

THE AFGHAN-IRANIAN HELMAND-RIVER WATER TREATY:

Following is the text of the Afghan-Iranian Helmand River water Treaty:

Afghanistan and Iran, desiring to remove permanently all causes of controversy with respect to the water of the Helmand River, and being moved by international comity and by brotherly and neighbourly feelings, and having resolved to conclude a Treaty for this purpose, and having named as their Plenipotentiaries:

Afghanistan:

Mohammad Moussa Shafiq,
Prime Minister of Afghanistan,
and

Iran:

Amir Abbas Hoveyda,
Prime Minister of Iran;
who, after having communicated to one another their respective full powers, found in good and due form, have agreed upon the following Articles:

ARTICLE I:

For the purposes of this Treaty,

(a) First of January corresponds to 11 Ma-ghoumay-11 July-11 Dey.

First of February corresponds to 12 Salwagha-12 Dalwa-12 Bahman.

First of March corresponds to 10 Kab-10 Hout-10 Esfand.

First of April corresponds to 12 Warray-12 Hamal-12 Farwardin.

First of May corresponds to 11 Ghwayay-11 Sawr-11 Ordibehsh.

First of June corresponds to 11 Ghbargoly-11 Jawza-11 Khardad.

First of July corresponds to 10 Chonlash-10 Saratan-10 Tir.

First of August corresponds to 10 Zamaray-10 Asad-10 Tir.

First of September corresponds to 10 Wozhy-10 Sonbola-10 Shariwar.

First of October corresponds to 9 Tab-9 Mizan-9 Mehr.

First of November corresponds to 10 Larum-10 Aqrab-9 Aban.

First of December corresponds to 10 Linday-10 Qaws-10 Azar.

In leap years the difference of one day shall be taken into consideration according to Solar Hijre calendar.

(b) A "water year" means the period from October first to the end of the succeeding September.

(c) A "normal water year" means the year during which the total flow of water from the first of October to the end of the succeeding September, measured and calculated at the hydrometric station at Dehrawud located on the Helmand River upstream from the entrance to Kaiaki Reservoir, is four million five hundred and ninety thousand

(4,590,000) acre feet (5661,715) (million cubic metres). The amounts of monthly flow in a normal year are indicated in Protocol

No. 1, annexed to this Treaty.

(d) The hydrometric station at Dehrawud is recognised solely as an instrument for the purpose is that of a normal water year.

ARTICLE II

The total amount of water from the Helmand River to be delivered by Afghanistan to Iran in a normal water year, is limited to an average flow of twenty two cubic metres per second, in accordance with table 10 of the Report of the "Heland River Comission", dated February 28, 1951, with monthly distributions shown in Column 2 of the table in Article III of this Treaty, and an additional amount, which is being granted by Afghanistan to Iran as an expression of goodwill and brotherly relations, of an average flow of four cubic metres per second with monthly distributions as shown in Column 3 the table in Article III, which distributions are proportionate to those in Column 2.

ARTICLE III

(a) During a normal water year, or an above normal water year, Afghanistan shall deliver to Iran in the bed of the Helmand River at the places mentioned below, the specific amounts of Helmand River water described and determined in Article II of this Treaty, according to the monthly distributions specified in Column 4 of the following table:

1 Months	2 Distribution of average flow of water in cubic metres per second on the basis of 22 cubic metres per second in accordance with the "Helmand River Delta Commission Report".	3 Distribution of average flow of water in cubic metres per second on the basis of 4 cubic metres per second as an expression of goodwill	4 Distribution of average flow of water in cubic metres per second on the basis of the total of Column 2 and 3 of this table, that is, 26 cubic metres per second
Oct.	4.23	0.77	5.00
Nov.	10.75	1.97	12.72
Dec.	19.48	3.56	23.04
Jan.	29.35	5.32	34.67
Feb.	66.12	12.04	78.16
March	61.90	11.23	73.13
April	26.30	4.61	31.11
May	7.64	1.39	9.03
June	16.71	3.02	19.73
July	11.61	2.11	13.72
August	7.93	1.44	9.37
Sept.	1.93	0.34	2.32

The places of delivery shall be as follows:

1. At the place where the boundary line crosses the Rude Seistan.

2. At two other places, where the boundary line is located in the bed of the Helmand River between boundary pillars number fifty one and fifty two. The places shall be fixed by the Commissioners of the two parties, who shall establish the distance and direction of each one of the places in relation to one of the above mentioned boundary pillars, within three months from the date of entry into force of this Treaty. The establishment of the two places shall be effective after the approval of the two Governments.

