

Argentina-Brazil-Paraguay: Agreement on Parana River Projects

(Done at President Stroessner City, Paraguay, October 19, 1979)

Mr. Minister,

1. As Your Excellency is aware, and in accordance with the spirit and letter of the Treaty on the River Plate Basin, and the Declarations and Resolutions adopted thereunder, the Governments of Paraguay and Brazil are constructing a hydroelectric project with multiple purposes at Itaipú, on a border segment of the Paraná River, and, at the same time, the Governments of Argentina and Paraguay are concluding feasibility studies to construct, downriver at a stretch which is contiguous for each, a hydroelectric project with multiple purposes at the zone of Corpus.
2. These projects, conceived in a spirit of the fraternal amity which unites the countries that have associated for their execution, constitute significant examples of international cooperation and of the way in which, including through bilateral efforts, the aforementioned Treaty on the River Plate Basin is being implemented.
3. Aware of the advantages, for both projects, which could result from operational understandings between the three Governments, two meetings of a technical nature were held on September 22-23 and November 17-18, 1977, and two meetings of a diplomatic nature were held on March 14-15 and April 27-28, 1978, all at the city of Asunción. The negotiation process continued with the meeting of the Foreign Ministers of Argentina, Brazil and Paraguay on October 19, 1979p at President Stroessner City, the results of which are detailed in this Note.
4. The deliberations were characterized by a spirit of good neighborliness and cooperation in search of a solution which represents, for the three parties, the effective convergence of interests and the attainment of reciprocal benefits.
5. In view of the specific objectives of the understandings, the following points were agreed upon, within the legal competence of each state:
 - a. The maximum normal operational level of the water, except for exceptional natural circumstances I - of the reservoir created by the dam which Argentina and Paraguay intend to construct at the zone of Corpus shall be at the height of 105 meters above sea level, at the point of the reservoir, referred to as zero altimetric and specified in Annex I, which is an integral part of this Note.
 - b. Itaipú may be operated with the flexibility required for its optimum utilization, up to the maximum of its potential, but maintaining downriver flows which do not exceed, in regard to its operation and except under exceptional natural circumstances, the following limits related to navigation, measured in accordance with international practice, in the fluvial border zone of the three countries:
 - Hourly level variation: fifty centimeters.

- Daily level variation: two meters.
- Normal surface velocity: two meters per second.

Under unfavorable hydrological conditions, the hourly and daily level variations may increase by up to twenty percent, within the terms of the operational coordination established in clause (e) of this paragraph.

- c. The total potential referred to above shall be, when permitted by compliance with the aforementioned navigational limits, that which results from the operation at Itaipú of the 18 installed turbogeneration units, with a nominal potential of 700 megawatts each, of a maximum water outflow of approximately 12,600 cubic meters per second.
- d. At Itaipú and at the project planned at the zone of Corpus, cooperation shall be guaranteed during their construction and during the filling of the reservoirs, the chronology of which shall be announced with sufficient anticipation, adopting a practice analogous to that followed in filling the reservoir at Jupia, regarding the providing of technical information related to the filling operation of the referred to reservoirs.

The matters related to the filling of the reservoir at Itaipú are contained in Annex II, which is an integral part of this Note.

In regard to all matters relating to the construction of the project planned at the zone of Corpus and the filling of the reservoir, Paraguay and Brazil shall collaborate, in terms of the operation of their dams, to assure a flow at Corpus which will be beneficial for that project. For this purpose, they shall inform the Itaipú Binational Commission, when appropriate, of their chronology.

- e. The Itaipú Binational Commission and the entity responsible for the project planned at the zone of Corpus shall establish adequate procedures of operational coordination for the attainment of reciprocal benefits, including the exchange of hydrological information relevant to the three countries which is of a foreseeable nature.
- f. In accordance with the spirit and letter of the international agreements in force among the parties, and with the Resolutions on navigation which were approved under the Treaty on the River Plate Basin, the three Governments shall adopt the measures necessary so that in the river segments under their jurisdiction the best conditions of navigability shall be maintained. Likewise, they shall take adequate measures, as appropriate and in a timely manner, in order to undertake the infrastructure projects which allow for navigation or transshipment, as a temporary alternative, taking into account the interests of both the downriver and upriver countries.
- g. The three Governments confirm their intention to assure that the river flows from the Itaipú project and that which is planned at the zone of Corpus, insofar as is pertinent to each,, do not affect the present navigational conditions of the Paraná

River, nor cause major changes in its status, its alluvial conditions or in the present operation of the ports thereon, including those used during certain seasons by international shipping.

