

Appendix 1403

**THE MEXICAN WATER TREATY:
TRANSMITTAL OF TREATY: MESSAGE FROM THE
PRESIDENT AND REPORT OF THE SECRETARY
OF STATE**

(Extracts from Ex. A, 78th Cong., 2d sess.)

**TREATY WITH MEXICO RELATING TO THE UTILIZATION
OF THE WATERS OF CERTAIN RIVERS**

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, TRANSMITTING 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, TEX., TO THE GULF OF MEXICO

FEBRUARY 15, 1944.—Treaty was read the first time and referred to the Committee on Foreign Relations and, together with the message of transmittal and the accompanying report, ordered to be printed for the use of the Senate. The injunction of secrecy was today removed from the treaty and the accompanying report.

THE WHITE HOUSE,
February 15, 1944.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith 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, Tex., to the Gulf of Mexico.

I also transmit for the information of the Senate a report on the treaty made to me by the Secretary of State.

FRANKLIN D. ROOSEVELT.

(Enclosure: (1) Report of the Secretary of State; (2) treaty¹ between the United States and Mexico, February 3, 1944.)

¹ See appendix 1405.

DEPARTMENT OF STATE,
Washington, February 9, 1944.

The PRESIDENT,

The White House:

The undersigned, the Secretary of State, has the honor to lay before the President, with a view to its transmission to the Senate to receive the advice and consent of that body to ratification, if his judgment approve thereof, 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 (Rio Bravo) from Fort Quitman, Tex., to the Gulf of Mexico.

The treaty consists of a preamble and 7 parts, and contains 28 articles.

Part I, with three articles, contains preliminary provisions. Article 1 defines certain important terms used in the treaty. Article 2 prescribes the general powers and functions of the International Boundary and Water Commission. By the provisions of article 2 the general administration of the treaty is entrusted to the International Boundary Commission organized under the convention of March 1, 1889, between the United States of America and Mexico, the name of the Commission being changed to International Boundary and Water Commission. The Commission is given the status of an international body, consisting of a United States section and a Mexican section, and it is provided that each Government shall accord diplomatic status to the Commissioner and certain of the other officers of the section of the other Government. Article 2 specifies the Department of State of the United States of America and the Ministry of Foreign Relations of Mexico as the agencies to represent the two Governments in every case wherein action by the Governments is required. Article 3 prescribes an order of preferences for the joint use of international waters.

Part II, consisting of five articles, has particular relation to the Rio Grande (Rio Bravo). Of the waters of this river below Fort Quitman the United States, by article 4, is allotted—

1. All of the waters contributed to the main stream by the measured United States tributaries, chiefly by the Pecos and Devils Rivers.

2. One-half of the flow in the Rio Grande below the lowest major international reservoir so far as this flow is not otherwise specifically allotted by the treaty.

3. One-third of the flow reaching this river from the measured Mexican tributaries above the Alamo River, provided that this one-third shall never be less than 350,000 acre-feet each year as an average in 5-year cycles.

4. One-half of all other flows occurring in the main channel of the Rio Grande.

The quantity thus allotted will not only supply existing uses but also will permit, by an efficient use of the water, considerable expansion of irrigated areas in Texas.

The remaining articles in part II make provision for the construction and operation of international works on the Rio Grande. Of chief importance is the provision, in article 5, for construction, by the two sections of the Commission, of three major international storage dams between the Big Bend and the head of the Lower Valley of Texas to provide capacity for water storage, for flood control and for the retention of silt. This article also makes provision for the construction of international auxiliary works in the Rio Grande. The cost of storage dams is to be divided in proportion to the conservation capacity allotted to each country, and the cost of other works is to be prorated in proportion to the benefits each country is to receive from each of these works. Articles 6 and 7 authorize the Commission to study, investigate, and prepare plans for flood-control works and for international hydroelectric plants on the Rio Grande. Articles 8 and 9 charge the Commission, subject to the approval of the Governments, with the preparation of rules and regulations for the storage, conveyance, and delivery of the waters of the Rio Grande, including the assignment to each country of capacities in the reservoirs. The Commission also is entrusted with the keeping of records of the waters belonging to each country and of all uses, diversions, and losses of these waters.

Part III, which is divided into six articles, prescribes the rules that are to govern the allocation and delivery to Mexico of a portion of the waters of the Colorado River. By article 10 the United States guarantees to Mexico a minimum quantity of 1,500,000 acre-feet of water each year, this water to be delivered in accordance with schedules to be furnished in advance by the Mexican section of the Commission. Beyond this minimum quantity the United States will allocate to Mexico, whenever the United States section decides there is a surplus of water, an additional quantity up to a total, including the 1,500,000 acre-feet, of not more than 1,700,000 acre-feet per year. Mexico may use any other waters that arrive at her points of diversion but can acquire no right to any quantity beyond the 1,500,000 acre-feet. These quantities, which may be made up of any waters of the Colorado River from any and all sources, whether direct river flows, return flow, or seepage, will be delivered by the United States in the boundary portion of the Colorado River, except that until 1980 Mexico may receive 500,000 acre-feet annually, and after that year 375,000 acre-feet annually through the All-American Canal as part of the guaranteed quantity. By another provision the

United States will undertake, if the Mexican diversion dam is located entirely in Mexico, to deliver up to 25,000 acre-feet, out of the total allocation, at the Sonora land boundary near San Luis.

