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THE MEXICAN POSITION: NATIONAL AND INTERNATIONAL CONSIDERATIONS*

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The Mexican position with respect to the problem of high salinity in the waters of the Colorado River is based on considerations of an internal nature as well as of an external character.

From the *internal* point of view, Mexican authorities and leaders are expected to promote and foster the development of the country's economy and the general welfare of the population, regardless of domestic or international conditions. Obviously, therefore, Mexican leaders must do everything in their power to avoid any commitments or problems which might prove detrimental to the country's economic development and social welfare, particularly in view of the social and political repercussions that such impediments might have in a country where the so-called revolution of growing expectations has occurred. Any minor obstacle risks the danger of becoming an irritant of considerable magnitude.

The appearance, toward the end of 1960, of a high degree of salinity in the waters of the Colorado River which the United States delivers in accord with the Treaty on the Distribution of International Waters signed with Mexico on February 3, 1944,¹ resulted first in the immediate mobilization of farmers' organizations in the Mexicali Valley and then aroused other groups at state and national levels, until it became an outcry against what different Mexican sectors considered not only a violation—if not of the letter, indeed of the spirit—of the Treaty of 1944, but an absence as well of a spirit of cooperation on the part of the United States authorities and other sectors of that country.

In these circumstances, the Mexican Government felt obliged to formally protest, in order to initiate negotiations to reach a solution of a problem which had been caused by the irrigation, leaching, and

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1. Treaty with Mexico Respecting Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, February 3, 1944 (with protocol of November 14, 1944), 59 Stat. 1219 (1945), T.S. No. 994 (Tratado con los Estados Unidos de América para la Distribucion de Aguas Internacionales de los Rios Bravo, Colorado y Tijuana, 3 de febrero de 1944, Diario Oficial, 30 de enero de 1946).

water drainage methods used on the U.S. side, particularly in Arizona.

From an *external* point of view, Mexico and the United States have been able to find, in most cases, mutually satisfactory solutions to the everyday problems posed by the coexistence of neighboring countries, even when the problems were extremely delicate. For this reason, the marked indifference toward this problem—not so much by the federal authorities as at the state and regional levels—seemed a striking contrast with that tradition notable, among other things, for the sympathy and understanding with which one country sees the problems of the other. It is regrettable that the reaction in the United States during the first years after the salinity question appeared did not correspond to that country's general attitude vis à vis other border problems, which had made it possible to focus on border affairs from an angle transcending mere cooperative relations, achieving the concept of joint administration of areas of common interest to both countries. Certainly the reluctance to understand Mexican reasoning concerning the high salinity of the waters of the Colorado River falls far short of U.S. cooperation in other areas, for example, in the construction of the Amistad Dam.²

The proximity of Mexico and the United States—two countries of such diverse ethnic and cultural composition and, above all, with a dramatically different degree of development—is the natural cause of a number of minor, though abrasive, problems, tensions, and incidents. The same situation occurs between neighbouring countries all over the world. However, if the respective authorities lose control regarding such minor incidents and tensions, then what in the beginning looks quite irrelevant may, in time, become a source of much grave conflict and concern.

The use of the Colorado River waters in the State of Arizona seems to be a singular and isolated problem, but there is no assurance, in view of the impressive development and growth of the United States and the increasing needs of Mexico, that what now constitutes a particular instance will not become a general practice to be repeated in the future at other points along the border or in contiguous areas. The only way to avoid such a possibility, therefore, is to agree on appropriate terms to prevent this isolated phenomenon from occurring in other similar situations, and to stop what can genuinely be considered a misuse or abuse of international waters

2. See Agreement with Mexico to Proceed with the Construction of Amistad Dam on the Rio Grande, October 24, 1960 [1960] 11 U.S.T. 2396, T.I.A.S. No. 6082; *Big Dam Dedicated by Nixon and Diaz on Mexican Border*, N.Y. Times, Sept. 9, 1969, at 1, col. 4 [Ed.].

from being tolerated as an acceptable and accepted practice. In other words, in the interest of the physical security needed for the agricultural development and urban welfare of the Mexican border areas, as well as for maintaining a flexible and satisfactory relationship between Mexico and the United States, it is vital to prevent this phenomenon from being taken as a valid precedent.

The so-called "Permanent and Definitive Solution of the International Problem of Salinity in the Colorado River," which appears in Minute 242³ of the International Boundary & Water Commission of August 30, 1973, seems to be the best remedy for the situation. Still, the mere formal acceptance of this remedy does not suffice to solve the problem. The actual and real solution lies in the execution of certain projects and works on the United States side which cannot occur without U.S. congressional approval of the necessary funds. The expenditures involved are not of great magnitude for the United States, and, if such funds are not provided, the efforts of three administrations in both countries for over a decade will not have attained any concrete result. Reversion to the situation contemplated in Minute 241 of 1972,⁴ which provided for temporary relief only, would cause additional aggravations in Mexico and the U.S.; the strengthening of skepticism with respect to the efficacy of negotiations between governments; and, more dangerous still, the widening of the credibility gap between the respective authorities and the people, since the termination of this problem has already been publicly announced. Such skepticism would be especially unfortunate at a time when the world is putting the real possibility of international cooperation for the conservation of the environment to a test.

3. Reprinted in this issue at page 2.

4. 67 Dep't State Bull. 198 (1972); *Secretaria de Relaciones Exteriores, Memoria, 1971-72*, at 102.