

Title: Terms of reference of the Helmand River Delta commission and a interpretive statement relative thereto, agreed by Conferees of Afghanistan and Iran

Parties: Afghanistan, Iran

Basin: Helmand

Date: 9/7/1950

82. TERMS OF REFERENCE OF THE HELMAND RIVER DELTA COMMISSION AND AN INTERPRETATIVE STATEMENT RELATIVE THERETO, AGREED BY CONFEREES OF AFGHANISTAN AND IRAN ON SEPTEMBER 7, 1950¹

TERMS OF REFERENCE

Helmand River Delta Commission

Purpose

To recommend to the Governments of Afghanistan and Iran an engineering basis for mutual accord regarding the apportionment of the waters of the Helmand River (known in Iran as the Hirmand), at or below Band-I-Kamal Khan for use in Seistan, Iran and Chakhansur, Afghanistan.

Designation

This Commission shall be known as the Helmand River Delta Commission.

Organization

The Commission shall consist of three engineers from three disinterested countries, expert in the management of water resources in and regions, who shall be mutually acceptable to Afghanistan and Iran. In the Commission's investigations and deliberations, the Commissioners shall serve as individual professional men and not as representatives of the countries of which they are nationals or of any other country.

Functions

a. The Commission shall collect and study available data relative to:

- (1) Stream flow of the Helmand River at or below Band-i-Kamal Kahn, including annual and long-range cycles of drought, normal flow, and flood;
- (2) Past and present uses of the waters of the Helmand River in the delta area (e.g. Iranian Seistan and Afghan Chakhansur), including a study of the land under cultivation in the delta area;
- (3) Existing works in the delta area for control or diversion of the waters of the river;
- (4) Plans for new installations and methods which might result in a more scientific use of available water in the delta area.

b. The Commission shall review prior reports and documents (including those of Goldsmid and McMahon) pertaining to the apportionment of the waters of the Helmand River between Iran (Persia) and

Afghanistan. The Commission shall study available reports and records of officials and engineers of Iran or Afghanistan, or of engineers who are or have been employed by either country, or pertinent records in other countries. The Governments of Iran and Afghanistan shall Supply to the Executive Secretary before the first meeting of the Commission or to the Commissioners during their sessions in the respective countries available reports and records for study by the Commission, but supplying such materials shall not be considered as establishing a precedent.

c. The Commission shall recommend the technical methods by which the share of the water of the Helmand River to which Iran may be entitled, pursuant to the terms of such mutual accord as may be reached, may be allocated to Iran at or below Band-i-Kamal Khan.

d. The Commission shall present its findings and recommendations to the Governments of Iran and Afghanistan. The findings and recommendations of the Commission shall be advisory only. In the event that the available data is insufficient for reasonable definition of an engineering basis for mutual accord between Afghanistan and Iran regarding the waters of the Helmand, the findings and recommendations shall present a programme for collection and development of the requisite engineering data.

Operations

The Commission - The three Commissioners shall constitute the Commission. The Commission shall adopt its own rules of procedure, choose its own presiding officer, and have authority to direct staff and operations.

Engineer-Secretary - To facilitate the organization and work of the Commission, Afghanistan and Iran shall agree upon an engineer-secretary, recommended by the United States Department of State, to serve as Executive-Secretary for the Commission and as engineer fact-finder in the initial collection and presentation to the Commission of available facts and data.

Assistants - Each Commissioner shall be entitled to select an engineering assistant to make studies, if such assistants are regarded as essential by the Commissioners. The said assistants to the Commissioners, if appointed, shall be nationals of neither Iran nor Afghanistan.

Meetings - It is contemplated that the Commissioners will meet as soon as possible after an initial "fact-finding" report can be completed and submitted to the Commission by the Engineer-Secretary. They will continue working together until the Commission has submitted its report to Afghanistan and Iran. Subsequent meetings may be held if requested by the Governments of Iran and Afghanistan.

Consultation - The Commissioners will be fully advised by the Engineer-Secretary as to his intended operations on their behalf in order that they may advise thereon. Time which the Commissioners devote to study and preparation for the Commission's meetings shall be recorded for the purpose of compensation.

Local Assistance - Interpreters and other assistants, together with adequate transportation, as may be required by the Commission during its operations in the countries concerned, shall be furnished by the respective countries. Technical observers of Afghanistan may accompany the Commission in Afghanistan and technical observers of Iran may accompany the Commission in Iran, if the Commission so requests.

Correspondence - Copies of the official correspondence and the report of the Commission with either of the two countries will be made available only to the Governments of Afghanistan, Iran, and the United

States, and such correspondence together with the official report of the Commission will be delivered to the respective countries at such Embassy or other place as they may specify.

Language - The report of the Commission and the correspondence of the Commission shall be in the English language, which shall be authoritative.

INTERPRETATIVE STATEMENT

To be Read with the Terms of Reference for the Helmand River Delta Commission

(This statement was read into the record by an officer of the U.S. Department of State at the meeting on September 7, 1950, of representatives of Afghanistan and Iran to establish Terms of Reference for the Helmand River Delta Commission.)

The Department of State appreciates the close attention and cooperative effort of both sides in their desire to reach an agreement on the Terms of Reference. Persistent efforts have been made since September 1 to reduce remaining differences to such limits that they may be reconciled and final agreement reached today on the Terms of Reference, in order to permit the activation of the Commission and to allow it to depart for the field this year. The Department is sure both parties appreciate the numerous difficulties and the increased expense which would be involved in further postponement.

It is believed, on the basis of informal discussions with both parties, that agreement is possible on the draft known as Column C of the working chart plus the section "Operations" already agreed. It is further believed that both sides agree in principle as follows:

(1) It is the intent of both parties as expressed in these meetings that the Commission shall travel freely as required to accomplish its purpose.

(2) Further in accordance with the understanding previously reached (August 30) it is agreed that the first sentence of paragraph b "Functions" shall be amended to read:

"The Commission shall review prior reports and documents (including those of Goldsmid and McMahon) pertaining to the apportionment of the waters of the Helmand River between Iran (Persia) and Afghanistan."

Further, the Department understands that the language of Section b under "Functions" shall be read without prejudice to the positions of either Government regarding the validity of the findings of Goldsmid and McMahon.

(3) It is the intention of both parties that the Commission shall determine what quantities of water have in the past and do at present reach the delta area and shall study the effect on the quantities of water reaching the delta area of works now existing, in construction or in present contemplation. It is understood that this is provided for by items a (1) and a (4) under "Functions." This shall be a factual study for reference to both parties, who may then seek through direct negotiation or adjudication an agreement for appropriate allocation of the waters of the river for use in Iranian Seistan and Afghan Chakhansur. A safeguard to the interests of both countries is clearly provided in Section d under "Functions", which states that "the findings and recommendations of the Commission shall be advisory only".

On the basis of the foregoing the Department hopes that the representatives of the two Governments will find that adequate safeguards are provided for their respective interests and will find it possible to accept the draft proposal c plus the Section "Operations" already agreed upon as the Terms of Reference for the Commission.

¹ Report of the Helmand River Delta Commission, Afghanistan and Iran, February 1951.