

No. 23141

**ARGENTINA
and
PARAGUAY**

Treaty of Yacyretá. Signed at Asunción on 3 December 1973

Authentic text: Spanish.

Registered by Argentina on 16 November 1984.

**ARGENTINE
et
PARAGUAY**

Traité de Yacyretá. Signé à Asunción le 3 décembre 1973

Texte authentique : espagnol.

Enregistré par l'Argentine le 16 novembre 1984.

[TRANSLATION — TRADUCTION]

TREATY¹ OF YACYRETÁ

The President of the Argentine Republic, Lieutenant-General Juan Domingo Perón and the President of the Republic of Paraguay, General of the Army Alfredo Stroessner; Considering:

That, under the Agreement of 23 January 1958,² both Governments decided to carry out technical studies designed to obtain electrical energy from the River Paraná at the islands of Yacyretá and Apipé and to improve the navigability of that river;

That, in a number of international instruments concluded later, Argentina and Paraguay have re-iterated their desire to upgrade the resources of the River Paraná along the reach that marks the boundary between the two countries, in a spirit of frank and effective international co-operation in harmony with the feelings of fraternal amity which bind them;

That the necessary studies have been carried out to initiate the works provided for in the aforementioned Agreement of 23 January 1958;

That article VI of the Treaty of the River Plate Basin and the Declaration of Asunción of 3 June 1971 lay down criteria, accepted by both countries, for the utilization of international rivers;

Have resolved to conclude a Treaty and, for this purpose, have designated as their plenipotentiaries:

The President of the Argentine Republic: Ambassador Alberto Juan Vignes, Minister for Foreign Affairs and Worship;

The President of the Republic of Paraguay: Dr. Raúl Sapena Pastor, Minister for Foreign Affairs,

who, having exchanged their full powers found in good and due form, have agreed as follows:

Article I. The High Contracting Parties shall undertake, jointly and in accordance with the provisions of this Treaty, a hydroelectric scheme, the improvement of the navigability of the River Paraná at Yacyretá Island and, possibly, the reduction of the devastating effects of the floods caused by abnormal rises in the water level.

Article II. For the purpose of this Treaty:

(a) "Argentina" means the Argentine Republic;

(b) "Paraguay" means the Republic of Paraguay;

(c) "Commission" means the Argentino-Paraguayan Joint Technical Commission of Yacyretá-Apipé established by the Agreement of 23 January 1958;

(d) "YACYRETA" means the binational entity established by this Treaty;

(e) "A and E" means Agua y Energía Eléctrica of Argentina, a State enterprise, or such legal entity as may succeed it;

(f) "ANDE" means the Administración Nacional de Electricidad of Paraguay or such legal entity as may succeed it.

¹ Came into force on 27 March 1974 by the exchange of the instruments of ratification, which took place at Buenos Aires, in accordance with article XXV.

² United Nations, *Treaty Series*, vol. 649, p. 174.

Article III. 1. For the purposes described in article 1, the High Contracting Parties shall establish, with equal rights and obligations, a binational entity known as YACYRETA with legal, financial and administrative capacity, and also with technical responsibility, for the study, planning, direction and execution of the works in question and for their initiation and operation as a technical and economic unit;

2. YACYRETA shall be constituted by A and E and ANDE, each having equal participation in the capital, and shall be governed by the rules laid down in this Treaty, its annexes, and any other diplomatic instruments which may exist or may be agreed to in the future.

3. The Statute and other annexes may be amended by agreement between the two Governments.

Article IV. 1. The binational entity YACYRETA shall have headquarters in the city of Buenos Aires, capital of the Argentine Republic and in the city of Asunción, capital of the Republic of Paraguay.

2. YACYRETA shall be administered by a Governing Council and an Executive Committee composed of an equal number of nationals from both countries.

Article V. 1. The installations of the hydroelectric scheme and their auxiliary works, together with the installations for the improvement of navigability on the River Paraná, mentioned in article I and described in annex B, shall constitute a condominium, with equal shares, of both the High Contracting Parties and shall not produce any change in the boundaries between the two countries established in the Treaties now in effect.

2. The condominium established over the installations and works in question shall not confer upon either of the High Contracting Parties the right of ownership or jurisdiction over any part of the other's territory. Neither shall it imply any change in the respective sovereignties nor modify the existing rights of the High Contracting Parties over the navigation of the River Paraná.

3. The authorities respectively declared competent by the High Contracting Parties shall establish, as appropriate and by such procedures as they deem proper, a suitable signal system in the works to be constructed, for the practical purpose of exercising jurisdiction and control.

