

[TRANSLATION — TRADUCTION]

AGREEMENT¹ FOR THE DEVELOPMENT OF THE BINATIONAL PUY-
ANGO-TUMBES AND CATAMAYO-CHIRA BASINS BY PERU AND
ECUADOR

In the city of Washington, United States of America, on 27 September 1971, the Governments of Peru and Ecuador, duly represented by Their Excellencies the Minister for Foreign Affairs of Peru, General of Division Edgardo Mercado Jarrín, and the Minister for Foreign Affairs of Ecuador, Dr. Rafael García Velasco, respectively, who exchanged their full powers, found in good and due forms;

Resolved to strengthen even further the ties of friendship and good-neighbourliness uniting their peoples, and to promote improvement of the social and economic conditions of those peoples;

Considering that article 86 of the Cartagena Agreement provides that the Member Countries shall take joint action to solve the infrastructural problems that adversely affect the economic integration process for achieving the objectives set forth in articles 1 and 2 of the Agreement;

Noting that the two Governments have repeatedly recognized the importance of water management projects in the context of the plans and programmes for the balanced development of the Peruvian departments of Tumbes and Piura and the Ecuadorian provinces of El Oro and Loja;

Bearing in mind that the economic delegations of Peru and Ecuador, which met in June and December 1970, agreed on the need to promote utilization of the waters of the Puyango-Tumbes and Catamayo-Chira basins;

Having met for the purpose of satisfactorily finalizing the recommendations proposed by the Peruvian-Ecuadorian meeting of technicians to study the development of the Puyango-Tumbes and Catamayo-Chira basins, held at Quito in February 1971; and

Recognizing the need to pool their efforts in order to ensure rational and equitable utilization of the water resources of the aforementioned basins, in accordance with the norms of international law and taking into account, in the context of those norms, the principles set forth in resolution LXXII of the Seventh International Conference of American States, of 1933; have resolved to conclude the following:

AGREEMENT FOR THE DEVELOPMENT OF THE BINATIONAL PUYANGO-
TUMBES AND CATAMAYO-CHIRA BASINS BY PERU AND ECUADOR

Chapter I. GENERAL PROVISIONS

Article 1. The Parties reciprocally recognize the validity of the norms of international law in respect of the utilization by each Party, within its territory, of the waters of the Puyango-Tumbes and Catamayo-Chira basins, on the basis of their needs and always provided that no harm or damage is caused to the other Party.

¹ Came into force on 17 December 1971 by the exchange of the instruments of ratification, which took place at Lima, in accordance with article 17.

Article 2. Both Parties agree to develop progressively their understandings on carrying out the various forms of co-operation needed between the two countries for developing the Puyango-Tumbes and Catamayo-Chira basins, in accordance with the stage, modalities and timetable of work required in each case.

Article 3. The Parties shall jointly negotiate with international credit bodies for the purpose of implementing water management projects of a binational nature, and also programmes for the conservation of basins and for the establishment of meteorological and hydrological stations.

Article 4. The activities and construction work to be carried out in the Puyango-Tumbes and Catamayo-Chira basins shall not interfere with existing irrigation systems and other uses of the waters in the two countries which do not form part of specific national or binational projects.

Article 5. The two countries also agree to establish in their respective territories a programme for expanding both the hydrological, meteorological and sediment-measuring networks and operations, maintenance and data processing, in a co-ordinated manner.

Article 6. The two countries agree to draw up a programme for the joint conservation and improvement of the binational Puyango-Tumbes and Catamayo-Chira basins and to carry out the necessary studies and activities through the Mixed Commission established under this Agreement.

The financing of the studies, activities and constructional work to be carried out shall be provided by each of the countries, in proportion to the specific benefits they receive.

Chapter II. CATAMAYO-CHIRA BASIN

Article 7. The Parties agree that, in the light of the information exchanged, the Chira flow rate is sufficient for carrying out the respective national projects to the prescribed extent and in accordance with the prescribed priorities; both countries therefore agree to carry out those projects on the understanding that the implementation thereof shall be governed by the criteria of rational utilization consistent with the social and economic needs of the communities living in the service areas, as specified in the respective schedules.

