

AGREEMENT BETWEEN THE GOVERNMENT OF INDIA AND GOVERNMENT OF NEPAL
ON THE KOSI PROJECT

(Dated 25th April 1954)

This agreement made this Twentyfifth day of April 1954 between the Government of the kingdom of Nepal (hereinafter referred to as the 'Government') and the Government of India (hereinafter referred to as the 'Union').

Subject Matter

WHEREAS the Union is desirous of constructing a barrage, headworks and other appurtenant works about 3 miles upstream of Hanuman Nagar town on the Kosi River with afflux and flood banks, and canals and protective works, on land lying within the territories of Nepal, for the purpose of flood control, irrigation, generation of hydro-electric power and prevention of erosion of Nepal areas on the right side of the river, upstream of the barrage (hereinafter referred to as the 'Project').

AND WHEREAS the Government has agreed to the construction of the said barrage, headworks and other connected works by and at the cost of the Union, in consideration of the benefits hereinafter appearing.

NOW THE PARTIES AGREE AS FOLLOWS:—

Details of the project

1. (i) The barrage will be located about 3 miles upstream of Hanuman Nagar town.
- (ii) The general lay out of the barrage, the areas within afflux bank, flood embankments and the lines of communication are shown in the plan annexed to this agreement as Annexure A.
- (iii) For the purpose of clauses 3 and 8 of this agreement, the land under the ponded areas and boundaries as indicated by the plan specified in sub-clause (ii) above, shall be deemed to be submerged.

Preliminary investigations and surveys

2. (i) The Government shall authorise and give necessary facilities to the canal and other officers of the Union or other persons acting under the general or special orders of such officers to enter upon such land as necessary with such men, animals, vehicles, equipment, plant, machinery and instruments as necessary and undertake such surveys and investigations required in connection with the said Project before, during and after the construction, as may be found necessary from time to time by the Chief Engineer, P.W.D. (Kosi Project) in the Irrigation Branch of the Bihar Government. These surveys and investigations will comprise aerial and ground surveys, hydraulic, hydro-metric, hydrological and geological surveys including construction of drillholes for surface and sub-surface explorations; investigations for communication and for materials of construction and all other surveys and investigations necessary for the proper design, construction and maintenance of the barrage and all its connected works mentioned under the Project.

(ii) The Government will also authorise and give necessary facilities for investigations of storage or detention dams on the Kosi or its tributaries, soil conservation measures such as Check Dams, afforestation etc., required for a complete solution of the Kosi problem in the future.

Authority for execution of works and occupation of land & other property

3. (i) The Government will authorise the Union to proceed with the execution of the said project as and when the Project or a part of the Project receives sanction of the said Union and notice has been given by the Union to the Government of its intention to commence work on the Project and shall permit access by the Engineer and all other officers, servants and nominees of the Union with such men, animals, vehicles, plant, machinery, equipment and instruments as may be necessary for the direction and execution of the Project to all such lands and places and shall permit the occupation, for such period as may be necessary of all such lands and places as may be required for the proper execution of the Project.

(ii) The land required for the purposes mentioned in clause 3(i) above shall be acquired by the Government and compensation therefore shall be paid by the Union in accordance with the provisions of clause 8 hereof.

(iii) The Government will authorise officers of the Union to enter on land outside the limits or boundaries of the barrage and its connected works in case of any accident happening or being apprehended to any of the said works and to execute all works which may be necessary for the purpose of repairing or preventing such accident. Compensation, in every case, shall be tendered by the Union to the proprietors or the occupiers of the said land for all damage done to the same through the Government in order that compensation may be awarded in accordance with clause 8 hereof.

(iv) The Government will permit the Union to quarry the construction materials required for the Project from the various deposits at Chatra, Dharan Bazar or other places in Nepal.

Use of water and power

✓ 4. (i) Without prejudice to the right of Government to withdraw for irrigation or any other purpose in Nepal such supplies of water, as may be required from time to time, the Union will have the right to regulate all the supplies in the Kosi River at the Barrage site and to generate power at the same site for purpose of the Project.

✓ (ii) The Government shall be entitled to use upto 50% of the hydro-electric power generated at the Barrage site Power House on payment of such tariff rates as may be fixed for the sale of power by the Union in consultation with Government.

Sovereignty and Jurisdiction

✓ 5. The Union shall be the owner of all lands acquired by the Government under the provisions of clause 3 hereof which shall be transferred by them to the Union and of all water rights secured to it under clause 4(i).

Provided that sovereignty rights and territorial jurisdiction of the Government in respect of such lands shall continue unimpaired by such transfer.

Royalties

6. (i) The Government will receive royalty in respect of power generated and utilized in the Indian Union at rates to be settled by agreement hereafter.

Provided that no royalty will be paid on the power sold to Nepal.

(ii) The Government shall be entitled to receive payment of royalties from the Union in respect of stone, gravel and ballast obtained from the Nepal territory and used in the construction and future maintenance of the barrage and other connected works at rates to be settled by agreement hereafter.

(iii) The Union shall be at liberty to use and remove clay, sand and soil without let or hindrance from lands acquired by the Government and transferred to the Union.

(iv) Use of timber from Nepal forests, required for the construction, shall be permitted on payment of compensation. Provided no compensation will be payable to the Government for such quantities of timber as may be agreed upon by the Government and the Union to be necessary for use on the spurs or other training works required for the prevention of caving and erosion of the right bank in Nepal.

Provided likewise that no compensation will be payable by the Union for any timber obtained from the forest lands acquired by the Government and transferred to the Union.

Customs duty

7. The Government shall charge no customs duty or duty of any kind, during construction and subsequent maintenance, on any articles or materials required for the purpose of the Project and the work connected therewith or for the bonafide use of the Union.

