



Mexico and the USA quarrel over shared waters

Mexican states make it difficult for President Fox to settle a protracted dispute with the Americans.

THEME I: FEDERALISM AND FOREIGN POLICY

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In April 2002, a long-standing problem between Mexico and the United States over the allocation of water from the Rio Bravo/Rio Grande began to escalate, turning by mid-June into a major political conflict between the two countries. The issue at stake was Mexico's failure to meet the terms of a 1944 water-sharing treaty.

According to this treaty, Mexico is committed to transfer to the U.S. one third of the flow reaching the main channel of the Rio Grande River from the Rio Conchos and five smaller tributaries. This transfer has to be at least 350,000 acre-feet annually and it has to be paid in five-year cycles. In exchange, the U.S. is committed to deliver to Mexico a guaranteed annual quantity of 1.5 million acre-feet of water from the Colorado River and an additional 200,000 acre-feet per year in times of surplus.

Due in great part to a severe and prolonged drought along the Texas-Mexico border region, Mexico has not been able to transfer its share of water to the U.S. Since 1996, Mexico has been accumulating a deficit of more than 1.1 million acre-feet of water, and by September 2002, this deficit is expected to reach more than 1.7 million acre-feet.

Although the 1944 treaty clearly benefits Mexico more than the U.S. in the allocation of water (overall, Mexico receives more than four times the amount of water it delivers to the U.S.), the beneficiaries of this treaty are not equally distributed along the Mexican border. The net beneficiaries are the states of Baja California and Sinaloa, whose farmers greatly depend on the water flows they receive from the Colorado River. In contrast, more than half of the total amount of water Mexico transfers to the U.S. comes from the Conchos River in the state of Chihuahua.

Drought conditions

This regional imbalance did not create major concerns in Mexico so long as the flow from the Conchos River was sufficient to provide water to Chihuahua's farmers (who consume more than 80 percent of water in irrigation) and comply with the required water transfers to the U.S.

However, drought conditions during the past 10 years have drastically changed the situation. Scarcity of water has significantly reduced Mexico's capacity to meet its water obligations with the U.S., creating enormous tensions not only between these two countries, but also between the state of Chihuahua and Mexico's federal government.

Since 1993, a severe drought has afflicted the Rio Grande/Rio Bravo basin. This is the most serious drought since 1969. The state of Chihuahua has been hit particularly hard by persistent low levels of rainfall, affecting the flow from the Conchos River to the Rio Grande. Since the increasingly scarce water supply has been mostly used by Chihuahua's farmers, Mexico has been falling behind in its water deliveries to the U.S. Although the 1944 water treaty stipulates that water deficits can be paid during the next five-year cycle, as the 1997-2002 cycle comes to a close, Mexico still owes the U.S. 1.12 million acre-feet of water.

In 2002, the Mexican federal government declared 50 of 62 cities in Chihuahua disaster areas, making them eligible to receive federal relief funds. Currently, the Conchos basin's reservoirs are at 20% of their storage capacity. Chihuahua's farmers are turning to groundwater pumping to irrigate their lands, but this is extremely costly and not all farmers are able to afford it.

In Texas, farmers began experiencing cutbacks in irrigation water in 1996, and

pressed their state government to deal with this issue. According to Texas farmers, Chihuahua was hoarding water to benefit its own farmers, failing to comply with its international obligations.

Mexico insisted that due to the drought, it did not have enough water and that the 1944 treaty stated that lower deliveries of water did not constitute a violation of the treaty in cases of "extraordinary drought." Multiple meetings between Mexico and U.S. sections of the International Boundary and Water Commission ensued to try to solve the matter.

Efforts at agreement and mounting tensions

In 1998, Mexico and the U.S. reached an agreement about the total amount of the deficit. Mexico offered a plan to repay this deficit provided the amount of water from rainfall reached a determined level. The U.S. on the other hand, wanted Mexico to release water from its reservoirs to pay the water debt. Mexico continued to claim that severe drought conditions did not allow for such releases, for Mexican reservoirs were at 20% of their capacity.

By 2001, with mounting pressure from Texas farmers and persistent claims by Chihuahua's government that there was no water, an agreement was finally signed between Mexico and the U.S.

On March 16, both countries signed the so-called "Minute 307," an agreement to resolve the mounting conflict in the short-term. Mexico committed to deliver 600,000 acre feet toward repayment of the deficit and both countries committed to work jointly to identify measures of cooperation on drought management of the Rio Grande Basin.