Article VI. For the purposes indicated in the preceding article, the High Contracting Parties shall proceed to demarcate, before the initiation of the works and installations, the boundary established in article 1 of the Boundary Treaty of 3 February 1876.¹

Article VII. 1. In conformity with the principles of international law and the provisions of the Treaty of Navigation of 23 January 1967² and its supplementary provisions, the High Contracting Parties shall ensure free navigation along both the natural bed of the River Paraná and the sluices to be constructed.

2. The sluices shall be open to navigation at all times for warships, merchant ships, private vessels or any other kind of vessel of the High Contracting Parties.

3. The sluices shall be considered, for all purposes, as forming part of the complex of joint works subject to the condominium system established in article V of this Treaty.

4. The High Contracting Parties shall be responsible, on an equal basis, for the administration and operation of the sluices once they are ready for service and shall adopt, through a special Protocol, the norms and regulations necessary for such administration and operation, together with the norms and regulations relating to the economic and

¹ *British and Foreign State Papers*, vol. 68, p. 97.

² United Nations, *Treaty Series*, vol. 634, p. 181.

financial conditions of their development, utilization, maintenance and supervision and those necessary for the exercise of proper jurisdiction and control.

Article VIII. 1. The resources necessary for the constitution of YACYRETA's capital shall be provided by A and E and by ANDE.

2. Either of the High Contracting Parties may, with the consent of the other, advance funds to constitute the capital, on terms to be established by common agreement.

Article IX. The resources which, in addition to those mentioned in the preceding article, are necessary for the studies, construction and operation of the power station and of the auxiliary works and installations, and of the works carried out to improve the navigability of the River Paraná, shall be provided by the High Contracting Parties or obtained by YACYRETA through credit operations.

Article X. The High Contracting Parties, jointly or separately, directly or indirectly, and in such a manner as they may agree upon, shall give to YACYRETA, at its request, a guarantee for any credit operations that it may carry out. Similarly, they shall guarantee the exchange transactions necessary for the payment of the obligations assumed by YACYRETA.

Article XI. 1. In so far as possible and under comparable conditions, the professional services, skilled and unskilled manpower, equipment, materials and resources available in the two countries shall be utilized in an equitable manner.

2. The High Contracting Parties shall adopt all the necessary measures to enable their nationals to work, without distinction, on the projects mentioned above, in the territory of either Party.

3. The provisions of this article shall not apply to the conditions agreed upon with financing institutions concerning the engagement of skilled personnel or the purchase of equipment or materials. The provisions of this article shall also be inapplicable if technological conditions so require.

Article XII. The High Contracting Parties shall adopt, with respect to taxation, the following rules:

- (a) They shall not impose taxes, charges or fees of any kind on YACYRETA and the electricity services provided by it;
- (b) They shall not impose taxes, charges or fees of any kind on the materials and equipment that YACYRETA may purchase in either country or import from a third country for utilization in its works or installations. Similarly, they shall not impose taxes, charges or fees of any kind affecting operations which are related to such materials and equipment in which YACYRETA participates;
- (c) They shall not impose taxes, charges or fees of any kind on YACYRETA's profits and on its payments and remittances to any individual or corporate body, provided that payment of such taxes, charges and fees is the legal responsibility of YACYRETA;
- (d) They shall impose no restriction or taxation on any movement of YACYRETA's funds resulting from the implementation of this Treaty;
- (e) They shall impose no restrictions of any kind on the transit or storage of the materials and equipment referred to in paragraph (b) of this article;
- (f) The materials and equipment referred to in subparagraph (b) of this article shall be admitted into the territories of the two countries.

Article XIII. 1. The energy produced by the hydroelectric scheme referred to in article I shall be divided into equal parts between the two countries and each one shall

have the preferential right to purchase for its own consumption the energy not utilized by the other country.

2. The High Contracting Parties undertake to purchase, jointly or separately, in such manner as they may agree, the total amount of installed power.

Article XIV. The purchase of the electricity services of YACYRETA shall be effected by A and E and by ANDE, which may also purchase them through such Paraguayan or Argentinian enterprises or entities as they may designate.

Article XV. 1. Annex C contains the financial bases of YACYRETA and the conditions for the provision of its electricity services.

2. YACYRETA shall include in its cost of services the amount needed to pay dividends and compensation to the entities.

3. The transfer of energy by one Contracting Party to the other shall be paid for by the other High Contracting Party receiving the energy.

4. The real value of the amounts intended for dividends, payments and compensation shall be kept constant in terms of purchasing power by means of the readjustment formula contained in annex C of this Treaty.

5. Payments shall be made, monthly, in unlimited States dollars; dividends on capital shall be paid in the currency agreed upon by the High Contracting Parties; and compensation shall be paid in either of the national currencies of the High Contracting Parties.