(b) The two parties shall build suitable joint structures and install necessary devices, in accordance with the plans and specifications agreed upon by the two parties, at the places mentioned in paragraph (a) of this Article, so that the amounts of water specified in the Articles of this Treaty may be measured and delivered effectively and accurately in accordance with the provisions of this Treaty.

ARTICLE IV

In years when, due to climatic factors, the amount of flow is less than that of a normal water year, and the measured flow figures at the hydrometric station at

Dehrawud indicate that the flow of the months previous to the month in question has been less than that of a normal water year, the amounts stated in Column 4 of the Table in Article III shall be adjusted, for the succeeding months of that water year, in the ratio that the actual flow for the previous months of that water year (in this case from March to the month in question) bears to the same months of a normal water year, and the adjusted amounts shall be delivered to Iran at the places provided in Article III.

In the event that in any succeeding month, after the month in question, the hydrometric station at Dehrawud indicates a flow equal to or greater than that of the same month of a normal water year, water in that month shall be delivered according to Column 4 of the table of Article III.

ARTICLE V

Afghanistan agrees that it shall take no action to deprive Iran totally or partially of its water right to the water of the Helmand River as fixed and delimited by the provisions of Articles II, III and IV of this Treaty.

Afghanistan shall retain all rights to the balance of the water of the Helmand River and may make such use or disposition of the water as it chooses.

Iran shall make no claim to the water of the Helmand River in

excess of the amounts specified in this Treaty, even if additional amounts of water may be available in the Helmand Lower Delta and may be put to a beneficial use by Iran.

ARTICLE VI

Afghanistan shall take no action to make the water to be delivered to Iran totally unsuitable for agriculture, or to cause it to be polluted by industrial chemical effluent to such an extent that even after being purified by conventional modern technical methods, still its use remains to be impossible and harmful for domestic purposes.

ARTICLE VII

Any type of technical joint structures which are necessary for the purpose of stabilisation of the bed of the Helmand River at the places where the boundary line is located at the bed of the River, can be constructed only after the plans and specifications for such structures have been approved by the parties to this Treaty.

ARTICLE VIII

Each party shall appoint a Commissioner and a Deputy Commissioner from among its own nationals, who shall represent their respective countries in the implementation of the provisions of this Treaty. The scope of their authority and their duties and responsibilities are defined

in Protocol No. 1, annexed to this Treaty.

ARTICLE IX

In the event that a difference should develop in the interpretation or application of the provisions of this Treaty, the parties shall endeavour, first, to solve the difference through diplomatic negotiations, secondly through the use of the good offices of a third party. Should neither effort result in a solution the difference shall be submitted to arbitration pursuant to the provisions of Protocol No. 2, annexed to this Treaty.

ARTICLE X

Afghanistan and Iran agree that this Treaty represents the complete and permanent agreement of the two Countries, that the provisions of this Treaty are valid only within the limitations of its contents, that the Treaty shall not be subjected to any other present or future principle or precedent.

ARTICLE XI

If extreme drought or force majeure should make the reaching of the water to the Helmand Delta temporarily impossible, the Commissioners of the two parties shall immediately enter into consultation and shall formulate and submit an urgent necessary plan for meeting or minimizing the emergency to their respective Governments.

ARTICLE XII

This Treaty shall enter into force on the day of exchange of instruments of ratifications.

In witness whereof the respective Plenipotentiaries have signed this Treaty.

Done in duplicate at Kabul in the Pashto, Dari (Persian) and English languages, the three texts being equally authentic the English text, however, being the only text to which reference shall be made in the event of recourse to the good offices of a third party or arbitration, this 13th day of March 1973.

For Afghanistan
Mohammad Moussa Shafiq
Prime Minister

For Iran
Amir Abbas Hoveyda
Prime Minister

Following are the texts of the two complementary protocols of the treaty on water from Helmand, signed between Afghanistan and Iran.

PROTOCOL NO. 1

Annexed to the Afghan-Iranian Helmand River water Treaty relating to the authority and duties of the Commissioners

ARTICLE 1

The Treaty mentioned in this Protocol is the Afghan-Iranian Helmand River water Treaty signed on the 13th of March 1973.

