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Agreement Between the Governments of India and Bhutan about the implementation of the Jaldhaka Hydro Electric Project

September 13, 1961

Articles of Agreement made this Thirteenth day of September, One Thousand Nine Hundred and Sixty One, between the President of India hereinafter referred to as the "President" (which expression shall unless excluded by or repugnant to the context be deemed to include his successor in office and assigns) of the one part and Bhutan Government of the Other Part.

Whereas the West Bengal State Electricity Board, a statutory body corporate having its office at No. 1, Hastings Street in the town of Calcutta has prepared a project report for installation of a Plant at Jaldhaka in the north eastern boundary of the State of West Bengal and the South eastern boundary of Bhutan as indicated in the map or plan hereto annexed for generation of electricity by Hydro-Electric process hereinafter mentioned as the "Jaldhaka Hydro-Electric Project".

And whereas the Government of India had been requested by the West Bengal State Electricity Board to arrange for proper facilities being afforded by the Bhutan Government for the implementation of the said scheme of Jaldhaka Hydro-Electric Project as it will also partially involve and

affect the territory of the Bhutan Government and the Government of India had approached the Bhutan Government at the instance of the said West Bengal State Electricity Board (hereinafter for the sake of brevity referred to as the "Board").

And whereas as a result of discussions held between the respective representatives of the Government of India, the Board and the Bhutan Government on the 5th day of March, 1959 at Delhi certain terms and conditions hereafter mentioned had been agreed upon by and between the parties hereto.

Witnesseth and it is hereby agreed as follows:

1. That for the considerations hereinafter mentioned the Bhutan Government doth hereby agree to the erection by the Board of a barrage at about 800ft. below the point where the stream Bindukhela flows in the river Jaldhaka between the boundaries of the territory of Bhutan and the State of West Bengal as shown in the map or plan hereto annexed and indicated therein by the letter "A" for the purpose of diverting partially the flow of water of the Jaldhaka River along a water conductor shown in the map or plan hereto annexed, while flowing between the territories of Bhutan and the State of West Bengal in India.
2. That the Bhutan Government hereby further agrees that the President shall have leave and license to authorise the Board and the Board shall have power and liberty to partially divert the flow of water of the said river at the point marked "A" in the map or plan annexed hereto in longitude and latitude N88° - 52'-26" and E 27°-06'-08" respectively to meet the river again at the point marked "B" in longitude N 88°-52'-54" and latitude E 27°-03'-35" shown in the map or plan hereto annexed.
3. That the Bhutan Government further agrees not to disturb the normal and natural flow of water of the river Jaldhaka within the territory of Bhutan so that the supply of water for delivery at the barrage shall not be less than the normal flow of water through the said river at such point.

4. That the Bhutan Government shall not allow construction of any dams, barrages or other forms or contrivances which may obstruct the flow and accumulation of water in the catchment area of the river Jaldhaka within the territory of Bhutan hatched vertically in the map or plan hereto annexed so that the supply of water at the barrage from the rain and snowfalls within such catchment area is not in any way diminished or interrupted.
5. That the Bhutan Government grants leave and license to the President to authorise the said Board and the Board shall be at liberty and have powers and authority to erect the barrage partially within the territory of Bhutan over an area not exceeding 15 acres at the place shown in the map or plan hereto annexed and described in Schedule "A" hereunder written and the Bhutan Government doth hereby grant and demise the said area to and unto the President to sublease allow the use and occupation thereof by the Board only for such purpose as aforesaid as from the date of these presents so long as the Jaldhaka Hydro Electric Project shall be in operation. Provided further that the Bhutan Government shall allow an area of approximately 9.5 acres of land in the territory of Bhutan up-stream the said river to be submerged under water as a result of the operations of the Board of the Scheme aforesaid.
6. That in consideration aforesaid the President shall cause the Board:-
- a) to pay to the Government of Bhutan royalty at the rate of Rs. 8/- per KW year only on the quantity of the electrical energy generated both firm and seasonal by the said Jaldhaka Hydro-Electric Project or Scheme by the Board; [the KW year shall mean the quantity of actual electricity generated both firm and seasonal divided by 8760 hours per year.]
 - b) to supply to the Government of Bhutan 250 KW of electrical energy free of any charge as from the date of the completion of the said Jaldhaka Hydro-Electric Project and generation of electricity up to the full capacity from the generating plants to be erected by the Board; provided, however, that

notwithstanding anything to the contrary herein contained, no royalty shall be charged by and payable to the Bhutan Government to and by the Board for the quantity of electricity so to be supplied free to Bhutan Government. The Bhutan Government shall afford all facility whatsoever and of howsoever nature as may be required by the Board to effect such supply of energy.

