

No. 9540

ARGENTINA
and
URUGUAY

Agreement concerning the utilization of the rapids of the Uruguay River in the Salto Grande area. Signed at Montevideo on 30 December 1946

Additional Protocol to the above-mentioned Agreement. Signed at Montevideo on 30 December 1946

Authentic text: Spanish.

Registered by Argentina on 14 May 1969.

ARGENTINE
et
URUGUAY

Accord relatif à l'utilisation des rapides du fleuve Uruguay dans la région du Salto Grande. Signé à Montevideo le 30 décembre 1946

Protocole additionnel à l'Accord susmentionné. Signé à Montevideo le 30 décembre 1946

Texte authentique: espagnol.

Enregistré par l'Argentine le 14 mai 1969.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ CONCERNING THE UTILIZATION OF THE RAPIDS OF THE URUGUAY RIVER IN THE SALTO GRANDE AREA

His Excellency the President of the Argentine Republic and His Excellency the President of the Eastern Republic of Uruguay, desiring to obtain from the natural advantages of the rapids of the Uruguay River in the Salto Grande area the greatest possible benefits for the economic, industrial and social development of the two countries and with a view to improving the river's navigability, utilizing its waters for the production of electric power, facilitating land communications between the two countries, and achieving any other purpose which may, without prejudice to the foregoing aims, contribute to such common benefits, have resolved, in pursuance of article 5 of the Act of thirteen January one thousand nine hundred and thirty-eight, to conclude this Agreement and to that end have appointed the following plenipotentiaries :

His Excellency the President of the Argentine Republic : His Excellency Dr. Gregorio N. Martínez, Ambassador Extraordinary and Plenipotentiary to the Eastern Republic of Uruguay; and

His Excellency the President of the Eastern Republic of Uruguay : Dr. Eduardo Rodríguez Larreta, Minister and Secretary of State of the Department of Foreign Affairs, Mr. César Mayo Gutiérrez, Minister and Secretary of State of the Department of Public Works and Dr. Héctor Alvarez Cina, Minister and Secretary of State of the Department of Finance;

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

Article 1

The High Contracting Parties declare that, for the purposes of this Agreement, the waters of the Uruguay River shall be utilized jointly and shared equally.

Article 2

The High Contracting Parties agree to appoint and maintain a Mixed Technical Commission composed of an equal number of delegates from each country which shall deal with all matters relating to the utilization, damming, and diversion of the waters of the Uruguay River.

¹ Came into force on 28 January 1947 by the exchange of the instruments of ratification, which took place at Montevideo, in accordance with article 13.

The salaries and expenses of the said delegates shall be paid by their respective Governments.

Article 3

The Mixed Technical Commission shall draw up its technical and administrative rules of procedure and formulate its plan of work, basing itself on the following rules and principles laid down by the High Contracting Parties for this purpose :

(a) The following order of priority shall apply to the various water uses and no use which obstructs or restricts them shall be permitted :

1. Use for domestic and sanitation purposes;
2. Use for navigation;
3. Use for production of electric power;
4. Use for irrigation.

The Commission shall also formulate requests to the Governments to take the necessary measures for the conservation of fishery resources.

(b) The Mixed Technical Commission shall take its decisions by the votes of a majority of its members. In the event of equally divided votes, the delegations shall report separately to their Governments. The High Contracting Parties shall strive to reach agreement and the terms of any agreement so reached shall be registered and communicated to the Mixed Technical Commission, which shall take the necessary action to implement it. If no agreement is reached, the High Contracting Parties shall resolve their disputes by diplomatic procedures and if no settlement is reached by this means, the disputes shall be submitted to arbitration.

(c) The Mixed Technical Commission shall address all its communications to the Ministries of Foreign Affairs of both countries and shall send them copies of all its official acts and decisions, any other information it deems appropriate.

(d) The Commission shall employ such permanent or temporary technical and administrative staff as it needs. For this purpose it shall, except in special circumstances, employ an equal number of nationals of each of the High Contracting Parties.

Article 4

The cost of the joint works and installations, comprising mainly the dam with its mechanical and electrical generating plant, and of surveys and plans, shall be equally shared.

The cost of the works which are not undertaken jointly, comprising mainly access and auxiliary facilities and transmission lines, and of compensation and

expropriation to be effected in the territory of each country, shall be borne by the respective Governments.

