

Title: Treaty between the Hungarian People's Republic and the Republic of Austria concerning the regulation of water economy questions

Parties: Austria, Hungary

Basin: Boundary Waters

Date: 4/9/1956

[Translation]

No. 6315. TREATY ¹ BETWEEN THE HUNGARIAN PEOPLE'S REPUBLIC AND THE REPUBLIC OF AUSTRIA CONCERNING THE REGULATION OF WATER ECONOMY QUESTIONS IN THE FRONTIER REGION, SIGNED AT VIENNA, ON 9 APRIL 1956

The Presidential Council of the Hungarian People's Republic and the Federal President of the Republic of Austria have decided to regulate water economy questions in the frontier region which concern both countries - in particular the planning and construction of hydraulic works, including their maintenance' on the waters of the frontier region - and to conclude a Treaty for that purpose.

They have appointed as their plenipotentiaries :

The Presidential Council of the Hungarian People's Republic:

Mr. Imre Dégen, Director of the National Water Administration;

The Federal President of the Republic of Austria :

Mr. Edmund Hartig, Head of Section in the Federal Ministry of Agriculture and Forestry,

who, having exchanged their full powers, found in good and due form, have concluded the following Treaty:

Article 1

SCOPE OF THE TREATY

The Treaty shall apply to

1. Frontier waters, i.e. :

(a) Those sectors of bodies of water which form the frontier between Hungary and Austria or along which the frontier runs (frontier waters in the restricted sense);

(b) Bodies of water which intersect the frontier and those situated in the frontier region, i.e., in the territory of either country within six kilometres of the frontier.

2. Hydraulic structures and installations situated in the frontier region (sub-paragraph 1).

3. Those sectors of watercourses and those hydraulic structures and installations which are enumerated in annex 1² of this Treaty or are designated at some future time by the Hungarian-Austrian Water Commission (article 12).

Article 2

GENERAL OBLIGATIONS

1. Each Contracting Party undertakes to refrain from unilaterally - without the consent of the other Contracting Party - carrying out any measures or works on frontier waters (article 1, sub-paragraph 1) which would adversely affect water conditions in the territory of the other Contracting Party. Consent may be refused only if the grounds for such refusal are duly set forth.
2. The obligations defined in the preceding paragraph shall not, however, apply to measures or works of local significance which have no adverse effects in the territory of the other Contracting Party.
3. The obligation defined in paragraph 1 shall also apply to the sectors of watercourses and the hydraulic structures and installations specified in article 1, sub-paragraphs 2 and 3.
4. The Contracting Parties further undertake to discuss in the Commission (article 12), before instituting a proceeding for the grant of water rights, any measures or works which it is intended to carry out on waters situated near the frontier but outside the region defined in article 1. The Commission shall, wherever possible, bring about agreement on such matters. Where no agreement is reached, the procedure described in article 16, paragraph 2, shall be followed.
5. The Contracting Parties shall have the use-without prejudice to acquired rights-of half of the natural water yield, not increased by artificial means, of frontier waters in the restricted sense (article 1, sub-paragraph 1 (a)).
6. The State situated upstream on a watercourse which intersects the frontier shall not be entitled to decrease the natural minimum water flow into the territory of the other State, as determined by the Commission, by more than one-third.
7. In order to prevent the pollution of frontier waters, the Contracting Parties shall endeavour to ensure that factories, mines, industrial plants and similar installations, as well as residential communities, drain waste water into the said waters only after suitable purification. When new installations of that nature are built, they shall be required to take appropriate measures to purify waste water.

Article 3

MAINTENANCE REQUIREMENT

The Contracting Parties undertake to maintain in good condition the waters hydraulic structures and installations specified in article 1 and to make any necessary repairs or improvements in them.

Article 4

PERFORMANCE OF MAINTENANCE WORK

1. Each Contracting Party shall be responsible for the maintenance of frontier waters situated in its territory and of their regulatory installations and other hydraulic structures.
2. Each Contracting Party shall also be responsible for the maintenance of hydraulic structures, watercourses and canals situated in its territory which serve the interests of the other Contracting Party and have been constructed on the basis of a grant of water rights or by separate agreement.