Article 8. They also agree to adopt a regular system of appropriate reciprocal information on present and future projects and on the present utilization of the waters by each country. For these purposes and in the manner described in this Agreement, the Parties shall exchange hydrological, meteorological and cartographic data, and also studies on water use at all the successive stages of their preparation.

Article 9. In accordance with the norms referred to in the sixth preambular paragraph of this Agreement, and in the event that Ecuador should propose to carry out water management projects in the Catamayo-Chira basin to an extent which could, *inter alia*, involve the need for structural adjustments to ensure normal operation of the projects scheduled by Peru, at the request of either of the Parties, technical meetings shall immediately be held so that, in a spirit of equity and co-operation, the necessary measures may be adopted to ensure normal operation of the projects scheduled by both countries. The same requirement shall apply in the event that Peru should propose to carry out projects in addition to those now planned.

Chapter III. PUYANGO-TUMBES BASIN

Article 10. The Parties shall carry out the activities and structural work necessary for implementing the binational Puyango-Tumbes Project which consists in the devel-

opment of at least 50,000 hectares in Ecuador and at least 20,000 hectares in Peru, and other uses, without affecting the natural régime of the Tumbes river in meeting the demand of the current users and the improvement of irrigation in the croplands of both countries.

The final studies shall cover the additional possibilities in Ecuador and Peru which, in the case of Peru, shall include 16,000 hectares in the small valleys adjoining the Tumbes river, the position of which shall be determined by Peru, and also the regulation of irrigation in the present croplands of the two countries. In the light of those studies, the Mixed Commission shall determine the total area to be irrigated, which shall be the area adopted as definitive under the Project, priority being given to irrigation of the first-mentioned 70,000 hectares. If the additional possibilities are greater than required for the 16,000 hectares mentioned above, the surpluses shall be taken into account for Ecuador and Peru in keeping with the spirit, norms and principles referred to in the sixth preambular paragraph of this Agreement.

The new Puyango-Tumbes basin developments which have not been included in the binational project may be verified by such means as the Mixed Commission may recommend to the two Governments.

Article 11. The two countries undertake, as a matter of top priority, to begin immediately and to continue without interruption all the activities necessary for the rapid implementation of the Puyango-Tumbes Project, referred to in article 10, jointly and on a binational basis.

Pursuant to the preceding paragraph, Peru and Ecuador undertake to submit, as soon as possible, a joint application to the Inter-American Development Bank or other international financing body for the purpose of undertaking the necessary studies, including the design of the Project, in order to prepare a supporting document for financing implementation of the work.

Article 12. The Puyango-Tumbes Project must be carried out on a binational basis and shall take priority over any other national project which affects, or is involved in, the binational project.

Article 13. The costs of the studies and of the joint construction work under the Project shall be defrayed by the two countries in proportion to the quantities of water and power which are eventually delivered to each country. Pending completion of the definitive studies, the two countries shall each pay one half of the cost of these studies, and an initial adjustment shall be made in proportion to the quantities of water and power supplied to each country after the studies have been officially approved by Peru and Ecuador.

Chapter IV. MIXED COMMISSION

Article 14. A Peruvian-Ecuadorian Mixed Commission shall be established for the Puyango-Tumbes and Catamayo-Chira basins, to be referred to hereinafter as the "Mixed Commission"; it shall have the following principal objectives:

I. *For the Puyango-Tumbes and Catamayo-Chira basins*

(a) To carry out studies on the present state of the basins and the implications for them of present and future projects, in order to draw up a programme of activities and construction work for their conservation and improvement; to determine the financing to be provided by each country; and to carry out the work schedules agreed upon;

(b) To draw up a co-ordinated programme for collecting, handling and processing hydrological, meteorological and sediment-measuring information, standardizing the norms to be applied by the two countries; and to establish, introduce and apply them, centralize the information and publish the relevant statistics;

(c) To prepare all documents and reports which, within their fields of action and in respect of the basins, are requested by either of the Parties.

