrying out joint works and determining what joint measures are required, such persons as either Contracting State may designate may, at such points and under such conditions as are prescribed by the Agreements in force, meet at the State frontier or cross the State

¹ In pursuance of this article of the Agreement, the "Yugoslav-Romanian Water Control Commission" at its third meeting, held in Novi Sad from 2 to 13 June 1957, adopted the "Joint Regulations for flood control on watercourses and water control systems on or intersected by the Yugoslav-Romanian State frontier" [*Federativne Narodne Republike Jugoslavije, Medunarodni Ugovori*, 1958, No. 7, p. 73].

frontier in virtue of special passes issued by the competent authority of one Contracting State and visaed by the competent authority of the other Contracting State. If necessary, a meeting may be held or the State frontier may be crossed at such points and under such conditions as may be prescribed by agreement between the competent local authorities of the two Contracting States.

Article 6

Any dispute between the Contracting States relating to the application and interpretation of this Agreement which cannot be settled by direct negotiation shall, unless the two disputing Contracting States agree upon some other mode of settlement, be submitted at the request of either Contracting State to a conciliation commission composed of one representative of each Contracting State and a third member to be chosen by agreement between the Contracting States from among the nationals of a third State.

. . .

STATUTE OF THE YUGOSLAV-ROMANIAN WATER CONTROL COMMISSION

Article 1

In accordance with the provisions of the Agreement between the Federal People's Republic of Yugoslavia and the Romanian People's Republic concerning questions of water control on water control systems and watercourses on or intersected by the State frontier, it shall be the task of the Yugoslav-Romanian Water Control Commission (hereinafter referred to as the Mixed Commission) to examine water control questions, measures and works on water control systems and watercourses and in valleys and depressions on or intersected by the State frontier which may affect the regime and quality of the waters and which are of interest to both Contracting States, to submit proposals for the regulation thereof, and to ensure compliance with decisions taken by the Governments of the two Contracting States.

Article 2

The terms of reference of the Mixed Commission shall, in accordance with the provisions of the preceding article, comprise the following questions:

- (a) The discharge of water in permanent watercourses and the drainage of internal waters;
- (b) The regulation of watercourses and the maintenance of the beds;
- (c) Protection against flooding and ice;
- (d) Water supply;
- (e) Protection of the waters against pollution;
- (f) Land reclamation;
- (g) The utilization of water power;
- (h) The navigability of the Bega canal;

- (i) Protection against erosion;
 - (j) The exchange of hydrometeorological data;
 - (k) The preparation of studies and projects and the execution of works;
- and
- (l) The communication of data on the above questions.

The terms of reference of the Mixed Commission shall also include the river Danube in so far as any of the questions enumerated above is not settled by the 1948 Convention regarding the regime of navigation on the Danube.

Article 3

The Mixed Commission shall be competent, in connexion with the questions enumerated in the preceding article:

1. To examine information submitted concerning prospective joint water control measures and works; to draw up proposals concerning measures and works which need to be carried out in the interests of both Contracting States, and to study them from the technical and economic standpoints;
2. To submit proposals for the organization of study of the terrain and the problems in connexion with the execution of preliminary works, topographical surveys and studies *in situ*, and for the preparation of joint projects for works of interest to both Contracting States;
3. To make a technical evaluation of projects submitted to it and to submit to the Governments of the Contracting States proposals concerning the execution of joint works or works of joint interest;
4. To examine and submit proposals concerning the execution of joint water control works, structures and installations, the programme and conditions for and method of executing the same, the apportionment of expenses between the two Contracting States and the conditions for the operation of water control structures and installations; likewise, to organize control over the completion and acceptance of jointly executed works;
5. To ensure compliance with decisions taken by the Governments of the two Contracting States and to organize technical control over the execution of measures and works of joint interest;
6. To study joint measures for protection against flooding, ice and other dangers and, in that connexion, to draw up joint regulations or other provisions in accordance with article 3 of the Agreement and submit them to the Governments of the Contracting States for approval.
7. To submit proposals for the exchange of practical experience of water control, for the exchange of hydrometeorological data, and for the operation of the service of information concerning water levels, ice and other data; likewise, to submit proposals concerning the organization of communications on the manipulation of sluices and the operation of installations of interest to both Contracting States;
8. To submit proposals to the Governments of the Contracting States on all questions enumerated in article 2 of this Statute;
9. To lay before the Governments of the Contracting States proposals for the settlement of questions in dispute.

In addition, the Governments of the Contracting States reserve the right to deal directly with questions within the competence of the Mixed Commission.

Article 4

1. The Mixed Commission shall consist of 10 (ten) members. Each Contracting State shall appoint 5 (five) members to the Mixed Commission and each member shall have an alternate. The Contracting States may likewise designate experts to take part in the Mixed Commission's work.

2. Each Contracting State shall appoint one member of its delegation as Chairman.

3. The Mixed Commission may if necessary set up sub-commissions composed of its members, their alternates or experts.

Article 5

1. The Mixed Commission shall meet in regular session twice a year. In addition the Chairmen of the delegations may convene special sessions by agreement.

Regular sessions shall be held alternately in the territory of each of the two Contracting States.

2. The Mixed Commission may propose to the Governments of the Contracting States questions for inclusion in the agenda of the next session.

The agenda for a session of the Mixed Commission shall be communicated through the diplomatic channel.

3. Each session shall be convened by the Chairman of the delegation of the Contracting State in whose territory the Mixed Commission meets, by agreement reached with the Chairman of the delegation of the other Contracting State through the diplomatic channel not later than forty-five days before the session.

Article 6

1. Each session shall be presided over by the Chairman of the delegation of the Contracting State in whose territory the session is held.

2. The official languages of the Mixed Commission shall be Serbo-Croat and Romanian.

Article 7

1. The Mixed Commission shall enter the conclusions from the work of the session in a record which shall be signed by the Chairman of the delegations of both Contracting States.

The record shall cover both questions on which agreement has been reached and questions on which agreement has not been reached.

2. The record shall be drawn up in two copies in the Serbo-Croat and Romanian languages, both texts being authentic.

3. The record shall be submitted to the Governments of the Contracting States.

Article 8

The conclusions of the Mixed Commission shall not affect the right of the Governments of the Contracting States to take decisions.

The conclusions of the Mixed Commission shall be subject to approval by the Governments of the Contracting States and may not be put into effect if the Government of either Contracting State raises an objection.

If no objection to the conclusions is raised by the Government of either Contracting State within forty-five days after the signature of the record of the Mixed Commission, the conclusions of the Mixed Commission shall be regarded as approved by both Governments.

Article 9

Each Contracting State shall defray the expenses of its own delegation.

Other expenses of the Mixed Commission shall, unless otherwise decided, be borne equally by the two Contracting States.

Article 10

The Mixed Commission shall draw up its own rules of procedure in accordance with the provisions of this Statute.

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