Article XVI. The High Contracting Parties express their determination to bring about all the conditions that will make it possible for the first generating unit to start operating within seven years of the date of that entry into force of this Treaty.

Article XVII. 1. The High Contracting Parties undertake to declare that the areas necessary for the hydroelectric scheme, the auxiliary works and their operation are areas of public interest; they also undertake to adopt, in the areas under their respective sovereignties, any administrative or judicial act designed for land expropriation or improvement, or the establishment of rights of way.

2. YACYRETA shall be responsible for delimiting such areas, subject to the approval of the High Contracting Parties.

3. YACYRETA shall be responsible for the expropriation costs of the delimited areas.

4. Persons providing services to YACYRETA and goods consigned to YACYRETA or to individuals or corporate bodies under contract to it shall have free passage in the delimited areas.

Article XVIII. The High Contracting Parties shall, by means of additional protocols or unilateral acts, confined to the areas under their respective sovereignties, adopt any measures necessary for the implementation of this Treaty, particularly those relating to the following aspects:

- (a) Diplomatic and consular;
- (b) Administrative, economic, financial and technical;
- (c) Tax and customs;
- (d) Urban and housing;
- (e) Employment and social security;
- (f) Passage across the international frontier;
- (g) Police and security;
- (h) Control of access to the areas delimited in accordance with article XVII;

- (i) Fishing and conservation of fishery resources;
(j) Tourism.

Article XIX. 1. The jurisdiction applicable to YACYRETA, with regard to individuals or corporate bodies domiciled in Argentina or Paraguay, shall be that of the city of Buenos Aires or that of the city of Asunción, respectively. For this purpose, each High Contracting Party shall apply its own laws, taking into account the provisions of this Treaty.

2. In the case of individuals or corporate bodies domiciled outside Argentina or Paraguay, YACYRETA shall establish by agreement the clauses that will govern contractual relations with regard to works and supplies.

Article XX. 1. The civil and penal responsibility of the councillors, directors, deputy directors and other Argentine and Paraguayan officials of YACYRETA for acts harmful to the interests of YACYRETA shall be investigated and judged in accordance with the provisions of the respective national laws.

2. For employees of another nationality, proceedings shall conform to Argentine or Paraguayan national law, depending on whether the employees are assigned to Argentina or Paraguay.

Article XXI. Any disagreement over the interpretation of this Treaty and the annexes thereto shall be settled by the High Contracting Parties through the usual diplomatic channels and the treaties existing between them on the peaceful settlement of disputes, with no resultant delay or interpretation in the construction or operation of the hydroelectric scheme and its auxiliary works and installations.

Article XXII. The Argentino-Paraguayan Joint Technical Commission of Yacyretá-Apipé established by the Agreement of 23 January 1958 shall remain in existence until the start of operations by YACYRETA.

Article XXIII. By agreement between the High Contracting Parties, the binational entity established by this Treaty may undertake the planning, construction and operation of other similar schemes under conditions to be laid down in each case.

Article XXIV. This Treaty shall be ratified and the respective instruments shall be exchanged as soon as possible in the city of Buenos Aires.

Article XXV. This Treaty shall enter into force on the date of the exchange of instruments of ratification and shall remain in force until the High Contracting Parties, by a new agreement, adopt such a decision as they may deem appropriate.

IN FAITH WHEREOF, the aforesaid Plenipotentiaries have signed and affixed their seals to this Treaty, in two identical copies, equally authentic, in the city of Asunción, capital of the Republic of Paraguay, on 3 December 1973.

For the Government
of the Republic of Argentina:

[Signed]

ALBERTO JUAN VIGNES

Minister for Foreign Affairs
and Worship

For the Government
of the Republic of Paraguay:

[Signed]

RAÚL SAPENA PASTOR

Minister for Foreign Affairs

ANNEX A

STATUTE OF THE BINATIONAL ENTITY "YACYRETA"¹

ANNEX B

GENERAL DESCRIPTION OF THE INSTALLATIONS FOR THE PRODUCTION OF ELECTRICAL ENERGY AND FOR THE IMPROVEMENT OF NAVIGABILITY AND OF THE AUXILIARY WORKS FOR THE DEVELOPMENT OF THE RIVER PARANÁ¹

ANNEX C

FINANCIAL BASES OF YACYRETA AND CONDITIONS FOR THE PROVISION OF ITS ELECTRICITY SERVICES¹

¹ Not reproduced herein pursuant to the provisions of article 12(2) of the General Assembly regulations to give effect to Article 102 of the Charter of the United Nations as amended in the last instance by General Assembly resolution 33/141 A of 19 December 1978.