

No. 7894

CANADA
and
UNITED STATES OF AMERICA

Treaty relating to co-operative development of the water resources of the Columbia River Basin (with annexes).

Signed at Washington, on 17 January 1961

Exchange of notes (with attached Protocol) constituting an agreement concerning the above-mentioned Treaty.

Washington, 22 January 1964

Exchange of notes (with attachment) constituting an agreement regarding sale of Canada's entitlement to downstream benefits under the above-mentioned Treaty. Washington, 22 January 1964

Exchange of notes (with attachments) constituting an agreement authorizing the Canadian Entitlement Purchase Agreement provided for under the above-mentioned Treaty. Ottawa, 16 September 1964

Exchange of notes constituting an agreement confirming the entry into force of the Protocol attached to the Agreement of 22 January 1964 concerning the above-mentioned Treaty. Ottawa, 16 September 1964

Official text : English.

Registered by Canada on 13 August 1965.

No. 7894. TREATY¹ BETWEEN CANADA AND THE UNITED STATES OF AMERICA RELATING TO CO-OPERATIVE DEVELOPMENT OF THE WATER RESOURCES OF THE COLUMBIA RIVER BASIN. SIGNED AT WASHINGTON, ON 17 JANUARY 1961

The Governments of Canada and the United States of America :

Recognizing that their peoples have, for many generations, lived together and cooperated with one another in many aspects of their national enterprises for the greater wealth and happiness of their respective nations, and

Recognizing that the Columbia River basin, as a part of the territory of both countries, contains water resources that are capable of contributing greatly to the economic growth and strength and to the general welfare of the two nations, and

Being desirous of achieving the development of those resources in a manner that will make the largest contribution to the economic progress of both countries and to the welfare of their peoples of which those resources are capable, and

Recognizing that the greatest benefit to each country can be secured by cooperative measures for hydroelectric power generation and flood control, which will make possible other benefits as well,

Have agreed as follows :

Article I

INTERPRETATION

1. In the Treaty, the expression

- (a) " average critical period load factor " means the average of the monthly load factors during the critical stream flow period ;
- (b) " base system " means the plants, works and facilities listed in the table in Annex B as enlarged from time to time by the installation of additional

¹ Came into force on 16 September 1964, upon exchange of the instruments of ratification at Ottawa, in accordance with the provisions of articles XIX (1) and XX.

generating facilities, together with any other plants, works or facilities which may be constructed on the main stem of the Columbia River in the United States of America ;

- (c) " Canadian storage " means the storage provided by Canada under Article II ;
- (d) " critical stream flow period " means the period, beginning with the initial release of stored water from full reservoir conditions and ending with the reservoirs empty, when the water available from reservoir releases plus the natural stream flow is capable of producing the least amount of hydroelectric power in meeting system load requirements ;
- (e) " consumptive use " means use of water for domestic, municipal, stock-water, irrigation, mining or industrial purposes but does not include use for the generation of hydroelectric power ;
- (f) " dam " means a structure to impound water, including facilities for controlling the release of the impounded water ;
- (g) " entity " means an entity designated by either Canada or the United States of America under Article XIV and includes its lawful successor ;
- (h) " International Joint Commission " means the Commission established under Article VII of the Boundary Waters Treaty, 1909,¹ or any body designated by Canada and the United States of America to succeed to the functions of the Commission under this Treaty ;
- (i) " maintenance curtailment " means an interruption or curtailment which the entity responsible therefor considers necessary for purposes of repairs, replacements, installations of equipment, performance of other maintenance work, investigations and inspections ;
- (j) " monthly load factor " means the ratio of the average load for a month to the integrated maximum load over one hour during that month ;
- (k) " normal full pool elevation " means the elevation to which water is stored in a reservoir by deliberate impoundment every year, subject to the availability of sufficient flow ;
- (l) " ratification date " means the day on which the instruments of ratification of the Treaty are exchanged ;
- (m) " storage " means the space in a reservoir which is usable for impounding water for flood control or for regulating stream flows for hydroelectric power generation ;
- (n) " Treaty " means this Treaty and its Annexes A ² and B ³ ;

¹ *Treaties and Agreements affecting Canada in force between His Majesty and the United States of America : 1814-1925* (Ottawa, 1927), p. 312.

² See p. 280 of this volume.

³ See p. 284 of this volume.

(o) "useful life" means the time between the date of commencement of operation of a dam or facility and the date of its permanent retirement from service by reason of obsolescence or wear and tear which occurs notwithstanding good maintenance practices.

2. The exercise of any power, or the performance of any duty, under the Treaty does not preclude a subsequent exercise of performance of the power or duty.

Article II

DEVELOPMENT BY CANADA

1. Canada shall provide in the Columbia River basin in Canada 15,500,000 acre-feet of storage usable for improving the flow of the Columbia River.

2. In order to provide this storage, which in the Treaty is referred to as the Canadian storage, Canada shall construct dams :

- (a) on the Columbia River near Mica Creek, British Columbia, with approximately 7,000,000 acre-feet of storage ;
- (b) near the outlet of Arrow Lakes, British Columbia, with approximately 7,100,000 acre-feet of storage ; and
- (c) on one or more tributaries of the Kootenay River in British Columbia downstream from the Canada-United States of America boundary with storage equivalent in effect to approximately 1,400,000 acre-feet of storage near Duncan Lake, British Columbia.

3. Canada shall commence construction of the dams as soon as possible after the ratification date.

Article III

DEVELOPMENT BY THE UNITED STATES OF AMERICA RESPECTING POWER

1. The United States of America shall maintain and operate the hydroelectric facilities included in the base system and any additional hydroelectric facilities constructed on the main stem of the Columbia River in the United States of America in a manner that makes the most effective use of the improvement in stream flow resulting from operation of the Canadian storage for hydroelectric power generation in the United States of America power system.

2. The obligation in paragraph (1) is discharged by reflecting in the determination of downstream power benefits to which Canada is entitled the

assumption that the facilities referred to in paragraph (1) were maintained and operated in accordance therewith.

Article IV

OPERATION BY CANADA

1. For the purpose of increasing hydroelectric power generation in Canada and the United States of America, Canada shall operate the Canadian storage in accordance with Annex A and pursuant to hydroelectric operating plans made thereunder. For the purposes of this obligation an operating plan if it is either the first operating plan or if in the view of either Canada or the United States of America it departs substantially from the immediately preceding operating plan must, in order to be effective, be confirmed by an exchange of notes between Canada and the United States of America.

2. For the purpose of flood control until the expiration of sixty years from the ratification date, Canada shall

(a) operate in accordance with Annex A and pursuant to flood control operating plans made thereunder

(i) 80,000 acre-feet of the Canadian storage described in Article II (2) (a),

(ii) 7,100,000 acre-feet of the Canadian storage described in Article II (2) (b),

(iii) 1,270,000 acre-feet of the Canadian storage described in Article II (2) (c),

provided that the Canadian entity may exchange flood control storage under subparagraph (ii) for flood control storage additional to that under subparagraph (i), at the location described in Article II (2) (a), if the entities agree that the exchange would provide the same effectiveness for control of floods on the Columbia River at The Dalles, Oregon ;

(b) operate any additional storage in the Columbia River basin in Canada, when called upon by an entity designated by the United States of America for that purpose, within the limits of existing facilities and as the entity requires to meet flood control needs for the duration of the flood period for which the call is made.

3. For the purpose of flood control after the expiration of sixty years from the ratification date, and for so long as the flows in the Columbia River in Canada continue to contribute to potential flood hazard in the United States