

No. 16877

BRAZIL
and
URUGUAY

Treaty on co-operation for the utilization of the natural resources and the development of the Mirim Lagoon Basin (Treaty of the Mirim Lagoon Basin). Signed at Brasília on 7 July 1977

Protocol for the utilization of the water resources of the land bordering on the Jaguarão River, annexed to the above-mentioned Treaty (Jaguarão River Protocol). Signed at Brasília on 7 July 1977

Authentic texts: Portuguese and Spanish.

Registered by Brazil on 18 July 1978.

BRÉSIL
et
URUGUAY

Traité relatif à la coopération aux fins de la mise en valeur des ressources naturelles et du développement du bassin de la lagune Mirim (Traité du bassin de la lagune Mirim). Signé à Brasília le 7 juillet 1977

Protocole relatif à la mise en valeur des ressources hydrauliques du tronçon limitrophe du fleuve Jaguarão, joint en annexe au Traité susmentionné (Protocole relatif au fleuve Jaguarão). Signé à Brasília le 7 juillet 1977

Textes authentiques : portugais et espagnol.

Enregistrés par le Brésil le 18 juillet 1978.

[TRANSLATION — TRADUCTION]

TREATY¹ ON CO-OPERATION FOR THE UTILIZATION OF THE
NATURAL RESOURCES AND THE DEVELOPMENT OF THE
MIRIM LAGOON BASIN (TREATY OF THE MIRIM LAGOON
BASIN)

His Excellency Mr. Ernesto Geisel, President of the Federative Republic of Brazil, and His Excellency Mr. Aparicio Méndez, President of the Eastern Republic of Uruguay,

Inspired by the fraternal and traditional friendship uniting their two nations,

Recognizing the need to make increasingly effective the principles of good-neighbourliness and close co-operation which have always guided relations between them,

In pursuance of article VI of the Treaty of friendship, co-operation and trade of 12 June 1975² in which both Parties undertake to conclude a special treaty to promote the development of the Mirim Lagoon Basin, as part of their overall policy of undertaking joint actions to execute infrastructure works of common interest,

Having regard to the special geographical characteristics of the Mirim Lagoon Basin, which constitute an adequate basis for the implementation of joint economic and social development projects,

Inspired by the aim of improving the living conditions of the frontier populations and promoting full utilization of the resources of the areas bordering the Lagoon on an equitable basis,

Whereas the works executed to date by the Mirim Lagoon Commission have enabled various major projects to be planned in the basin and progress to be made on the initial stages of some of them,

Agreeing on the desirability of providing present and future works with a permanent institutional framework and practical and flexible operational mechanisms through which concerted efforts for the economic and social development of the basin and its geographical integration can be channelled, in accordance with their respective national plans and priorities,

Hereby resolve to conclude this Treaty and, to that end, designate as their Plenipotentiaries:

The President of the Federative Republic of Brazil: His Excellency Ambassador Antonio Francisco Azeredo da Silveira, Minister for Foreign Affairs;

The President of the Eastern Republic of Uruguay: His Excellency Ambassador Alejandro Rovira, Minister for Foreign Affairs,

who hereby agree as follows:

Article 1. The Contracting Parties undertake to pursue and expand, within the framework of this Treaty, their close co-operation in promoting the overall development of the Mirim Lagoon Basin.

¹ Came into force on 27 January 1978 by the exchange of the instruments of ratification, which took place at Montevideo, in accordance with article 19.

² Registered with the Secretariat of the United Nations on 30 August 1983 under No. I-22324.

Article 2. The implementation of this Treaty, the annexes thereto and any other international instruments concluded within this legal framework:

- (a) Shall in no way alter the boundaries between the Contracting Parties established in the treaties in force;
- (b) Shall not affect the Parties' respective national jurisdictions and the full exercise thereof, in accordance with their respective legal systems;
- (c) Shall not give either Contracting Party the right of ownership or any other rights *in rem* over any part of the other's territory.

Article 3. In accordance with the aims of this Treaty, the Contracting Parties shall:

- (a) Take within their respective jurisdictions, in accordance with their plans and priorities, such action as is needed to promote the development of the basin;
- (b) Agree between themselves, in the context of the national integration of each Party, on such studies, plans, programmes or projects as are needed to execute joint works aimed at enhancing the utilization of the natural resources of the basin.

Article 4. The national and binational action referred to in article 3 shall, *inter alia*, have the following aims:

- (a) To improve the economic and social conditions of the inhabitants of the basin;
- (b) To provide water for domestic, urban and industrial use;
- (c) To regulate water courses and control flooding;
- (d) To set up an irrigation and drainage system for agricultural purposes;
- (e) To protect and make appropriate use of mineral, plant and animal resources;
- (f) To produce, distribute and use hydroelectric power;
- (g) To increase means of transport and communications, in particular, navigation;
- (h) To develop the region industrially;
- (i) To develop specific projects of mutual interest.

