

**Exchange of Notes between Mexico and Guatemala constituting an Agreement on
the Establishment of an International Boundary and Water Commission
9 November and 21 December 1961**

I

MINISTRY OF FOREIGN AFFAIRS
REPUBLIC OF GUATEMALA
Guatemala, 9 November 1961
Sir,

As you are aware, the International Meeting of Engineers from Guatemala and Mexico, which was held in the town of Tapachula, State of Chiapas, Mexico, from 20 to 23 February 1961 in order to study and propose solutions to certain problems relating to the boundaries between the two countries, recommended, in its final act, the establishment of an international commission which would be known as the "Suchiate Commission" for studies on the river, particularly regarding the construction of a permanent bridge over it. It was also recommended that an international commission should be set up to study, monitor and consider all questions relating to boundaries and international waters between Mexico and Guatemala.

Bearing in mind the traditional ties of friendship which happily exist between our two countries, the Government of Guatemala has studied the recommendations of the International Meeting of Engineers with great interest and finds that they contain constructive elements which should be taken up for the benefit of our common interests.

Accordingly, I have pleasure in communicating to you hereby the views of my Government so that, if your enlightened Government accepts them, they may be put into effect.

Guatemala agrees to the establishment of an "International Boundary and Water Commission of the United Mexican States and the Republic of Guatemala", as suggested by the Embassy of Mexico in a memorandum to this Foreign Office, dated 26 September 1958, which is actually the same as the Commission suggested by the International Meeting of Engineers to which I have referred.

As indicated in that memorandum, the Commission's task shall be to advise and assist the Governments of the two countries on boundary problems, with powers of investigation and study, and to implement projects previously approved by the Governments, but it shall have no decision-making powers nor any other powers which entail commitments for the respective Governments.

The Commission shall consist of two sections: a Mexican section and a Guatemalan section, each headed by an engineer commissioner who shall have diplomatic status, assisted by such technical, legal and administrative personnel as may be deemed necessary. All the members of the Commission shall have the privileges and facilities that are necessary for carrying out their functions.

The Commission shall function when the two commissioners are present; its agreements shall be recorded in documents which shall be authenticated by the Secretaries and transmitted to the respective Governments for their consideration; when approved, that approval shall be communicated to the Commissioners and the commitment undertaken must be carried out by the Commission.

In the event that either of the two Governments should fail to approve an agreement of the Commission, both Governments shall take up the matter and resolve it in whatever manner they deem proper, and should they agree, such agreement shall be communicated to the Commissioners for implementation. When the Commissioners do not agree on a question within their competence, they shall each draw up a separate written opinion for presentation to their respective

Governments.

Each Government shall be responsible for the fees of the personnel in its Section and the expenses of that Section. The Commission shall indicate, in accordance with the requirements of its work, the venues and dates of its meetings.

Matters before the Commission, which are to be submitted to the two Governments for consideration, shall be handled by the Ministry of Foreign Affairs of Mexico and the Ministry of Foreign Affairs of Guatemala.

The Commission shall be responsible for:

- (a) Delimitation and conservation of the land boundary established by the Delimitation Treaty of 1882,¹(1) a task which has been carried out up to now by Commissioners of the two countries;
- (b) Studying such cases as may arise as a result of changes in the course of limitrophe rivers and recommending appropriate solutions;
- (c) Studying international river flows to draw up projects for the equitable use and development of their waters, for the benefit of the two countries, and matters pertaining to flood control;
- (d) Making recommendations on structures which are planned on any part of the land boundary or in international river-beds and monitoring their construction to ensure that they do not violate the rights of the two countries;

The starting point for consideration of questions and problems concerning protective structures and the use and development of international waters shall be the bases, norms and principles recognized under international law and advocated by international bodies for the greatest possible benefit of the peoples and in the interests of the two riparian countries.

The Commission shall review the *Modus Vivendi* of 3 November 1942 and shall determine which of its provisions shall be the responsibility of the Commission itself and which should pass to other bodies.

The Commission shall take up problems relating to the Suchiate river, and to that end it shall:

- (a) Determine as soon as possible the places and sections where the Suchiate river meanders and carry out the necessary work to prevent such meanderings, and to prevent flooding and erosion detrimental to the riparian land of the two countries;
- (b) Study and plan, in places where the river meanders, the structures needed to establish a permanent channel for flood waters;
- (c) Study the entire basin of the Suchiate river to determine the available water resources and to formulate plans for the equitable use and development of the waters for the benefit of both countries;
- (d) Carry out studies and prepare projects for the construction of a permanent bridge over the Suchiate river between Tecún-Umán, Guatemala, and Ciudad Hidalgo, Mexico, for which purpose the Commission shall be responsible for:
 - (1) Studying and preparing of preliminary drafts and preparing the final draft;
 - (2) Drawing up the specifications and other documents necessary for the competitive bidding;
 - (3) Organizing the international public bidding between contractors from Guatemala and Mexico, and rating, awarding and concluding the contract for the execution of the work;
 - (4) Supervising all stages of the work and administering the common funds for its financing.

The Commission shall also submit a draft agreement for the construction and operation of the bridge over the Suchiate river covering *inter alia* the following points:

- (a) The costs of construction, supervision, consultancy and miscellaneous should be met equally by the two countries;
- (b) The bridge should be of mixed use, with simultaneous passage for railways, vehicles and pedestrians;
- (c) The railway should be single-track consisting of three rails to allow the passage both of Mexican railways, with a gauge of 1.435 Manager, and of Guatemalan railways, with a gauge of 0.914 Manager, and the road should have two traffic lanes with a total width of 7.90 Manager; and for pedestrians there should be a pavement with a minimum width of 1.50 Manager;
- (d) The load specifications for the design should be: Cooper E 50 for the railway (since it is a bridge on which speed will be restricted because of the frontier crossing); and H 20-S 16 for the road.

As to the location of the bridge, the following aspects shall be taken into account:

- (a) The field studies show a preference for the following three places: fairly close to the existing route; downstream from the "El Remolino" bend on a fairly straight section; and on the first straight section upstream from the "El Remolino" bend;
- (b) The possibility of studying one location for the railway bridge and another for the road bridge should not be eliminated;
- (c) The solution adopted should be the most appropriate, taking into account such aspects as: the plans regulating the towns to be linked by the bridge; economic studies; road and railway traffic, and also structures to protect and regulate the flow of the river.

I should be grateful if you would communicate the contents of this note to your enlightened Government. If the latter agrees, this note and your reply in the affirmative may constitute an agreement between our two Governments, which shall enter into force when the exchange of notes takes place.

I take this opportunity, etc.
Ambassador Extraordinary and
Plenipotentiary of Mexico
Guatemala City

II

Guatemala, 21 December 1961
Sir,

I have the honour to acknowledge receipt of your note No. 24674 of 9 November 1961 which reads as follows:
[See note I]

I am pleased to inform you that my Government accepts the proposal of the Government of Guatemala in the terms set forth above and, consequently, agrees that your note No. 24674 and this reply shall constitute an agreement between the two Governments, which shall take effect as from this date.

Accept, etc.

His Excellency
Minister for Foreign Affairs
of the Republic of Guatemala
Guatemala City

Endnotes

1 (Popup - Popup)

1/ United Nations, *Treaty Series*, vol. 1404, No. 11-933.