In February 2002, Mexico made a total payment of 427,544 acre-feet toward the

600,000 agreed upon under Minute 307. By March of that year, however, as the irrigation season was due to begin, Texas farmers began to press harder. Governor Perry of Texas, who is running for re-election next November, took a more aggressive position and demanded an immediate delivery of water.

The conflict over the allocation of water began to escalate, threatening President Fox's strategy of forging a closer relationship with the U.S. On May 14, 2002 President Fox promised President Bush that Mexico would pay its water obligations. However, the President's friendly gesture toward the U.S. was met with extreme hostility in Mexico. The Mexican Congress in which the President's party did not hold a majority passed a resolution stating that Mexico would not deliver water to the U.S. given the severe drought conditions, and that Mexican farmers had priority use of any available water supply.

Similarly, the Governors of Chihuahua, Coahuila, and Tamaulipas, insisted that due to severe drought conditions, transferring water to the United States was "anti-patriotic," and that Mexican farmers should come first.

Meanwhile, in the U.S., President Bush was considering whether to impose sanctions on Mexico for failure to comply with its commitments under the 1944 water treaty. The fear in Mexico was that these sanctions could include halting water transfers from the Colorado River, a devastating scenario for the states of Baja California and Sinaloa.

Finally, on June 28, 2002 Mexico and the U.S. reached an agreement on measures to begin diffusing the heated dispute. Mexico agreed to make an immediate transfer of 90,000 acre-feet of water to the U.S. This amount represents only 6 percent of the total water deficit. If rainfall does not reach sufficient levels to meet the municipal needs of Chihuahua's citizens, the U.S. is committed to transfer the necessary amount of water back to Mexico.

In addition, both governments along with the North American Development Bank (NADBank, a financial institution created by the North American Free Trade Agreement) agreed to provide \$210 million over the next four years to

spend in irrigation infrastructure improvements and water conservation projects.

Water and federalism

Beneath the water dispute between Mexico and the U.S. lurks a heated political dispute between the newly democratically elected President Fox of the PAN party and state governments controlled by the party that had dominated Mexico before his election, the PRI.

Water, like the all natural resources in Mexico is regarded by the Constitution as belonging to the nation as a whole and is totally controlled by the federal government. But President Fox does not have the power to decide on matters directly affecting the states without lobbying and negotiating with state governors.

In the past, Mexican presidents behaved like "six-year emperors". Governors and mayors heeded the dictates of the federal government. Without effective political competition, their future political careers depended heavily on the President's decisions.

Until opposition parties began to gain access to power at the state and local governments, federalism in Mexico was only a formality. Today the situation is exactly the reverse. Fox's party, the PAN, controls the federal government, but the majority of state and local governments are controlled by the PRI.

Given the new configuration of power in the country, the President's room to maneuver has been significantly constrained. The PRI has not only failed to collaborate with the PAN in Congress to bring about important reforms; it has in fact used every opportunity to distance itself from the PAN and the President in an effort to redefine its new political identity. Mexico's relationship with the U.S. has become a central issue in this political debate.

Since he assumed office, President Fox decided to adopt a closer and less ambiguous relationship with the U.S., departing from Mexico's more traditional "neutral" position in international affairs, and distancing itself from non-democratic countries such as Cuba. The water

dispute between Mexico and the U.S., and President's Fox readiness to reach an agreement, provided PRI governors and legislators an excellent opportunity to show their differences with the President and to oppose the federal government.

Chihuahua's governor took the most aggressive position, attacking the federal government for his readiness to reach an agreement with the U.S. without first considering the situation of Chihuahua's farmers. Farmers in the states of Tamaulipas and Coahuila protested water transfers to the U.S. agreed under Minute 307. Since these water transfers are totally in the control of the federal government, stakeholders at the state level can make their voice heard only through strong organization.

The negative and potentially explosive reaction of Congress and state governors after President Fox promised President Bush that Mexico would comply with the 1944 water treaty, convinced President Fox that he needed to negotiate with state governors before he could make any offer to the U.S.

On June 5, the federal government and state governors signed an agreement to optimize the use of water and coordinate their actions in solving the water dispute with the U.S. This agreement set the stage for the final agreement signed between Mexico and the U.S. on June 28, 2002.

Even though the water dispute between Mexico and the U.S. has been solved for now, the crisis has revealed the limitations of the water treaty agreement, which was signed in 1944 when the demographic and economic conditions of the Texas border region were completely different.

More importantly, the crisis has also revealed the limitations of an extremely centralized control of natural resources. Without a stake in water ownership and control, state governments have had no incentive to promote a more efficient use of water. While Mexico has definitely awakened from its authoritarian and centralized past, most of its legal and constitutional framework is still a legacy of that period. (6)