The Contracting Parties shall, in each case and wherever necessary, establish the priorities to be observed in relation to the goals set.

Article 5. The field of application of this Treaty shall be the Mirim Lagoon Basin and areas directly and significantly affected by it. The latter shall, if necessary, be defined by the Contracting Parties.

Article 6. The Brazilian-Uruguayan Joint Commission for the development of the Mirim Lagoon Basin, set up and structured by the Notes of 26 April 1963,¹ 5 August 1965 and 20 May 1974,² will be responsible for the implementation of this Treaty. The Commission will be restructured and will be governed by the provisions of this Treaty and the Statute annexed hereto.

The Statute referred to in the previous paragraph may be amended by exchange of notes between the two Governments.

The Commission shall adopt its own rules of procedure.

Article 7. The Commission shall have two headquarters, one at the city of Treinta y Tres, Eastern Republic of Uruguay, and the other at the city of Porto

¹ United Nations, *Treaty Series*, vol. 922, p. 259.

² *Ibid.*, vol. 957, p. 255.

Alegre, Federative Republic of Brazil. It may, however, meet anywhere in the territory of either of the Contracting Parties.

The Commission's headquarters shall enjoy such privileges as are recognized in international practice; these shall, if necessary, be set forth in the relevant headquarters agreements.

Article 8. The Commission shall have the necessary legal powers to fulfil its duties.

The Contracting Parties shall provide it with essential resources and all the requisites and facilities, including those of a legal, technical, administrative and financial nature, needed for it to operate.

Article 9. The Contracting Parties shall grant, *inter alia*:

- (a) Facilities for freedom of movement across the border and sojourn in the territory of the Party of which they are not nationals to members of the Commission and persons to whom the latter issues the relevant authorization;
- (b) Customs, tax and transit facilities to enable vehicles, vessels and equipment used by the Commission to cross the border and move freely in the territories of the Contracting Parties.

Article 10. In fulfilling its duties, the Commission shall perform the following functions:

- (a) Study directly or through national or international entities technical, scientific, economic and social matters relating to the development of the Mirim Lagoon Basin area;
- (b) Submit to the two Governments the full and detailed description of studies, plans and projects for joint works and services;
- (c) Manage and contract for, with the prior express authorization of the Governments in each case, the financing of studies and works;
- (d) Supervise the execution of joint projects, works and services and co-ordinate their subsequent operation;
- (e) Conclude contracts necessary for the execution of projects approved by the Governments, seeking the Governments' express authorization in each case;
- (f) Propose to each of the Governments the implementation of non-joint projects and works related to the development of the Mirim Lagoon Basin;
- (g) Make suggestions to the Governments regarding matters of common interest related to the economic and social development of the basin;
- (h) Set up whatever subsidiary organs it considers necessary, on the terms laid down in the Statute;
- (i) Propose to each of the Governments draft uniform rules on matters of common interest relating, *inter alia*, to navigation, pollution control, conservation, preservation and exploration of living resources and the placement of underwater and overhead pipelines and cables;
- (j) Such other functions as are entrusted to it by this Treaty and any others which the Contracting Parties may agree to entrust to it by exchange of notes or other kinds of agreement.

Article 11. In order to achieve the lofty objectives of this Treaty, studies, plans, programmes and projects may envisage:

- (a) Joint works shared by the two Contracting Parties;
- (b) Non-joint works for which one or the other Contracting Party has exclusive responsibility.

In the absence of a specific agreement, the Contracting Parties shall indicate, through the Commission, what joint and what non-joint works are to be carried out in relation to each project.

When joint works include non-joint components, the latter shall be governed by the principles applicable to non-joint works, adapted as necessary.

In the case of non-joint components of joint works, the Party responsible for their execution shall bear in mind the fulfilment of the overall schedule of work, its physical and functional unity, and the most advantageous conditions for the project.

For the practical purposes of exercising jurisdiction and control, a suitable signal system shall be established in any joint works to be constructed.

Article 12. In recruiting technical and administrative staff and workers to undertake joint works and installations, preference shall be given to nationals of the two Parties, wherever possible in equal numbers.

The construction materials and equipment required for joint works shall, wherever possible, be supplied by the national industry of each Party, at the same cost and on the same terms.