3. The cleaning of the beds and banks of frontier waters, to be carried out annually as necessary, shall as a general rule be carried out by each Contracting Party in its own territory. The Commission shall establish joint procedures for the execution of such works, especially in frontier sectors, and shall determine each year whether cleaning is necessary.

Article 5

PLANNING

1. Plans for hydraulic construction work shall be prepared on the basis of general directives to be established by the Commission.
2. The Contracting Party concerned shall prepare the plans for hydraulic construction work to be executed in its own territory. Plans for hydraulic construction work to be executed in the territory of both Contracting Parties shall be prepared by the Contracting Party designated by the Commission.
3. The Commission shall ensure that the Contracting Parties provide each other with any data required for planning or that the co-operation necessary for planning takes place in some other suitable manner.

Article 6

EXECUTION OF WORKS

1. Regulatory and other hydraulic works shall, as a general rule, be executed by each Contracting Party in its own territory.
2. Decisions concerning the execution of works-including major maintenance work - whose cost is to be borne in part by the other Contracting Party shall be made by the Commission.
3. In the case of works which are to be executed in the territory of both Contracting Parties but which for technical or economic reasons cannot be executed independently by the Contracting Parties, the method of execution shall be determined by the Commission.

Article 7

COSTS

1. Each Contracting Party shall bear the costs of the planning and execution of regulatory and other hydraulic works which are to be executed in its territory for its exclusive benefit.
2. The costs of the planning and execution of hydraulic works from which both Contracting Parties are to derive benefit shall be borne by the Contracting Parties in proportion to the benefit each is to derive therefrom, regardless of whether the works are executed in the territory of only one Contracting Party or in the territory of both.

3. All costs connected with the planning and execution of hydraulic works which are to be executed in the territory of one Contracting Party for the exclusive benefit of the other Contracting Party shall be borne by the latter Contracting Party.
4. Costs of execution shall include costs of surveying, transport of materials and management of construction.
5. The provisions of paragraphs 1-3 shall also apply in respect of costs connected with maintenance and operation of hydraulic installations.
6. Liability for costs whose apportionment is not otherwise regulated shall be determined by the Commission in accordance with the basic principles established in the preceding paragraphs.
7. Liability for the costs of work done on the watercourse and installations enumerated in annex II³ of this Treaty shall be governed by the apportionment ratios specified in that annex, provided that the said ratios do not conflict with the basic principles established in paragraphs 1-3 and that there has been no essential change in existing water conditions.

Article 8

REFUNDING OF COSTS

1. Accounts concerning the cost of hydraulic works executed for the benefit of both Contracting Parties or executed by one Contracting Party exclusively for the benefit of the other shall be rendered by the end of May of the year following that in which the work was performed and shall be settled by the end of June of the next year.
2. In the rendering of accounts, equivalent services and materials shall, wherever possible, be set off against each other in non-monetary terms.
3. Balances in favour of either Contracting Party resulting from the rendering of accounts shall, as a general rule, be adjusted in money. Settlement shall also be made in money where it is not possible to set off equivalent services and materials in non-monetary terms.
4. Detailed procedures for accounting and the payment of advances shall be prescribed each year by the Commission. The Commission may also specify that settlement should be made through the provision of materials required for the purposes of this Treaty.
5. Settlement in money shall be made at any given time in accordance with the payments agreement in force between the Contracting Parties.

Article 9

TECHNICAL AND FINANCIAL VERIFICATION

The Contracting Parties undertake to afford each other at any time an opportunity for technical and financial verification of work executed at the expense or for the benefit of both Parties. Detailed procedures for such verification shall be prescribed by the Commission.

