

**ANNEXURE A — EXCHANGE OF NOTES BETWEEN
GOVERNMENT OF INDIA AND GOVERNMENT
OF PAKISTAN**

I. Note dated 19th September 1960, from the High Commissioner for India in Pakistan, Karachi, to the Minister for Foreign Affairs and Commonwealth Relations, Government of Pakistan.

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19th September, 1960

EXCELLENCY:

I have been instructed by my Government to communicate to you the following:

“The Government of India agrees that, on the ratification of the Indus Waters Treaty 1960, the Inter-Dominion Agreement on the Canal Water Dispute signed at New Delhi on 4th May 1948 (of which a copy is annexed hereto) and the rights and obligations of either party thereto claimed under, or arising out of, that Agreement shall be without effect as from 1st April 1960.

The position of the Government of India stated above and Your Excellency's Note of to-day's date stating the position of the Government of Pakistan on this question will form part of Annexure A to the Indus Waters Treaty 1960.”

Accept, Excellency, the renewed assurance of my highest consideration.

ANNEX

A dispute has arisen between the East and West Punjab Governments regarding the supply by East Punjab of water to the Central Bari Doab and the Depalpur canals in West Punjab. The contention of the East Punjab Government is that under the Punjab Partition (Apportionment of Assets and Liabilities) Order, 1947, and the Arbitral Award the proprietary rights in the waters of the rivers in East Pun-

jab vest wholly in the East Punjab Government and that the West Punjab Government cannot claim any share of these waters as a right. The West Punjab Government disputes this contention, its view being that the point has conclusively been decided in its favour by implication by the Arbitral Award and that in accordance with international law and equity, West Punjab has a right to the waters of the East Punjab rivers.

2. The East Punjab Government has revived the flow of water into these canals on certain conditions of which two are disputed by West Punjab. One, which arises out of the contention in paragraph 1, is the right to the levy of seigniorage charges for water and the other is the question of the capital cost of the *Madhavpur Head Works and carrier channels to be taken into account.

3. The East and West Punjab Governments are anxious that this question should be settled in a spirit of goodwill and friendship. Without prejudice to its legal rights in the matter the East Punjab Government has assured the West Punjab Government that it has no intention suddenly to withhold water from West Punjab without giving it time to tap alternative sources. The West Punjab Government on its part recognise the natural anxiety of the East Punjab Government to discharge the obligation to develop areas where water is scarce and which were under-developed in relation to parts of West Punjab.

4. Apart, therefore, from the question of law involved, the Governments are anxious to approach the problem in a practical spirit on the basis of the East Punjab Government progressively diminishing its supply to these canals in order to give reasonable time to enable the West Punjab Government to tap alternative sources.

5. The West Punjab Government has agreed to deposit immediately in the Reserve Bank such *ad hoc* sum as may be specified by the Prime Minister of India. Out of this

*sic "Madhopur"

sum, that Government agrees to the immediate transfer to East Punjab Government of sums over which there is no dispute.

6. After an examination by each party of the legal issues, of the method of estimating the cost of water to be supplied by the East Punjab Government and of the technical survey of water resources and the means of using them for supply to these canals, the two Governments agree that further meetings between their representatives should take place.

7. The Dominion Governments of India and Pakistan accept the above terms and express the hope that a friendly solution will be reached.

JAWAHARLAL NEHRU
N. V. GADGIL
SWARAN SINGH

GHULAM MOHD
SHAUKAT HYAT KHAN
MUMTAZ DAULTANA

NEW DELHI,
May 4, 1948.

II. Note dated 19th September 1960, from the Minister for Foreign Affairs and Commonwealth Relations, Government of Pakistan, to the High Commissioner for India in Pakistan, Karachi.

* * *

19th September, 1960

EXCELLENCY:

I have been instructed by my Government to communicate to you the following:

“The Government of Pakistan agrees that, on the ratification of the Indus Waters Treaty 1960, the document on the Canal Water Dispute signed at New Delhi on 4th May 1948 (of which a copy is annexed hereto) and the rights and obligations of either party thereto claimed under, or arising out of, that document shall be without effect as from 1st April 1960.

The position of the Government of Pakistan stated above and Your Excellency's Note of to-day's date stating the position of the Government of India on this question will form part of Annexure A to the Indus Waters Treaty 1960."

Accept, Excellency, the renewed assurance of my highest consideration.

ANNEX

A dispute has arisen between the East and West Punjab Governments regarding the supply by East Punjab of water to the Central Bari Doab and the Depalpur canals in West Punjab. The contention of the East Punjab Government is that under the Punjab Partition (Apportionment of Assets and Liabilities) Order, 1947, and the Arbitral Award the proprietary rights in the waters of the rivers in East Punjab vest wholly in the East Punjab Government and that the West Punjab Government cannot claim any share of these waters as a right. The West Punjab Government disputes this contention, its view being that the point has conclusively been decided in its favour by implication by the Arbitral Award and that in accordance with international law and equity, West Punjab has a right to the waters of the East Punjab rivers.

2. The East Punjab Government has revived the flow of water into these canals on certain conditions of which two are disputed by West Punjab. One, which arises out of the contention in paragraph 1, is the right to the levy of seigniorage charges for water and the other is the question of the capital cost of the *Madhavpur Head Works and carrier channels to be taken into account.

3. The East and West Punjab Governments are anxious that this question should be settled in a spirit of goodwill and friendship. Without prejudice to its legal rights in the matter the East Punjab Government has assured the West Punjab Government that it has no intention suddenly

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to withhold water from West Punjab without giving it time to tap alternative sources. The West Punjab Government on its part recognise the natural anxiety of the East Punjab Government to discharge the obligation to develop areas where water is scarce and which were under-developed in relation to parts of West Punjab.

4. Apart, therefore, from the question of law involved, the Governments are anxious to approach the problem in a practical spirit on the basis of the East Punjab Government progressively diminishing its supply to these canals in order to give reasonable time to enable the West Punjab Government to tap alternative sources.

5. The West Punjab Government has agreed to deposit immediately in the Reserve Bank such *ad hoc* sum as may be specified by the Prime Minister of India. Out of this sum, that Government agrees to the immediate transfer to East Punjab Government of sums over which there is no dispute.

6. After an examination by each party of the legal issues, of the method of estimating the cost of water to be supplied by the East Punjab Government and of the technical survey of water resources and the means of using them for supply to these canals, the two Governments agree that further meetings between their representatives should take place.

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