The cost of the works and installations required for the purposes of navigation upstream of the dam shall be borne by each country in proportion to its use of them, having regard to their respective zones of influence, the extent of the river bank and probable traffic.

The maximum estimated cost of the joint works and installations shall be such as to permit electric power to be produced at a cost not exceeding that at which it would be supplied by a thermal power station of the same capacity situated in the same area. If the cost of the joint works and installations should exceed this estimated maximum, the amount of the excess shall be added to the cost of the navigation works.

If the total installed capacity should for any period be divided between the High Contracting Parties otherwise than in the proportion of 50 per cent each, the share of the cost of the joint works and installations to be borne by each of the parties during that period shall be proportionate to its share of the installed capacity.

If, when the definitive plan is drawn up, the Eastern Republic of Uruguay should claim, for a specified period, less than one-half of the total installed capacity, the Argentine Republic shall take the remainder for that period and shall restore it to Uruguay in accordance with the latter's anticipated consumption, the restoration to be effected four years after the requisite notification.

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

Article 5

The High Contracting Parties agree that permission for the use and diversion, whether temporarily or permanently, of the waters of the Uruguay River and its tributaries upstream of the dam shall be granted by the Governments only within their respective jurisdictions and after a report by the Mixed Technical Commission.

Article 6

The Mixed Technical Commission shall arrange for the carrying out of any surveys which are required at the time when it enters upon its functions and shall draw up plans for the necessary works and installations, which, together with the relevant budgets, specifications, economic and financing plans, and provisions governing the general arrangements for labour, shall be submitted to the High Contracting Parties for consideration and approval.

Once approval has been granted, the Commission shall be empowered to proceed with the building of the works and installations in question and to take possession of parts or the whole of such works and installations as they are completed.

Payment for surveys and plans shall be made by the Commission, which shall, at the appropriate time, issue certificates in respect of the completed works and installations.

The technical and administrative personnel and manual labour to be employed in connexion with the joint portions of the project shall be recruited, as far as possible, in equal numbers from among nationals of the two High Contracting Parties.

Article 7

The High Contracting Parties shall, for the purpose of operating and administering the works and installations which are to be constructed under this Agreement, establish an inter-State body with competence to perform those functions. Until such body is established the said functions shall be performed by the Mixed Technical Commission.

Article 8

The High Contracting Parties shall take the necessary measures to ensure that exchange of electric power between the two Governments is effected at cost price.

Article 9

Equipment and machinery for the works referred to in this Agreement shall be exempt from any duties or charges to which such items may be liable in either country.

A similar exemption from customs duty shall apply to the staff, equipment, instruments, personal baggage, provisions and all articles and supplies required by the Mixed Technical Commission, and the Governments shall grant facilities for their transport.

Article 10

Measures adopted in implementation of this Agreement shall affect none of the rights of the High Contracting Parties with respect to sovereignty and jurisdiction, or their navigation rights in the Uruguay River.

Article 11

The High Contracting Parties agree to invite the Government of the United States of Brazil, following signature of this Agreement, to a conference convened

for the purpose of considering changes affecting navigation on the Uruguay River and the river management system under the provisions of existing conventions which may occur as a result of the conclusion of the Agreement.

Article 12

The Mixed Technical Commission shall have its headquarters at the city of Buenos Aires and shall be established within thirty days of the exchange of instruments of ratification of this Agreement.

Article 13

When this Agreement has been approved by the High Contracting Parties the exchange of instruments of ratification shall take place at the city of Montevideo

IN WITNESS WHEREOF the respective plenipotentiaries have signed this Agreement in two copies which are identical and have one and the same purpose and have affixed their seals thereto at Montevideo on this thirtieth day of December one thousand nine hundred and forty-six.

Gregorio N. MARTÍNEZ

Eduardo RODRÍGUEZ LARRETA

Héctor ALVAREZ CINA

César MAYOR GUTIÉRREZ

ADDITIONAL PROTOCOL¹ TO THE AGREEMENT CONCERNING THE UTILIZATION OF THE RAPIDS OF THE URUGUAY RIVER IN THE SALTO GRANDE AREA

