



THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

American Embassy,
Kabul, Afghanistan,
August 5, 1954.

Mr. Charles Barber,
Covington and Burling,
Union Trust Building,
Washington 5, D. C.

Dear Chuck:

Your letter of the 26th of July caught up with me here in Kabul. Yes, I have for the moment relinquished my immediate activities with regard to the Indo-Pakistan water dispute and I am now in the midst of the water dispute between Afghanistan and Iran on the division of the waters of the Helmand Valley. Is your firm interested in this quarrel? I expect there will be some fireworks on this subject in the near future.

I assure you I have not given up my interest in the canal water question in Pakistan and am following news items and reports very closely. I do think that Pakistan placed itself in an unenviable position propaganda wise when (a) it gave the impression of turning down the World Bank proposal for a division of the rivers and (b) it let loose a propaganda blast on the occasion of the opening of the Bhakara Nangal Canals.

I feel sure that the appearance of refusal on the part of Pakistan of the Bank's proposal was merely a mistake in publicity or maneuvering, but it certainly gave India the opening it was hoping for to declare that the Bank talks were at an end and, therefore, India would no longer be bound by the March 1952 agreement.

As to the press campaign on the Bhakara Nangal Canals, you will recall that I visited that area last year and it is perfectly evident that during the short water period, Pakistan is not now receiving, nor has it for the past several years been receiving, any substantial amount of water from the Sutlej water. As you well know, that water that comes into Pakistan via the Sutlej is really water from the Beas. Therefore, the real threat to Pakistan is the Harike weir and not the Bhakara Nangal Dam.

I am fully prepared to recognize that the proposed division of the rivers may not be a sound or even desirable solution but I do not think that Pakistan helps its case any by jumping the gun and raising a big hue and cry when it isn't being hurt as it has done in the case of the Bhakara Nangal opening. In fact, by so frequently crying "wolf", Pakistan, in my opinion, will eventually seriously hurt its case before the bar of world opinion.

September 11, 1954

Mr. Leon B. Poullada
Second Secretary
American Embassy
Kabul, Afghanistan

Dear Leon:

Many thanks for your letter of August 5th. I have also had a note from Mr. Fisk and I am writing him today sending along some background materials.

I mentioned the difficulties put to Pakistan by the Bank proposal in my last letter. Notwithstanding this, Pakistan never turned down the Bank proposal and, so far as I know, never issued any statement giving this impression. This was all the invention of the Indians and was the theme of a propaganda barrage which began early in June and continued through the month. It finally forced the Bank here to state to reporters trying to find out what the facts were that in their view Pakistan had not turned down the proposal and that the Bank believed that the talks would continue. We all regretted the newspaper propoganda blasts on the occasion of the opening of the Bhakra Canals.

On the Bhakra Canals question, the local editors went mad, as you know. On the merits, the contribution of the Sutlej in the few weeks in September before the weir at Ruar would normally close is a crucial addition to the Beas supplies to cover the peak September requirements for the maturing of the kharif crop. The Sutlej contribution has also been of importance in May-June in most years. It is unfortunate that the public discussion was broadside and did not focus attention on the periods in question. This opened the way to the Indian counterpropaganda that there was plenty of water in July and August, which of course is true.

Mr. Leon B. Poullada
September 11, 1954

Page 2.

You will see from my note to Mr. Fisk that I am taking a temporary leave of absence from the firm to work with the Department of Justice. I have, however, turned your letter over to John Laylin and Roger Fisher and you may hear from them from time to time. I, of course, will continue my interest in the matter just as you are, although I will not be at my desk at Covington & Burling.

If you get to Washington this winter, please look us up (3405 Cummings Lane, Chevy Chase, Maryland; telephone OLiver 2-6250). My wife and I would love to see you.

With best regards,

Yours sincerely,

Charles F. Barber

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of the Preparatory Committee which it specifies notice to the Prepara-
tory Committee no later than ten days after the deposit of its instrument
of ratification or acceptance of the Convention.

3. If any Signatory gives notice pursuant to paragraph 2, any other
Signatory, if in its view such notice changes the situation in regard to the
recommendation or part thereof in question in an important respect, shall
have the right to request, within fourteen days of such notice, that the
Preparatory Committee reconsider such recommendation or part thereof.

4. (a) If a Signatory gives notice pursuant to paragraph 2 and no re-
quest is made pursuant to paragraph 3, or, if such a request having been
made, the reconsideration by the Preparatory Committee does not result
in any modification of the recommendation or part thereof in question, the
representative on the Council of the Signatory which has given notice shall
abstain from voting on the act or part thereof to which the recommenda-
tion or part thereof in question pertains.