ARTICLE 2

Each of the parties to the Treaty shall appoint a Commissioner and a Deputy Commissioner who shall be nationals of and represent their respective Governments in connection with the implementation of the provisions of the Treaty regarding the delivery to Iran of the amount of water of the Helmand River therein specified.

ARTICLE 3

(a) The Commissioners shall be appointed from among high ranking officials.

(b) Each Commissioner, in the performance of his duties, may utilize the services of two advisers of his nationality.

October	154,000	Acre feet
November	172,000	" "
December	176,000	" "
January	178,000	" "
February	208,000	" "
March	597,000	" "
April	1,158,000	" "
May	1,033,000	" "
June	441,000	" "
July	211,000	" "
August	137,000	" "
September	125,000	" "
Total	4,590,000	" "

ARTICLE 6

The Afghan and Iranian Commissioners shall act jointly in the measurement and delivery of the water at the places of delivery specified in Article III of the Treaty, according to the provisions of the Treaty and this Protocol.

ARTICLE 7

The Afghan and Iranian Commissioners shall constitute the

(c) The expenses of the Commissioners, their Deputies and their advisers shall be defrayed by their respective Governments.

ARTICLE 4

The Commissioners shall represent their respective Countries on matters related to application of, and shall serve as liaison officers between the two countries on matters related to, this Protocol.

ARTICLE 5

During any year that the flow of water is less than in a normal water year, as described in Article IV of the Treaty, and the Iranian Commissioner shall seek information as to the flow of water at the hydrometric station at Dehrawud, located on the Helmand River upstream from the entrance to Kajakai Reservoir, the Afghan Commissioner shall put at his disposal the related data registered at that station. Should the Iranian Commissioner so desire, the Afghan Commissioner shall put at his disposal the monthly flow records registered at that station. At the request of the Iranian Commissioner the Afghan Commissioner shall cooperate with him so the Iranian Commissioner may observe and measure the flow of water at the Dehrawud station.

Note: The distribution of the monthly flow in a normal year is as follows:

"Joint Committee of Commissioners" hereinafter referred to as the "Joint Committee". This Committee shall endeavour to solve expeditiously, and problem which may arise in the performance of its duties under this Protocol. The decisions of the Joint Committee shall be binding within the limits of its authority.

ARTICLE 8

The Joint Committee shall hold regular meetings periodically, as the Joint Committee shall determine. In cases of emergency either Commissioner may call a special meeting of the Joint Committee. The Joint Committee shall hold its regular meetings in Kabul or Zaranj (in Afghanistan) or in Tehran or Zabul (in Iran), as the Joint Committee shall determine. The special meeting of the Joint Committee shall be held at any one of the places mentioned above named in the call for the meeting.

ARTICLE 9

The Commissioners shall submit a report of the activities of the Joint Committee during the preceding water year to their respective Governments prior to the first of November in each year. They may submit interim reports, within the limitation of their duties specified in this Protocol, to their respective Governments at such other time or times as they deem necessary.

ARTICLE 10

(a) Each of the parties to the Treaty shall appoint a delegation headed by the Minister in charge of matters pertaining to water utilization. The delegations of the two parties shall together constitute the "Committee of Ministers".

(b) The Committee of Ministers shall meet at the request of one of the Governments. The Committee of Ministers shall have jurisdiction to solve any problem that may arise in the application of this Protocol. The Joint Committee shall be bound to apply the decisions of the Committee of Ministers.

(c) Either Commissioner may request his Government to call a meeting of the Committee of Ministers, either in an emergency or when the members of the Joint Committee cannot reach agreement.

(d) The Joint Committee and the Committee of Ministers shall each determine the procedure of their meetings.

ARTICLE 11

In the event the Committee of Ministers do not reach agreement, each party to the Committee shall submit a report to its respective Government in order that the two Governments seek for a solution through diplomatic channels. The decisions made by each Committee or decisions reached through diplomatic channels shall not contravene any of the

provisions of, and shall be within the limits of the Treaty and this Protocol. Any decision made or action taken by either Committee shall not in any manner whatsoever establish a precedent.

ARTICLE 12

No amendment to, change in, or revision of, this Protocol agreed by the parties to the Treaty, shall in any manner whatsoever affect the Treaty, or Protocol No. 2, annexed thereto.

ARTICLE 13

This Protocol shall be regarded as an integral part of the Afghan-Iranian Helmand River Water Treaty signed in Kabul on the 13th day of March 1973 and shall be effective beginning with the day of the entry into force of the Treaty.