Compensation for land and property

8. (i) For assessing the compensation to be awarded by the Union to the Government in cash (a) lands required for the execution of various works as mentioned in clause 3(ii) and clause 9(i), and (b) submerged lands, will be divided into the following classes:—

1. Cultivated lands.
2. Forest lands.
3. Village lands and houses and other immovable property standing on them.
4. Waste lands.

All lands recorded in the register of lands in the territory of Nepal as actually cultivated shall be deemed to be cultivated lands for the purposes of this clause.

(i) The Union shall pay compensation (a) to the Government for the loss of land revenue as at the time of acquisition in respect of the area acquired and (b) to whosoever it may be due for the lands, houses and other immovable property acquired for the project and transferred to the Union.

The assessment of such compensation and the manner of payment shall be determined hereafter by mutual agreement between the Government and the Union.

(ii) All lands required for the purposes of the project shall be jointly measured by the duly authorised officers of the Government and the Union respectively.

Communications

9. (i) The Government agrees that the Union may construct and maintain roads, tramways, railways, ropeways etc. required for the Project in Nepal and shall provide land for these purposes on payment of compensation as provided in clause 8.

(ii) Subject to the territorial jurisdiction of the Government, the ownership and the control of the metalled roads, tramways and railways shall vest in the Union. The roads will be essentially departmental roads of the Irrigation Department of the Union and any concession in regard to their use by commercial and non-commercial vehicles of Nepal shall not be deemed to confer any right of way.

(iii) The Government agrees to permit, on the same terms as for other users, the use of all roads waterways and other avenues of transport and communications in Nepal for bonafide purposes of the construction and maintenance of the barrage and other connected works.

(iv) The bridge over Hanuman Nagar barrage will be open to public traffic but the Union shall have the right to close the traffic over the bridge for repairs, etc.

(v) The Government agrees to permit installation of telegraph, telephone and radio communications in Nepal for the bonafide purposes of the construction and maintenance of the project.

(vi) The Union agrees to permit the use of internal telephone and telegraph in the Project area to authorized servants of the Government for business in emergencies provided such use does not in any way interfere with the construction and operation of the Project.

Use of river craft

10. All navigation rights in the Kosi River in Nepal will rest with the Government. The use of any water craft like boat, launches and timber crafts within two miles of the barrage and headworks shall not be allowed except by special licence under special permits to be issued by the Executive Engineer Barrage. Any unauthorised water craft found within this limit shall be liable to prosecution.

Fishing rights

11. All the fishing rights in the Kosi river in Nepal except within two miles of the Barrage shall vest in the Government of Nepal. No fishing will be permitted within two miles of the Barrage and headworks.

Use of Nepali labour

12. The Union shall give preference to Nepali labour, personnel and contractors to the extent available and in its opinion suitable for the construction of the Project but shall be at liberty to import labour of all classes to the extent necessary.

Administration of the project areas in Nepal

13. The Union shall carry out inside the project areas in the territory of Nepal functions such as the establishment and administration of schools, hospitals, provisions of water supply and electricity, drainage, tramway lines and other civic amenities.

14. The Government shall be responsible for the maintenance of law and order in the project areas within the territory of Nepal. The Government and Union shall, from time to time consider and make suitable arrangements calculated to achieve the above object.

15. If so desired by the Union, the Government agrees to establish special court or courts in the project area to ensure expeditious disposal of cases arising within the project area. The Union shall bear the cost involved in the establishment of such courts if the Government so desires.

Future Kosi control works

✓16. If further investigations indicate the necessity of storage or detention dams and other soil conservation measures on the Kosi and its tributaries, the Government agree to grant their consent to them on conditions similar to those mentioned herein.

Arbitration

17. If any question, differences or objections whatever shall arise in any way, connected with for arising out of this agreement or the meaning or operation of any part thereof or the rights, duties or liabilities of either party, except as to decisions of any such matter as herein before otherwise provided for, every such matter shall be referred for arbitration to two persons—one to be appointed by the Government and the other by the Union, whose decision shall be final and binding, provided that in the event of disagreement between the two arbitrators, they shall refer the matter under dispute for decision to an umpire to be jointly appointed by the two arbitrators before entering on the reference.

18. This agreement shall be deemed to come into force with effect from the date of signatures of the authorised representatives of the Government and the Union respectively.

IN WITNESS WHEREOF THE undersigned being duly authorised thereto by their respective Governments have signed the present agreement.

Done at KATHMANDU, in duplicate, this Twentyfifth day of April, 1954.

(Sd.) Mahabir Shamsher
for the Government of Nepal.

(Sd.) Gulzari Lal Nanda
for the Government of India

Co-ordination Committee for Kosi Project

WHEREAS it is considered desirable to establish a forum for discussion of problems of common interest and in order to expedite decisions for the early completion of the Kosi Project, it is agreed between the Union of India and the Government of Nepal to set up a Co-ordination Committee. The Committee will consist of three representatives from each country to be nominated by the respective Government. It is further agreed that the Chairman of the Committee will be a Minister of the Government of Nepal and the Secretary will be the Administrator of the Kosi Project. The Committee will consider such matters of common interest concerning the project including land acquisition, rehabilitation of displaced population, maintenance of law and order, soil conservation measures and such other items as may be referred to the Committee for consideration by the Government of Nepal or the Union from time to time.

(2) The Committee shall meet as and when necessary at Kathmandu or at the barrage site or such other place as may be necessary at the discretion of the Committee.

(3) Travelling allowance for journeys undertaken by the Committee shall be met by the Union according to normal rates in the Union.

(4) All other expenditure on staff etc. of the Committee shall be met by the Union.