(b) If the reconsideration by the Preparatory Committee provided for
in paragraph 3 results in a modified recommendation or part thereof, the
representative on the Council of the Signatory which has given notice may
abstain from voting on the act or part thereof to which the modified
recommendation or part thereof pertains.

(c) Abstention by a Signatory pursuant to sub-paragraph (a) or (b)
of this paragraph with respect to any act or part thereof shall not in-
validate the approval of that act or part which shall be applicable to the
other Signatories but not to the abstaining Signatory.

5. The provisions of this Memorandum relating to actions to be taken
before the voting in the Council shall come into force upon its signature;
the provisions relating to the voting in the Council shall come into force
for each Signatory upon the coming into force of the Convention as re-
gards that Signatory.

IN WITNESS WHEREOF, the undersigned have appended their signatures
to this Memorandum.

DONE in Paris, this 14th day of December, 1960, in the English and
French languages, both texts being equally authentic, in a single copy
which shall be deposited with the Government of the French Republic, by
whom certified copies will be communicated to all the Signatories.

PAKISTAN-INDIA

INDUS WATERS TREATY¹

Signed at Karachi, Sept. 19, 1960; ratifications exchanged Jan. 12, 1961

PREAMBLE

The Government of India and the Government of Pakistan, being equally
desirous of attaining the most complete and satisfactory utilisation of the

¹Text furnished by courtesy of John G. Laylin. The Annexures referred to in the
treaty are omitted here, with the exception of Annexures F and G.

waters of the Indus system of rivers and recognising the 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, and for this purpose have named as their plenipotentiaries:

THE GOVERNMENT OF INDIA:

Shri Jawaharlal Nehru,
Prime Minister of India,

AND

THE GOVERNMENT OF PAKISTAN:

Field Marshal Mohammad Ayub Khan, HP., H.J.,
President of Pakistan;

who, having communicated to each other their respective Full Powers and having found them in good and due form, have agreed upon the following Articles and Annexures:—

ARTICLE I

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 or 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

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Jhelum Main shall be deemed to extend 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 II

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

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- (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 III

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 any water of, or construct any storage works on, the Western Rivers.

ARTICLE IV

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.

X (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 which so crosses 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

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Western Rivers

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for the use of water or any
other purpose.

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of drainage, river
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area, beyond the
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excess of the quantities
mentioned in Article VII(1)(b),
shall, before under-
taking such a scheme or drain,
ensure that the capacity of that
scheme or drain is not so small as 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) Hudiana 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 Suleimanke, 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 com-
municate to the other Party, as far in advance as practicable, any infor-
mation 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 V

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 estab-

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lished 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 thereupon pay to India out of the Indus Basin Development Fund the appropriate amount specified in the Table below:—

TABLE

<i>Period of Aggregate Extension of Transition Period</i>	<i>Payment to India</i>
One year	£ Stg. 3,125,000
Two years	£ Stg. 6,406,250
Three years	£ Stg. 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 VI

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

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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

each month consult

X 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.

X (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.

X (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.

X (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 IX

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 X

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 XI

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.

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(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.

ARTICLE XII

Final Provisions

(1) This Treaty consists of the Preamble, the Articles hereof and Annexures A to H hereto, and may be cited as "The Indus Waters Treaty 1960".

(2) This Treaty shall be ratified and the ratifications thereof shall be exchanged in New Delhi. It shall enter into force upon the exchange of ratifications, and will then take effect retrospectively from the first of April 1960.

(3) The provisions of this Treaty may from time to time be modified by a duly ratified treaty concluded for that purpose between the two Governments.

(4) The provisions of this Treaty, or the provisions of this Treaty as modified under the provisions of Paragraph (3), shall continue in force until terminated by a duly ratified treaty concluded for that purpose between the two Governments.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed this Treaty and have hereunto affixed their seals.

Done in triplicate in English at Karachi on this Nineteenth day of September 1960.

FOR THE GOVERNMENT OF INDIA:

(Sd) JAWAHARLAL NEHRU

JAWAHARLAL NEHRU

FOR THE GOVERNMENT OF PAKISTAN:

(Sd) M. A. KHAN F.M.

MOHAMMAD AYUB KHAN, *Field Marshal, H.P., H.J.*

FOR THE INTERNATIONAL BANK FOR RECONSTRUCTION
 AND DEVELOPMENT

for the purposes specified in Articles V and X and Annexures F, G and H:

(Sd) W. A. B. ILIFF

W. A. B. ILIFF