

COMMISSIONS OF INQUIRY FOR SETTLEMENT OF DISPUTES (INTER-AMERICAN)

Convention signed at Washington February 7, 1923

Senate advice and consent to ratification January 28, 1925

Ratified by the President of the United States April 7, 1925

Procès-verbal of deposit of ratifications (including that of the United States) at Washington dated June 13, 1925

Entered into force June 13, 1925

Proclaimed by the President of the United States June 15, 1925

44 Stat. 2070; Treaty Series 717

CONVENTION FOR THE ESTABLISHMENT OF INTERNATIONAL COMMISSIONS OF INQUIRY

The Government of the United States of America and the Governments of the Republics of Guatemala, El Salvador, Honduras, Nicaragua and Costa Rica, desiring to unify and recast in one single convention, the conventions which the Government of the United States concluded with the Government of Guatemala on September 20, 1913,¹ with the Government of El Salvador on August 7, 1913,² with the Government of Honduras on November 3, 1913,³ with the Government of Nicaragua on December 17, 1913,⁴ and with the Government of Costa Rica on February 13, 1914,⁵ all relating to the Establishment of International Commissions of Inquiry, have for that purpose, named as their Plenipotentiaries:

The President of the United States of America:

The Honorable Charles E. Hughes, Secretary of State of the United States of America.

The Honorable Sumner Welles, Envoy Extraordinary and Minister Plenipotentiary.

¹ TS 598, *post.*

² S. Ex. K, 63d Cong., 2d sess.; did not enter into force.

³ TS 625, *post.*

⁴ S. Ex. O, 63d Cong., 2d sess.; did not enter into force.

⁵ TS 603, *post.*

The President of the Republic of Guatemala:

Señor Don Francisco Sánchez Latour, Envoy Extraordinary and Minister Plenipotentiary to the United States of America.

The President of the Republic of El Salvador:

Señor Doctor Don Francisco Martínez Suárez, President of the Supreme Court.

Señor Doctor Don J. Gustavo Guerrero, Envoy Extraordinary and Minister Plenipotentiary to Italy and Spain.

The President of the Republic of Honduras:

Señor Doctor Don Alberto Uclés, Ex-Minister for Foreign Affairs.

Señor Doctor Don Salvador Córdova, Ex-Minister Resident in El Salvador.

Señor Don Raúl Toledo López, Chargé d'Affaires in France.

The President of the Republic of Nicaragua:

Señor General Don Emiliano Chamorro, Ex-President of the Republic and Envoy Extraordinary and Minister Plenipotentiary to the United States of America.

Señor Don Adolfo Cárdenas, Minister of Finance.

Señor Doctor Don Maximo H. Zépeda, Ex-Minister for Foreign Affairs.

The President of the Republic of Costa Rica:

Señor Licenciado Don Alfredo González Flores, Ex-President of the Republic.

Señor Licenciado Don J. Rafael Oreamuno, Envoy Extraordinary and Minister Plenipotentiary to the United States of America.

Who, after having exhibited to one another their respective full powers which were found to be in good and proper form, have agreed upon the following articles:

ARTICLE I

When two or more of the Contracting Parties shall have failed to adjust satisfactorily through diplomatic channels a controversy originating in some divergence or difference of opinion regarding questions of fact, relative to failure to comply with the provisions of any of the treaties or conventions existing between them and which affect neither the sovereign and independent existence of any of the signatory Republics, nor their honor or vital interests, the Parties bind themselves to institute a Commission of Inquiry with the object of facilitating the settlement of the dispute by means of an impartial inquiry into the facts.

This obligation ceases if the parties in dispute should agree by common accord to submit the question to arbitration or to the decision of another Tribunal.

A Commission of Inquiry shall not be formed except at the request of one of the Parties directly interested in the investigation of the facts which it is sought to elucidate.

ARTICLE II

Once the case contemplated in the preceding article has arisen, the Parties shall by common accord draw up a protocol in which shall be stated the question or questions of fact which it is desired to elucidate.

When, in the judgment of one of the interested Governments, it has been impossible to reach an agreement upon the terms of the Protocol, the Commission will proceed with the investigation, taking as a basis the diplomatic correspondence upon the matter, which has passed between the parties.

ARTICLE III

Within the period of thirty days subsequent to the date on which the exchange of ratifications of the present Treaty has been completed, each of the Parties which have ratified it shall proceed to nominate five of its nationals, to form a permanent list of Commissioners. The Governments shall have the right to change their respective nominations whenever they should deem it advisable, notifying the other Contracting Parties.

ARTICLE IV

When the formation of a Commission of Inquiry may be in order, each of the Parties directly interested in the dispute shall be represented on the Commission by one of its nationals, selected from the permanent list. The Commissioners selected by the Parties shall by common accord, choose a President who shall be one of the persons included in the permanent list by any of the Governments which has no interest in the dispute.

In default of said common agreement, the President shall be designated by lot, but in this case each of the Parties shall have the right to challenge no more than two of the persons selected in the drawing.

Whenever there shall be more than two Governments, directly interested in a dispute and the interests of two or more of them be identical, the Government or Governments, which may be parties to the dispute, shall have the right to increase the number of their Commissioners from among the members of the permanent list nominated by said Government or Governments, as far as it may be necessary, so that both sides in the dispute may always have equal representation on the Commission.

In case of a tie, the President of the Commission shall have two votes.

If for any reason any one of the members appointed to form the Commission should fail to appear, the procedure for his replacement shall be the same as that followed for his appointment. While they may be members of a Commission of Inquiry, the Commissioners shall enjoy the immunities which the

laws of the country, where the Commission meets, may confer on members of the National Congress.