His Excellency Dr. Gregorio N. Martínez and Their Excellencies Dr. Eduardo Rodríguez Larreta, Mr. César Mayor Gutiérrez and Dr. Héctor Alvarez Cina, duly authorized by their respective Governments, desiring to undertake immediately the topographical, geological, hydrological and other surveys provided for in article 6 of the Agreement concerning the Utilization of the Rapids of the Uruguay River in the Salto Grande Area, signed at the city of Montevideo on the thirtieth day of December nineteen hundred and forty-six,² having exchanged their full powers, found to be in good and due form, have agreed as follows :

Article 1

Until such time as the Agreement referred to in the preamble to this Protocol has been ratified, in conformity with article 13 of the Agreement, the Governments of the Argentine Republic and of the Eastern Republic of Uruguay agree to maintain in operation the present Mixed Technical Commission established under the provisions of article 5 of the Act of thirteen January nineteen hundred and thirty-eight.

Article 2

The Mixed Technical Commission shall carry out such topographical, geological, hydrological and other surveys as it deems necessary in connexion with the utilization of the Salto Grande and shall be guided in its work by the following rules :

(a) The topographical surveys shall be based upon the hydrographic datum of the Riachuelo (Argentine Republic).

These surveys shall be carried out in each of the countries under the supervision and direction of its own delegation, which shall determine the limits of the area to be surveyed up to an elevation of approximately thirty-five metres above the said datum.

The Mixed Technical Commission shall determine the points of intersection of the two surveys and the required topographical closures, and shall establish the general specifications for the first order, second order and subsidiary traverse lines, the density of the tacheometric points, the levelling nets and the permissible closing errors.

¹ Came into force on 27 August 1957 by the exchange of the instruments of ratification, which took place at Buenos Aires, in accordance with the provisions of the said Protocol.

² See p. 26 of this volume.

(b) The Mixed Technical Commission shall determine the area in which geological surveys are to be carried out and their technical features.

(c) The purpose of the hydrological surveys shall be to measure the discharge between the low-water and high-water marks on the Ayuí profile and other profiles selected by the Mixed Technical Commission.

The Ayuí gauging station shall be maintained by the Argentine delegation, the Uruguayan delegation being empowered to appoint an assistant operator to take measurements.

If a second gauging station is required, it shall be established and maintained by the Uruguayan delegation, the Argentine delegation being empowered to appoint an assistant operator to take measurements at that station

The individual stream gauges placed and to be placed on the Argentine and Uruguayan banks shall be linked to such extent as the Mixed Technical Commission may consider necessary.

(d) To facilitate the hydrological surveys a complete meteorological station shall be established, in circumstances to be determined by the Mixed Technical Commission, for the purpose of checking weather, pressure, wind, evaporation and other conditions.

The first meteorological station shall be established on the Uruguayan bank in the Salto Grande area and the second on the Argentine bank in the vicinity of Monte Caseros.

Article 3

The cost of the topographical and geological surveys and that of establishing and operating each meteorological station shall be borne by the respective Governments.

Article 4

Each delegation shall appoint an engineer to carry out the following functions on its behalf:

- (a) To co-ordinate the progress and development of the various surveys in the field and to make periodic inspections of the work-sites;
- (b) To prepare graphs of the progress of the surveys;
- (c) To compile and co-ordinate the data collected;
- (d) To advise the Mixed Technical Commission on the progress of the surveys.

All data shall be exchanged monthly between the two delegations.

Article 5

The Mixed Technical Commission shall meet once a month at Buenos Aires or Montevideo for the purpose of supervising and advancing the surveys.

Article 6

The Mixed Technical Commission to which this Protocol refers shall cease to function upon the appointment of the Mixed Technical Commission provided for in article 2 of the Agreement concerning the Utilization of the Rapids of the Uruguay River in the Salto Grande Area, to which, upon its appointment, the former shall hand over all the documentation in its possession.

Article 7

The cost of all the surveys referred to in this Protocol and carried out by virtue thereof shall be added to that of the joint works and installations, in conformity with the provisions of article 4 of the said Agreement.

The undersigned declare that, under the laws of their respective States, this Protocol does not require legislative approval and shall therefore enter into force upon the exchange of instruments of ratifications, which shall take place as early as possible at Buenos Aires.

IN WITNESS WHEREOF the said Plenipotentiaries sign this Protocol in two copies and affix their seals thereto at Montevideo, on the thirtieth day of December one thousand nine hundred and forty-six.

Eduardo RODRÍGUEZ LARRETA
Héctor ALVAREZ CINA
César MAYO GUTIÉRREZ

Gregorio N. MARTÍNEZ