II. *For the Puyango-Tumbes basin*

To carry out all necessary activities, including the negotiation and signing of the relevant contracts and commitments, for the earliest possible implementation of the binational Puyango-Tumbes Project.

III. *For the Catamayo-Chira basin*

To assume responsibility, when expressly authorized jointly by the Parties, for holding the technical meetings referred to in article 9 of this Agreement.

Article 15. The Parties undertake to provide the facilities and delegate the authority necessary for the smooth functioning of the Mixed Commission. Each of the Parties shall defray the expenses arising from the participation of its representatives in the Mixed Commission, in the respective national Sub-Commission, in the corresponding administrative structure and in such working groups as may be set up. The other expenses shall be defrayed jointly by the two Parties in the manner agreed upon in each case.

Article 16. The Mixed Commission shall establish its definitive rules of procedure within 90 days after the entry into force of this Agreement. These rules shall be approved by the Parties through an exchange of notes.

Chapter V. PERIOD OF VALIDITY OF THE AGREEMENT

Article 17. This Agreement shall enter into force on the date of the exchange of ratifications, which shall take place in the city of Lima; it shall remain in force for an indefinite period, until either Government notifies the other, with at least three months' notice, of its intention to amend or denounce it, prior to which technical meetings shall be held in order to determine the most appropriate conditions for that purpose.

TRANSITIONAL PROVISION

Until the rules of procedure of the Mixed Commission are approved, the Commission shall operate in accordance with the Provisional Rules of Procedure which appear as an annex to this Agreement and form part of it.

IN WITNESS WHEREOF, this Agreement has been signed, in two equally authentic copies,

[Signed]

General of Division E. P.
EDGARDO MERCADO JARRÍN
Minister for Foreign Affairs
of Peru

[Signed]

RAFAEL GARCÍA VELASCO
Minister for Foreign Affairs
of Ecuador

PROVISIONAL RULES OF PROCEDURE OF THE MIXED PERUVIAN-
ECUADORIAN COMMISSION FOR THE PUYANGO-TUMBES AND
CATAMAYO-CHIRA BASINS

1. The Mixed Peruvian-Ecuadorian Commission for the Puyango-Tumbes and Catamayo-Chira basins, hereinafter referred to as the Mixed Commission, shall consist of two Sub-Commissions, one Peruvian and one Ecuadorian.

2. The Peruvian Sub-Commission shall have its headquarters at Lima, appoint a Director from among its members, and consist of:

- (a) A representative of the Ministry of Foreign Affairs.
- (b) A representative of the General Directorate of Water and Irrigation of the Ministry of Agriculture.
- (c) A specialist in electrification, representing the Ministry of Power and Mines.
- (d) A representative of the National Planning Institute.
- (e) A Specialist in agricultural development planning, representing the Ministry of Agriculture.

3. The Ecuadorian Sub-Commission shall have its headquarters at Quito, appoint a Director from among its members, and consist of:

- (a) A representative of the Ministry of Foreign Affairs.
- (b) A representative of the Ecuadorian Institute of Water Resources.
- (c) A representative of the Ecuadorian Institute of Electrification.
- (d) A representative of the National Planning Board.
- (e) A specialist in agricultural development planning, representing the Ministry of Production.

4. The headquarters of the Mixed Commission shall be alternately one year in Lima, the next year in Quito, and so forth.

5. The Mixed Commission shall be headed jointly by the Directors of the national Sub-Commissions, and its meetings shall be presided over by the Director of the national Sub-Commission of the host country, and in his absence by the other Director.

6. All items on the Commission's agenda shall be organized in such a way as to ensure that there are always complete copies of the documents in both Lima and Quito.