The diplomatic representatives of any of the Contracting Parties accredited to any of the Governments which may have an interest in the questions which it is desired to elucidate, shall not be members of a Commission.

ARTICLE V

The Commission shall be empowered to examine all the facts, antecedents, and circumstances relating to the question or questions which may be the object of the investigation, and when it renders its report it shall elucidate said facts, antecedents, and circumstances and shall have the right to recommend any solutions or adjustments which, in its opinion, may be pertinent, just and advisable.

ARTICLE VI

The findings of the Commission will be considered as reports upon the disputes, which were the objects of the investigation, but will not have the value or force of judicial decisions or arbitral awards.

ARTICLE VII

In the case of arbitration or complaint before the Tribunal created by a Convention signed by the five Republics of Central America, on the same date as this Convention,⁶ the reports of the Commission of Inquiry may be presented as evidence by any of the litigant Parties.

ARTICLE VIII

The Commission of Inquiry shall meet on the day and in the place designated in the respective protocol and failing this, in the place to be determined by the same Commission, and once installed it shall have the right to go to any localities which it shall deem proper for the discharge of its duties. The Contracting Parties pledge themselves to place at the disposal of the Commission, or of its agents, all the means and facilities necessary for the fulfilment of its mission.

ARTICLE IX

The signatory Governments grant to all the Commissions which may be constituted the power to summon and swear in witnesses and to receive evidence and testimony.

ARTICLE X

During the investigation the Parties shall be heard and may have the right to be represented by one or more agents and counsel.

⁶ For text, see *Conference on Central American Affairs, Washington, December 4, 1922-February 7, 1923* (U.S. Government Printing Office, 1923), p. 296.

ARTICLE XI

All members of the Commission shall take oath before the highest judicial authority of the place where it may meet, duly and faithfully to discharge their duties.

ARTICLE XII

The Inquiry shall be conducted so that both Parties must be heard. Consequently, the Commission shall notify each Party of the statements of fact submitted by the other, and shall fix periods of time in which to receive evidence.

Once the Parties are notified, the Commission shall proceed to the investigation, even though they fail to appear.

ARTICLE XIII

As soon as the Commission of Inquiry is organized, it shall, at the request of any of the Parties to the dispute, have the right to fix the status in which the Parties must remain, in order that the conditions may not be aggravated and matters may remain in the same state pending the rendering of the report by the Commission.

ARTICLE XIV

The report of the Commission shall be published within three months, to be reckoned from the date of its inauguration unless the Parties directly interested decrease or increase the time by mutual consent.

The report shall be signed by all the members of the Commission. Should one or more of them refuse to sign it, note shall be taken of the fact, and the report shall always be valid provided it obtains a majority vote.

In every case the vote of the minority, if any, shall be published with the report of the Commission.

One copy of the report of the Commission and of the vote of the minority, if any, shall be sent to each of the Ministries of Foreign Affairs of the Contracting Parties.

ARTICLE XV

Each Party shall bear its own expenses and a proportionate share of the general expenses of the Commission.

The President of the Commission shall receive a monthly compensation of not less than 500 dollars, American gold, in addition to his travelling expenses.

ARTICLE XVI

The present Convention, signed in one original, shall be deposited with the Government of the United States of America, which Government shall furnish to each of the other Signatory Governments an authenticated copy thereof. It shall be ratified by the President of the United States of America,

by and with the advice and consent of the Senate thereof, and by the Executive and Legislative Powers of the Republics of Guatemala, El Salvador, Honduras, Nicaragua, and Costa Rica, in conformity with their constitutions and laws.

The ratifications shall be deposited with the Government of the United States of America, which will furnish to each of the other Governments an authenticated copy of the procès verbal of the deposit of ratification. It shall take effect for the parties which ratify it immediately after the day on which at least three of the Contracting Governments deposit their ratifications with the Government of the United States of America. It will continue in force for a period of ten years, and shall remain in force thereafter for a period of twelve months from the date on which any one of the Contracting Governments shall have given notification to the others, in proper form, of its desire to denounce it.

The denunciation of this Convention by one or more of the said Contracting Parties shall leave it in force for the Parties which have ratified it but have not denounced it, provided that these be no less than three in number. Should any Central American States bound by this Convention form a single political entity, this Convention shall be considered in force as between the new entity and the Contracting Republics, which may have remained separate, provided that these be no less than two in number. Any of the Signatory Republics, which should fail to ratify this Convention, shall have the right to adhere to it while it is in force.

In witness whereof the above-named Plenipotentiaries have signed the present convention and affixed thereto their respective seals.

Done at the City of Washington, the seventh day of February, one thousand nine hundred and twenty-three.

[For the United States:]

CHARLES E. HUGHES [SEAL]
SUMNER WELLES [SEAL]

[For Guatemala:]

FRANCISCO SÁNCHEZ LATOUR [SEAL]

[For El Salvador:]

F. MARTÍNEZ SUÁREZ [SEAL]
J. GUSTAVO GUERRERO [SEAL]

[For Honduras:]

ALBERTO UCLÉS [SEAL]
SALVADOR CÓRDOVA [SEAL]
RAÚL TOLEDO LÓPEZ [SEAL]

[For Nicaragua:]

EMILIANO CHAMORRO [SEAL]
ADOLFO CÁRDENAS [SEAL]
MÁXIMO H. ZEPEDA [SEAL]

[For Costa Rica:]

ALFREDO GONZÁLEZ [SEAL]
J. RAFAEL OREAMUNO [SEAL]