Article 10

PROVISIONS CONCERNING WATER RIGHTS

1. Matters relating to water rights shall be governed by the laws of the Contracting Party in whose territory the proceeding for the grant of water rights is to be instituted.
2. In the case of hydraulic installations to be constructed in the territory of both Contracting Parties, the grant of water rights for the part to be constructed in the territory of each Contracting Party shall be made by that Party's competent authority for water questions. In such cases, every possible effort shall be made to conduct the proceedings simultaneously or, at all events, in conjunction with each other, and the two authorities shall work in concert with a view to avoiding conflicts between their respective decisions.
3. The competent authorities for water questions of the Contracting Parties may communicate with each other directly in matters relating to water rights regulated by this Treaty.

Article 11

WARNING SERVICE

The authorities of the Contracting Parties, particularly the hydrographic service and local authorities, shall notify each other as quickly as possible of any danger of flood or ice or other danger arising in connexion with frontier waters which comes to their attention.

Article 12

HUNGARIAN-AUSTRIAN WATER COMMISSION

1. In order to promote co-operation in matters of water economy and to deal with the water economy problems covered by this Treaty, the Contracting Parties shall establish a permanent Hungarian-Austrian Water Commission.
2. The Commission shall have four members. Each Contracting Party shall appoint a first and a second plenipotentiary to the Commission and shall designate deputies for them. Either Party may, if need arises, summon experts to participate in the Commission's deliberations.
3. The Commission shall establish its own rules of procedure.
4. Each Contracting Party shall defray the expenses of its own plenipotentiaries and experts. Except as otherwise agreed, each Contracting Party shall bear half of all other costs connected with the work of the Commission which are approved by the Commission.

Article 13

FUNCTIONS OF THE COMMISSION

1. The function of the Commission shall be, in particular, to indicate its views and take decisions in the following matters :
 - (a) The practical solution of technical and economic problems in accordance with this Treaty and the promotion of co-operation in water questions;

- (b) The planning of hydraulic works and the determination of methods of execution and maintenance;
 - (c) The approval of technical designs, budgets and schedules of execution for hydraulic works and structures (bridges, dams, water-removal installations, etc.);
 - (d) The supervision of, accounting for and acceptance of jointly executed works and measures;
 - (e) The carrying out of on-site inspections for the purpose of verifying the execution of decisions, works and measures;
 - (f) The formulation of proposals for facilitating frontier traffic with a view to the implementation of this Treaty;
 - (g) Exploration, measuring operations and the preparation of studies in connexion with hydraulic construction work;
 - (h) The settlement of disputed matters, including those relating to customs procedure;
 - (i) The submission of proposals to the Governments of the Contracting Parties on matters relating to the preceding sub-paragraphs with a view to the possible amendment of this Treaty.
2. Routine matters of minor importance may be settled by agreement between the first plenipotentiaries. Such cases shall be notified to the Commission at its next meeting.
 3. The two Governments may also enter into direct negotiations on matters lying within the competence of the Commission.

Article 14

SESSIONS OF THE COMMISSION

1. The Commission shall, as a general rule, meet in regular session once a year. Special sessions may be convened at any time by agreement between the first plenipotentiaries. A special session must be convened within one month if either first plenipotentiary so requests.
2. Except as otherwise agreed, the Commission shall hold its sessions alternately in the territory of the two Contracting Parties.
3. Sessions shall be convened by the first plenipotentiary of the Contracting Party in whose territory they are to be held, by agreement with the first plenipotentiary of the other Contracting Party.
4. The first plenipotentiaries may communicate with each other directly.
5. The agenda of each session shall be drawn up by prior agreement between the first plenipotentiaries and may be supplemented during the session by agreement between them.

Article 15

ORGANIZATION OF THE COMMISSION'S WORK

1. Meetings shall be presided over by the first plenipotentiary of the Contracting Party in whose territory the session is held.
2. The working languages of the Commission shall be Hungarian and German.
3. Decisions of the Commission shall be adopted unanimously.
4. A record of each session shall be drawn up in duplicate in the Hungarian and German languages and shall be signed by the two first plenipotentiaries (or their deputies).