7. The functions of the Mixed Commission shall be:

- (a) To carry out the studies necessary for determining the resources of the basins and their future uses over and above the ongoing projects in each country, in order to ensure the normal progress of the project.
- (b) To compile and evaluate the basic information to be provided by the two countries on their present and future national projects for developing the basins.
- (c) To carry out a study on the present state of the basins and the implications for them of present and future water-use projects in order to draw up and quantify a scheme for conserving and improving the basins in terms, *inter alia*, of afforestation, establishing or changing patterns and methods of cultivation, and other measures considered appropriate for the basins as physical units.
- (d) To decide upon activities and construction work for conserving and improving the basins and the manner and extent to which they benefit each country in order to determine the financing to be provided by each of the countries, which must be in proportion to the benefit they derive from the projects.
- (e) To carry out the programmes and construction work for conserving and improving all the basins, either directly, by administering binational programmes, or through the national Sub-Commissions, for the work to be carried out in each country.
- (f) To draw up a co-ordinated programme for collecting, handling and processing hydrological, meteorological and sediment-measuring information, standardizing the norms which the two countries should apply in respect of the two basins.
- (g) To arrange for and co-ordinate execution of the expansion of the hydrological, meteorological and sediment-measuring networks, and the operation of all networks.
- (h) To prepare the background information and documents required for preparing applications for credit or national and international financing for the programmes for which they are responsible.

- (i) To carry out the binational programmes in respect of studies, construction and administration, which have been approved by the Governments of the two countries.
- (j) To prepare all documents and reports requested by either of the Governments in respect of the basins.
- (k) To decide on the conditions and implications of new water-use projects for the two basins, when the Governments of the two countries make a joint request to that effect.
- (l) To carry out all necessary activities, including the negotiation and signing of the relevant contracts and commitments, for the speedy implementation of the binational Puyango-Tumbes Project, in accordance with the terms established for that Project by the "Agreement for the development of the binational Puyango-Tumbes and Catamayo-Chira basins by Peru and Ecuador".

8. The Mixed Commission shall meet at least once every six months in the city in which it has its headquarters.

9. The Mixed Commission shall also carry out its functions through the national Sub-Commissions, binational Working Groups or contracts and arrangements with third parties. The Working Groups shall be formed for specific purposes, with the appropriate specialists, and shall meet as frequently as necessary to complete their work.

10. The decisions of the Mixed Commission shall be adopted by consensus of the two national Sub-Commissions.

11. So far as possible, the Working Groups and personnel necessary for performing the functions of the Mixed Commission shall be provided by Ecuador and Peruvian national institutions, as personnel expressly assigned for specific work and not as permanent staff of the Mixed Commission, which should serve above all as a co-ordinating body, with only such permanent staff as is absolutely necessary.

12. The functions of the national Sub-Commission shall be:

- (a) To perform the functions of the Mixed Commission in respect of each country.
- (b) To carry out the work specifically assigned to them by the Mixed Commission.
- (c) To keep a complete file on all matters relating to the Mixed Commission, for which documentation must be produced in duplicate so that each Sub-Commission has the same information.
- (d) To provide liaison between national bodies and authorities and the Mixed Commission.
- (e) To prepare or obtain the reports and documents required by the Mixed Commission, either in performing their normal functions or on special assignments.

13. Each national Sub-Commission shall meet at least once a month.

14. In order to carry out its functions, each Sub-Commission shall be provided with the members of the Working Group and the necessary financing by the national bodies of its own country.

15. The Director of each national Sub-Commission shall be a specialist with broad experience in water development matters: he shall be the representative of the Ministry of Agriculture in the case of the Peruvian Sub-Commission and the representative of the Ecuadorian Institute of Water Resources in the case of the Ecuadorian Sub-Commission.

16. The Director of each national Sub-Commission shall bear administrative and technical responsibility for that Sub-Commission.

17. The functions of the Director of each national Sub-Commission shall be:

- (a) To implement the resolutions of the Mixed Commission, in respect of the work of both the Sub-Commission and the Mixed Commission.

- (b) To direct the administrative and technical operations of the Sub-Commission.
 - (c) To submit programmes of work, budgets and reports.
 - (d) To provide liaison between the national Sub-Commission, the national authorities and the Mixed Commission.
 - (e) To convene and preside over the meetings of the national Sub-Commission, and of the Mixed Commission, when it is his turn.
 - (f) To deal, together with the Director of the national Sub-Commission of the other country, with administrative and technical matters pertaining to the Mixed Commission.
 - (g) To be the legal representative of the national Sub-Commission and, together with the Director of the national Sub-Commission of the other country, of the Mixed Commission.
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