In witness whereof the respective Plenipotentiaries have signed this Protocol

Done in duplicate at Kabul in the Pashto, Dari (Persian) and English languages, the three texts being equally authentic, the English text, however, being the only text to which reference shall be made in the event of recourse to the good offices of a third party or arbitration, this 13th day of March 1973.

For Afghanistan
Mohammad Moussa Shafiq
Prime Minister
For Iran
Amir Abbas Hoveyda
Prime Minister

PROTOCOL NO. 2

Annexed to the Afghan-Iranian Helmand River Water Treaty relating to arbitration

ARTICLE 1

The Treaty mentioned in this Protocol is the Afghan-Iranian Helmand River Water Treaty between Afghanistan and Iran signed on the 13th of March 1973.

ARTICLE 2

Any difference which may develop in the interpretation or application of the provisions of the Treaty, which cannot be solved, in accordance with Article IX of the Treaty, through diplomatic negotiations or, thereafter, through the good offices of a third party, shall be submitted to arbitration

ARTICLE 3

In the event that either of the parties to the Treaty, after having complied with the two procedures first stipulated in Article 2 of this Protocol, shall deem it necessary to refer its difference to arbitration, it shall so advise the

other party by the delivery of a diplomatic note, stating the specific point or points of difference and requesting first, the establishment of an Arbitral (fact-finding) Mission in accordance with Article 4 of this Protocol and secondly, if necessary, an Arbitral Tribunal in accordance with the provisions of Article 5 of this Protocol.

ARTICLE 4

Within three months after the receipt of the diplomatic note referred to in Article 3 of this Protocol, the representatives of the two parties shall meet and attempt to agree on the composition of an Arbitral (fact-finding) Mission and on the manner in which proceedings of the mission are to be conducted. If such mission is created and makes findings and recommendations which are agreed to by the two parties, the case will be considered resolved

ARTICLE 5

In the event that the parties, pursuant to Article 4 of this Protocol, do not reach agreement on the findings and recommendations of the Arbitral (fact-finding) Mission, the point or points of difference shall be submitted to an Arbitral Tribunal which shall consist of three members and shall be constituted as follows:

(a) Each party shall appoint one arbitrator, who shall be a national of the party making the appointment.

(b) The third arbitrator, who shall preside over the Arbitral Tribunal as Chairman, shall be chosen by agreement of the two parties, within three months of the appointment of the members appointed pursuant to the provisions of paragraph (a) of this Article, should the third arbitrator not be chosen within three months, the Secretary General of the United Nations, shall be requested by the parties or one of the parties, to appoint the third arbitrator. The Chairman of the Arbitral Tribunal appointed pursuant to the provisions of this paragraph shall be from nationals of a country with which both Afghanistan and Iran maintain friendly relations, but has no common interest with either Afghanistan or Iran.

(c) The Arbitral Tribunal shall, with the concurrence of the parties, adopt such rules for its proceedings as may be deemed expedient and necessary. Such rules

shall be in conformity with the provisions of the Treaty, Protocol No. 1, and this Protocol. The Arbitral Tribunal shall endeavour

(d) The Arbitral Tribunal shall submit to the two parties a copy of its decision when rendered. Each such decision shall be supported by reasons in writing.

(e) The decision of the Tribunal shall be paid by the Government

ARTICLE 6

Should any member of the Arbitral (fact-finding Mission under Article 4, or of Arbitral Tribunal under Article 5 of this Protocol, for any reason, ceases to serve, he shall be replaced in the same manner he was originally appointed or chosen. In that event, further proceedings shall be resumed at such time as the newly appointed or chosen member shall have had such opport-

unity and time as he may reasonably require to acquaint himself with all proceedings which transpired prior to his appointment or choice.

ARTICLE 7

The expenses of each arbitrator shall be paid by the Government which chose the arbitrator and the expenses of the third arbitrator shall be shared equally by the two parties.

ARTICLE 8

No amendment to change in, or revision of this Protocol agreed by the parties to the Treaty, shall in any manner whatsoever affect the Treaty, or Protocol No. 1, Annexed thereto.

ARTICLE 9

This Protocol shall be regarded as an integral part of the Af-

ghan-Iranian Helmand River Water Treaty signed in Kabul on the 13th day of March 1973 and shall be effective beginning with the day of entry into force of the Treaty.

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