Article 16

APPROVAL OF THE COMMISSION'S DECISIONS

1. Decisions of the Commission shall not affect the right of the Governments to take decisions. No decision to which the competent central authority of either Contracting Party raises an objection shall be enforceable. If no objection to a decision is raised within four months after its adoption by the Commission, the decision shall be considered to have been approved by both Contracting Parties. The first plenipotentiaries shall notify each other of any objections.
2. Matters on which the Commission has not reached agreement shall be submitted to the Governments of the Contracting Parties, together with a statement of the differences of opinion. The Governments of the Contracting Parties shall endeavour to arrive at an agreed settlement of the disputed matter.

Article 17

CUSTOMS PROVISIONS

1. Construction materials and fuel transferred from the territory of one Contracting Party to the territory of the other Contracting Party for the execution of #.works under this Treaty shall be exempt from all import and export duties. Such construction materials and fuel shall not be subject to any import or export restrictions.
2. Equipment (machinery, vehicles, tools and the like) shall be provisionally exempt from the payment of duty, pursuant to paragraph 1, provided that the articles concerned are declared to the customs for identification when they are transported across the frontier and that they are returned within the time-limit fixed by the customs. The deposit of security for the uncollected duty shall not be required. Duty shall be payable in respect of any articles not returned within the prescribed time-limit, except in the case of articles which have become unusable and are not returned for that reason.
3. The two Contracting Parties undertake to facilitate the clearance through customs, duty-free, of construction materials, fuel and equipment required for the execution of hydraulic works for the benefit of both Parties.
4. Construction materials, fuel and equipment shall be subject, on import or export, to customs control by the State concerned.

Article 18

CROSSING OF THE FRONTIER

Crossing of the frontier shall be governed at any given time by the regulations concerning frontier traffic in force between the Contracting Parties.

Article 19

OBLIGATION TO FACILITATE THE APPLICATION OF THE TREATY

The Contracting Parties shall endeavour to facilitate the application of this Treaty and the work of the Commission, having due regard to the interests of both States.

Article 20

DOMESTIC OBLIGATIONS

The reciprocal financial obligations assumed by the Contracting Parties in this Treaty - in particular, the provision requiring the Parties to bear costs directly - shall not affect the validity of domestic laws and obligations, such as the obligation to make an appropriate contribution to the cost of maintaining the hydraulic installations of the former Raba (Raab) Control Company. The said provision shall, moreover, not be deemed to prevent the amendment, enactment or establishment of such laws and obligations.

Article 21

TRANSITIONAL PROVISIONS

1. Contributions payable by the two Parties between 1 May 1945 and the date of the entry into force of this Treaty shall be computed on the basis of the apportionment ratios previously in force (annex II). Arrears shall be settled after their amount has been determined by audit. Such settlement shall be made in accordance with article 8, paragraph 5, of this Treaty.
2. The pension benefits of the employees of the former Hungarian Raba (Raab) Control Company shall be paid by the Contracting Parties in the ratio specified in annex II of this Treaty.

Article 22

ENTRY INTO FORCE AND VALIDITY

1. This Treaty shall be ratified. The exchange of the instruments of ratification shall take place at Budapest.
2. The Treaty shall enter into force on the date of the exchange of the instruments of ratification and shall remain in force for a period of five years. The Treaty shall continue in force thereafter unless it is denounced by one of the Contracting Parties. Denunciation shall take effect at the end of the year following the notification thereof.
3. Upon the entry into force of this Treaty, all agreements concerning water questions previously in force between the Contracting Parties, with the exception of those embodied in this Treaty (annexes II⁴ and III⁵), shall cease to have effect.

This Treaty has been drawn up in duplicate in the Hungarian and Germ languages. Both texts are equally authentic.

IN WITNESS WHEREOF the plenipotentiaries have signed this Treaty and have thereto affixed their seals.

DONE at Vienna, on 9 April 1956.