- c) to supply such power as is mentioned in clause (b) hereof through 3 or 4 sub-stations to be erected by the Board for its own distribution system. The power will be made available to Bhutan at the busbars of these sub-stations and further transmission and distribution in its territory will be done by the Government of Bhutan at its own cost.
- 7. That for the purpose mentioned in the foregoing clause 6 (b) and (c) the Bhutan Government will give prior intimation to the Board of the names of the sub-stations and the amount of the power required from each of the sub-stations so as to afford proper facilities to the Board to instal transformers at the sub-stations of suitable capacity for the purpose of such supply to the Bhutan Government along with supplies through these sub-stations to other consumers:
- 8. That the Bhutan Government shall have the right and be entitled to sell to the Board and provided the Board require additional electrical energy for supply to other consumers, the Board may at its option purchase a portion of the electrical energy so to be supplied by the Board to the Government of Bhutan free of charge as provided in clause 6 (b) hereof not required for consumption by the Bhutan Government at the rate to be calculated on the basis of the actual costs of generation of such electrical energy by the Board.
- 9. Should the Bhutan Government require supply of additional energy other than that provided in Clause 6 (b) hereof the Board shall supply such energy to the Bhutan Government provided the Board is in a position to make such supply, at the rate usually for the time being charged by the Board to the other consumers.

10. That the Bhutan Government shall allow the officers of the Board in charge of the said Jaldhaka Hydro-Electric Project or Scheme and other officers duly authorised by the Board or by the Government of West Bengal or the President to enter into the territory of Bhutan without any let or hindrance for any purpose as may be found necessary for the purpose of implementation of the said Jaldhaka Hydro-Electric Project and the works in connection with or in relation thereto.
11. That fishing operations in any water within the area where the water flowing from the catchment area will be stored within the territory of Bhutan permitted by the Bhutan Government shall be subject to the control of the Board and such fishing will only be allowed with the previous permission in writing of the officers of the Board in charge of the said Jaldhaka Hydro-Electric Project.
12. That the bridge to be constructed over the Barrage shall be allowed to be used by the Board for the traffic across the same by the Bhutan Government and the people of Bhutan who may have the right of ingress and egress to and from the territory of Bhutan. The bridge shall be suitable for "A" Class loading.
13. That during the construction of the said Jaldhaka Hydro-Electric Project the Bhutan Government shall allow every facility for construction of the dam and suitable huts and erection for storage of construction materials within the territory of Bhutan as may be considered necessary by the Board and shall further allow proper facilities for the work of the staff employed by the Board in such construction.
14. That the Bhutan Government shall allow necessary facilities and permission to the officers of the Board or the Government of West Bengal or the Government of India to freely enter the territory of Bhutan and to carry out normal maintenance works of the said Jaldhaka Hydro-Electric Project provided previous notice for the same is given to the Bhutan Government or to any officer authorised by them in that behalf.

15. That after the completion of the work and construction of the Jaldhaka Hydro-Electric Project the Bhutan Government shall allow free access without any permits or restrictions to the officers and employees of the Board, the Government of West Bengal and the Government of India within the territory of Bhutan in connection with working or operations affecting or relating to the said Jaldhaka Hydro-Electric Project including hydro-investigation work and the Bhutan Government shall grant general permission for the same or special permission on each occasion as may be desired.

Schedule "A" referred to above:

All that area of land measuring about 15 acres be the same, a little more or less situated at a point below 800 ft. from the point where the stream Bindukhola flows into the river Jaldhaka as shown in the map or plan hereto annexed and included therein by the letter "A".

Signed & Delivered for and on behalf of the President of India by

Sd/-

SHRI M.J. DESAI,

Foreign Secretary in the presence of

SHRI P.R. BAKSHI

Signed for and on behalf of the Bhutan Government

Sd/-

JIGMIE P. DORJI,

Prime Minister of Bhutan in the presence of

SHRI K.L. MEHTA.