Article 13. In the absence of specific agreements, responsibility for the cost of studies and projects and for the costs of constructing, operating and maintaining works shall be established in accordance with the following principles:

- (a) The Contracting Parties shall bear equal responsibility for the cost of studies and projects and the costs of constructing, operating and maintaining joint works;
- (b) Each Party shall be responsible for the cost of constructing, operating and maintaining non-joint works;
- (c) Either of the Contracting Parties may advance to the other, in accordance with such terms as may be established, the resources needed to carry out studies, projects and works;
- (d) Joint works and installations shall be owned jointly, in equal shares, by the Contracting Parties.

Article 14. Each Party undertakes to declare to be areas of public utility the areas under their jurisdiction necessary for the realization of joint works and non-joint components of such works and to take any administrative or judicial actions necessary to make such expropriations and secure such easements as are necessary.

Each representative group on the Commission shall indicate to its respective Government the areas to which this article applies.

Article 15. The Contracting Parties undertake to grant all the administrative facilities and customs and tax exemptions needed to carry out joint works, in accordance with the following standards:

(a) They shall not impose taxes, charges or compulsory loans of any nature on materials and equipment used in the construction of joint works and acquired in either country or imported from a third country by:

1. The Commission;

2. The representative group of either of the Contracting Parties on the Commission, in cases where such group is made responsible for the execution of the work;
3. Public entities or entities directly or indirectly controlled by the public authorities of either Party which have been made responsible for the execution of the work.

(b) The bodies and entities mentioned in subparagraph *a* shall not be liable to taxes, charges or compulsory loans the collection of which is their responsibility and which relate to profits paid by them to corporate bodies domiciled abroad as payment for services rendered or credits or loans granted in direct relation to the works.

(c) The materials and equipment referred to in subparagraph *a* and intended and used for joint works shall be admitted freely into the territory of either Contracting Party. Materials and equipment for temporary use shall be admitted on a temporary basis.

(d) No restrictions of any kind shall be imposed on the transit or storage of the materials and equipment referred to in subparagraph *a*.

Article 16. The Contracting Parties shall take appropriate steps to ensure that the various uses of the waters of the basin and the exploration, exploitation and use of the area's natural resources within their respective jurisdictions cause no significant damage to navigation, the quantity or quality of the water or the environment.

Article 17. On the proposal of the Commission, the Contracting Parties shall designate, as appropriate, the public entities or entities directly or indirectly controlled by the public authorities of either Party, private entities or international bodies that are to be responsible for the studies, plans, projects and joint works to be carried out in accordance with the provisions of this Treaty.

Article 18. Any dispute arising between the Contracting Parties over the interpretation or implementation of this Treaty, the annexes thereto and any other international instruments concluded within this legal framework shall, on the proposal of either of the Parties' representative groups, be brought to the Commission for consideration.

If, within a period of 120 days, the Commission is unable to arrive at an agreement, it shall notify both Contracting Parties accordingly, whereupon the Parties shall attempt to resolve the issue by direct negotiations.

When, in the view of either of the Contracting Parties, direct negotiations have produced no positive results, either Party may have recourse to the peaceful settlement procedures provided for in the international treaties in force between them.

The above-mentioned procedures shall not delay the construction and operation of joint works.

Article 19. This Treaty shall be ratified in accordance with the procedures laid down in the respective legal systems of the Contracting Parties. It shall enter into force by means of the exchange of instruments of ratification, to take place at the city of Montevideo, and shall remain in force until the Contracting Parties conclude an agreement to the contrary.

IN WITNESS WHEREOF the aforesaid Plenipotentiaries sign and seal this Treaty, in duplicate in the Portuguese and Spanish languages, both texts being equally authentic, in the city of Brasília on the seventh day of July in the year one thousand nine hundred seventy-seven.

For the Government of the Federative
Republic of Brasil:

[Signed]

ANTONIO F. AZEREDO DA SILVEIRA

For the Government of the Eastern
Republic of Uruguay:

[Signed]

ALEJANDRO ROVIRA

[TRANSLATION — TRADUCTION]

PROTOCOL¹ FOR THE UTILIZATION OF THE WATER RESOURCES
OF THE LAND BORDERING ON THE JAGUARÃO RIVER,
ANNEXED TO THE TREATY ON THE MIRIM LAGOON BASIN
(JAGUARÃO RIVER PROTOCOL)

The Government of the Federative Republic of Brazil and the Government of the Eastern Republic of Uruguay,

Having regard to the Treaty on co-operation for the utilization of the natural resources and the development of the Mirim Lagoon Basin (Treaty of the Mirim Lagoon Basin),²

Seeking to create all necessary conditions to expedite the execution of the works for the multiple use of the water resources of the land bordering the Jaguarão River, on the terms envisaged in that Treaty,

Hereby agree as follows:

Article 1. The Contracting Parties undertake to execute the works for the multiple use of the water resources of the land bordering the Jaguarão River, in Passo do Centurião and Passo de Talavera, provided for in the Jaguarão project.