For the Hungarian
People's Republic:

(Signed) DAGEN Imre

For the Republic
of Austria :

(Signed) HARTIG

ANNEX I

1. The flood dike on the left bank of the Raba (Raab) River for a distance of 22 kilometres from the Somjén junction, including one structure and bank protection 2,313 metres in length.
2. The flood dike extending 10.2 kilometres on the left bank of the former Cziraky-Répcse (Rabnitz) flood control canal.
3. The bed and structures of the former Cziraky-Répcse (Rabnitz) flood control canal.
4. The bed of the Ikva River for a distance of 10.8 kilometres, together with structures.
5. The bed of the Hansag Canal for a distance of 38.7 kilometres, together with structures.
6. The bed of the Rabca (Rapca) River for a distance of 27.4 kilometres.

ANNEX II

A. Ratios to be applied in apportioning maintenance costs for the sectors of watercourses and the hydraulic structures and installations enumerated below:

1. The flood dike on the left bank of the Raba (Raab) River for a distance of 22 kilometres from the Somjén junction, including one structure and bank protection 2,313 metres in length:

Hungary 73.08 per cent, Austria 26.92 per cent.

2. The flood dike on the left bank of the former Cziraky-Répcse (Rabnitz) flood control canal:

Hungary 71.13 per cent, Austria 28.87 per cent.

3. The bed and structures of the former Cziraky-Répcse (Rabnitz) flood control canal:

Hungary 71.13 per cent, Austria 28.87 per cent.

4. The bed of the Ikva River for a distance of 10.8 kilometres, together with structures:

Hungary 57.78 per cent, Austria 42.22 per cent.

5. The bed of the Hansag Canal for a distance of 38,7 kilometres, together with structures :

Hungary 59.0 per cent, Austria 41.0 per cent.

6-8. The Pamhagen-Apetlon, Feldsee-Pamhagen and Zickisch canals, together with their structures :

Hungary 10.5 per cent, Austria 89.5 per cent.

9. The bed of the Rabca (Rapca) River for a distance of 27.4 kilometres

Hungary 92.8 per cent, Austria 7.2 per cent.

10. The Nickelsdorf diversion structure:

Hungary 80.0 per cent, Austria 20.0 per cent.

B. Apportionment ratio applicable to pension benefits of the employees of the former Raba (Raab) Control Company:

Hungary 84.9 per cent, Austria 15.1 per cent.

ANNEX III

1. Measures to ensure the drinking water supply of the city of Sopron.

The Republic of Austria

(a) Guarantees that it will apply the Austrian laws in force at any given time to the Austrian part of the restricted area of the water works;

(b) Guarantees that it will accord to the city of Sopron, as regards the execution of works required for the supply of drinking water and for the operation of the water; works, such preferential treatment as is provided for in the Austrian laws in force at any given time.

2. Measures to ensure the drinking water supply of the city of Koszeg.

The Republic of Austria

(a) Grants permission to divert the water of the Hetforras (Siebenbrundel) which has source on the northern slope of the Irottko (Geschrieben-Stein), to Koszeg through the village of Rattersdorf;

(b) Guarantees that it will accord in respect of the water works of the city of such preferential treatment as is provided for in the Austrian laws in force at time.

3. Utilization of the water of the Kleine Leitha for irrigation of the Marialiget area adjacent to the frontier.

The Republic of Austria

(a) Guarantees to the Hungarian People's Republic the right to divert water from Kleine Leitha into the Wiesgraben (Rétarok) in Austrian territory for use in irrigating the Marialiget area. In the event that the quantity of water is not as yet specified in the documents relating to the lock and the connecting canal, it shall be determined by the competent Austrian authorities, if the water users so request, in accordance with prescribed procedure;

(b) Guarantees that the connecting canal will not be used to divert the flood waters of the Kleine Leitha into the Wiesgraben canal.

¹ Came into force on 31 July 1956 by the exchange of the instruments of ratification at Budapest, in accordance with article 22.

² See p. 166 of this volume.

³ See p. 166 of this volume.

⁴ See p. 166 of this volume.

⁵ See below.

⁷ See p. 168 of this volume.