Likewise, they affirm that the eventual changes which may be caused in the present conditions of the river by the flows below the referred to projects shall reasonably maintain the seasonal nature of its rises and falls.

Aware of the eventual beneficent effects of this modification of the river, they further agree that such eventual major harmful effects as may be caused to the Paraná River, in the waters below Itaipú and by the project planned for construction in the zone of Corpus, as a result of modifications of the river by the referred to projects, must be foreseen, insofar as possible, and that their gravity and classification shall not be determined unilaterally by the states in whose jurisdiction they presumably originate, nor by the states which allege the occurrence of the referred to eventual major harmful effects.

Within the spirit of cooperation and good neighborliness which inspires the relations among the three countries, concrete cases shall be examined within the shortest possible time, compatible with the nature of the eventual major harmful effects and their analysis.

- h. This agreement is based on the constant interrelation of the specifications established in clauses (a), (b) and (c), above; therefore, the eventual modification of any of them shall be preceded by negotiations among the three parties.
In the context of the security measures which are being applied in the planning and construction of the two projects, those responsible shall continue perfecting the studies on the matter of induced seismological effects in the zones of influence, and adequate measures for eventual detection and control shall be taken.
- i. In accordance with the commitments undertaken in the system of the Treaty on the River Plate Basin, and in view of the existing respective legislation in this regard, the three Governments, insofar as it is pertinent to each, shall undertake efforts, in the context of the application of this Note, to preserve the environment, the fauna and flora, as well as the quality of the waters of the Paraná River, avoiding its contamination and assuring, at the least, the present conditions of health in the areas of influence of both projects. In this respect, they shall likewise promote the creation of new national parks and the improvement of existing parks.
- j. Within the elevated spirit of fraternal comprehension which guided the deliberations among the three Governments, and having reached a perfect understanding with respect to the preceding points, the three parties shall undertake studies in regard to eventual related matters which could arise, in order to augment even further the cooperation among them in the context of this Agreement.

- 6. The Governments of Argentina, Paraguay and Brazil formally accept, in regard to that which is pertinent to each and as a whole, the points referred to in paragraph 5, above.

7. This Note, and those of identical text and date exchanged among the three Governments, constitute this Agreement among them, which shall enter into effect as of today.

I take this opportunity to reiterate to your Excellency my highest and most distinguished esteem.

(signed) Alberto Nogués

Annex I

The zero altimeter referred to in paragraph 5 (a) is the zero altimeter IGM of Mar del Plata adopted in the study of the "Argentine-Paraguayan Mixed Commission for the Paraná River, Paraná River Project in the Border Segment between the Mouth of the Iguazú River and the Section Encarnación-Posadas with Particular Attention to the Zone of Corpus," of 1977, in which it is verified that there is a difference of 0.0611 meters between the Argentine zero IGM and the "zero" of Brazil. The three countries shall take the measures necessary through a tripartite technical commission, to set said reference level by means of landmarks placed in their respective territories near the mouth of the Iguazú River.

Annex II

The signatories of these Notes, of which this Annex is a part, analyzed various aspects related to the effects on downriver waters of the filling of Itaipú reservoir, and realizing that said filling is a single event, the duration and consequences of which are reasonably foreseeable, they have exchanged the following considerations:

1. The Governments of Brazil and Paraguay shall use their best efforts so that the filling of the Itaipú reservoir between the heights of 140 and 200, estimated to require approximately 15 to 20 days, shall be done in 1982 and in the shortest time possible, compatible with the security of the project.
2. The filling operation referred to in 1. above, is planned to be undertaken in the months of September, October or November, maintaining a minimum flow in the section of Encarnación-Posadas of five thousand cubic meters per second.
3. The additional complement to the natural flows of the Paraná River in the section of Encarnación-Posadas, which are necessary to assure the minimum flows referred to in 2., above, shall be the responsibility of Brazil, for which it shall use dammed waters of the Iguazú River Basin.

[According to paragraph 7 of the Note y the Agreement entered into force with the exchange of Diplomatic Notes on October 19, 1979.

[The Treaty on the River Plate Basin, signed April 23, 1969, appears at 8 I.L.M. 905 (1969).]