The Contracting Parties shall direct all their efforts towards ensuring that the works in question are constructed and brought into service as soon as possible, in accordance with the corresponding schedules and priorities.

Article 2. The Joint Commission for the development of the Mirim Lagoon Basin shall be responsible for the Jaguarão project, in accordance with the functions and powers entrusted to it by the Treaty. The Co-ordinating Sub-Commission for the Jaguarão River is hereby established for this purpose.

The Sub-Commission shall be structured and shall function in accordance with the relevant provisions of the Statute of the Commission.

The Sub-Commission shall co-ordinate the execution, operation and maintenance of the works and installations for the multiple use of the water resources of the land bordering the Jaguarão River and for the additional works provided for in the preliminary studies carried out under the Commission's supervision.

Article 3. In accordance with article 17 of the Treaty of the Mirim Lagoon Basin, each Party shall designate the executive entities responsible for constructing, operating and maintaining the Jaguarão project works and installations.

These entities shall appoint representatives to the Sub-Commission set up by article 2, in the manner envisaged by the Statute of the Commission.

The above entities may delegate all or part of their executive powers to the other national entities.

¹ Came into force on 27 January 1978, the date of the entry into force of the Treaty of the Mirim Lagoon Basin, in accordance with article 8.

² See p. 376 of this volume.

Article 4. Plans for works under the Jaguarão project shall be submitted to the Governments through the Commission for approval, an express distinction being made between joint works and non-joint works.

Without prejudice to the provisions of the preceding paragraph, in general:

- (a) Joint works shall be river diversion works, cofferdams, dams, bridges, spillways, structures and engineering works for the power station, delivery channels, water gates and attached installations, roller bridges and auxiliary equipment for the power station;
- (b) Non-joint works shall be the transformation of sub-stations, frequency converters, turbines, generators, water intakes and water supply works, transmission lines and auxiliary installations for hydroelectric power purposes and water intakes, irrigation and drainage channels and attached installations for agricultural and livestock purposes, fish farms, tourist facilities and permanent staff housing.

Each Party shall be responsible for making any expropriations required for the implementation of the project, in accordance with the provisions of article 14 of the Treaty of the Mirim Lagoon Basin.

Article 5. Responsibility for the costs of joint and non-joint works shall be governed by the provisions of article 13 of the Mirim Lagoon Treaty.

On the proposal of the Commission, the Contracting Parties shall make available whatever financial resources they agree to grant for the Jaguarão project, at such a rate as not to delay the overall schedule for the works.

The United States dollar shall be used as a standard, in the budgets for joint works and in the evaluation of profits accruing from the operation of their installations.

In order to calculate the advances in local currency provided for in the above-mentioned article 13 and which either Party may grant to meet the costs of the various stages of the project, the United States dollar shall be used as a standard at the exchange rate in force for financial transactions on the day on which such advances were made available to the Commission.

Article 6. The Sub-Commission shall, with the agreement of the Commission which may be expressed through the respective representative groups, draw up the monthly operating programme for each reservoir, bearing in mind foreseeable irrigation needs and the overflows that can be turbinated to generate electric power.

The two Parties shall each have the use of a share of the dammed waters of the Jaguarão River equivalent to half the average annual overflow entering the reservoir. Each Party shall be able to use up to the amount of its total monthly quota established in accordance with the operating rules mentioned in the preceding paragraph.

Each Party may transfer to the other, on terms and conditions agreed to by the Commission after hearing the Sub-Commission, the unused portion of its monthly quota or the electric power corresponding to its share of the overflow which can be turbinated.

Article 7. The Contracting Parties shall, either jointly or separately, directly or indirectly, give the executing entities or the Commission, as appropriate, in whatever form they agree, guarantees for credit transactions relating to the execution of joint works. Similarly, they shall make the currency conversion required to pay the obligations assumed by those entities.

Article 8. This Protocol shall enter into force at the same time as the Treaty of the Mirim Lagoon Basin and shall remain in force until the Contracting Parties conclude an agreement to the contrary.

DONE in the city of Brasilia, in duplicate in the Portuguese and Spanish languages, both texts being equally authentic, on the seventh day of July in the year one thousand nine hundred seventy-seven.

For the Government
of the Federative Republic
of Brazil:

[Signed]

ANTONIO F. AZEREDO DA SILVEIRA

For the Government
of the Eastern Republic
of Uruguay:

[Signed]

ALEJANDRO ROVIRA