In order to facilitate the delivery and diversion of Mexico's allocation, Mexico, as provided in article 12, is to build at its expense, within 5 years from the date the treaty enters into force, a main diversion structure in the Colorado River below the upper boundary line. If this dam is built in the limitrophe section of the river, its plans and construction must be approved by the Commission. Wherever it is built, there shall be constructed at the same time, at Mexico's expense, the works which, in the opinion of the Commission, may be necessary to protect lands in the United States against damage from floods and seepage which might result from the construction, operation, and maintenance of this dam. The United States, as provided in article 12, is to build a regulating dam, known as Davis Dam, at a point between Boulder Dam and Parker Dam, and is to use a portion of the capacity of this dam and reservoir to make possible the regulation, at the boundary, of water allotted to Mexico. Furthermore, the Commission is to make all necessary measurements of water flows, and the data obtained as to deliveries and flows are to be periodically compiled and exchanged between the two sections. Article 12 provides also that the United States, through its section of the Commission, is to acquire or construct and permanently own, operate, and maintain the works required for the delivery of Colorado River waters to Mexican diversion points on the land boundary. Article 13 provides that the Commission shall study, investigate, and prepare plans for flood control on the Lower Colorado. Article 14 provides that Mexico is to pay an equitable part of the construction, maintenance, and operating costs of Imperial Dam and the Imperial Dam Pilot Knob section of the All-American Canal, and is to pay all of such costs of works used entirely by Mexico. Article 15, relating to the annual schedules of deliveries to Mexico of Colorado River waters, provides that Mexico, in advance of each calendar year, is to supply two schedules, one to deal with the water to be delivered in the Colorado River and the other to deal with the water to be delivered through the All-American Canal. These schedules are subject to certain limitations, especially in regard to rates of flow at different times of the year, in order to provide assurance that the United States, in the period of ultimate development, will obtain credit for practically all of the flows that will be expected in the river as the result of United States uses and operations.

Part IV, consisting solely of article 16, places upon the Commission the duty of making investigations and reports regarding the most feasible projects for the conservation and use of the waters of the Tijuana River system and of submitting a recommendation for the allocation of these waters between the two countries.

The nine articles of part V contain provisions of a general nature relating to certain uses of the river channels and of the surfaces of artificial international lakes, to the international works, and to the Commission. By article 20 the two Governments, through their respective sections of the Commission, agree to carry out the construction of works allotted to them. By article 23 the two Governments undertake to acquire all private property necessary for the construction, maintenance, and operation of the works and to retain, through their respective sections, ownership and jurisdiction, each in its own territory, of all works, appurtenances, and other property required for the carrying out of the treaty provisions regarding the three rivers. However, the jurisdiction of each section of the Commission is definitely restricted to the territory of its own country.

Article 24 entrusts to the Commission certain powers and duties in addition to those specifically provided in the treaty. These powers and duties include the making of investigations and preparation of plans for works and the control thereof; the exercise of jurisdiction by the respective sections over all works; the discharge of the specific powers and duties entrusted to the Commission by this and other treaties; the prevention of any violation of the terms of the treaty; the settlement of all differences that may arise regarding the treaty; the preparation of reports and the making of recommendations to the respective Governments; and the construction, operation, and maintenance of all necessary gaging stations.

It is provided in article 25 that the Commission shall conduct its proceedings in accordance with the rules laid down by articles III and VII of the convention of March 1, 1889. In general, the Commission is to retain all duties, powers, and obligations assigned to it by previous treaties and agreements, so that the present treaty merely augments the Commission's powers, duties, and obligations.

Part VI, having two articles, contains transitory provisions. By article 26 Mexico undertakes, during a period of 8 years from the effective date of the treaty or until the beginning of operation of the lowest major international reservoir on the Rio Grande, to cooperate with the United States to relieve, in times of drought, water shortages in the Lower Rio Grande Valley of Texas. To this end Mexico, if requested, will release up to a total of 160,000 acre-feet of water during these 8 years from El Azúcar Reservoir on the San Juan River for the use of such lands in Texas, provided that Mexico shall be under no obligation to release for this purpose more than 40,000 acre-feet in any one year. By article 27, during the 5 years before Davis Dam and the Mexican diversion dam are built, the United States will permit Mexico, at its own expense, to build, under proper safeguards, a temporary diversion structure in the Colorado River for the purpose of diverting water into the present Alamo Canal. Furthermore, the

United States undertakes to cooperate with Mexico to the end that the Mexican irrigation requirements during this temporary period may be set for the lands under irrigation during 1943, provided that the water needed therefor is not currently required in the United States.

Part VII, consisting solely of article 28, contains the final provisions relating to ratification, entry into force, and termination. It is provided that the treaty shall enter into force on the day of the exchange of ratifications, and that it shall continue in force until terminated by another treaty concluded for that purpose between the two Governments.

Finally, it should be noted that the treaty provides that, in case of drought or serious accident to the hydraulic works in the United States, deliveries of Colorado River water to Mexico will be curtailed in the same proportion as uses in the United States are reduced, and that, if for similar reasons Mexico cannot provide the minimum 350,000 acre-feet from its measured tributaries of the Rio Grande, the deficiency is to be made up from these tributaries during the following 5-year cycle.

Respectfully submitted.

CORDELL HULL.

(Enclosure: Treaty between the United States and Mexico, February 3, 1944, relating to waters of the Colorado and Tijuana Rivers and of the Rio Grande.)

(NOTE.—The text of the treaty, which accompanied this message, is omitted here as it appears in full in Treaty Series 994, printed as Appendix 1405 in this volume.)