

ARBITRATION OF CLAIMS

Convention signed at Caracas April 25, 1866

Senate advice and consent to ratification July 5, 1866

Ratified by the President of the United States August 8, 1866

Ratifications exchanged at Caracas April 17, 1867

Entered into force April 17, 1867

Proclaimed by the President of the United States May 29, 1867

*Commission adjourned August 3, 1868*¹

*Convention revived and modified by convention of December 5, 1885*²

18 Stat. 806; Treaty Series 370

The conclusion of a convention similar to those entered into with other republics, and by which the pending American claims upon Venezuela might be referred for decision to a mixed commission and an umpire, having been proposed to the Venezuelan Government on behalf of the United States of America, as a means of examining and justly terminating such claims; and it having been thought that the adoption of the contemplated course will secure at least some of the advantages attending arbitration, so strongly recommended in article the 112th of the Federal Constitution of Venezuela, while it will preserve unimpaired, as reciprocally desired, the good understanding of both nations: The Citizen First Vice-President in charge of the Presidency has accepted the above proposal, and authorized the Minister for Foreign Relations to negotiate and sign the proper convention. Thereupon said Minister and Mr. E. D. Culver, Minister Resident of the United States of America, also duly empowered for that purpose, have agreed upon the following articles of convention:

ARTICLE I

All claims on the part of corporations, companies, or individuals, citizens of the United States, upon the Government of Venezuela, which may have been presented to their Government, or to its legation in Caracas, shall be submitted for examination and decision to a mixed commission, consisting of two members, one of whom shall be appointed by the Government of the United States, and the other by that of Venezuela. In case of death, absence, resignation, or incapacity of either of the Commissioners, or in the event of either of them omitting or ceasing to act, the Government of the United

¹ The Mixed Commission met at Caracas Aug. 30, 1867, and adjourned Aug. 3, 1868, awarding claims totaling \$1,253,310.30 to the United States (II Malloy 1858).

² TS 371, *post*, p. 1085.

States or that of Venezuela, respectively, or the Minister of the United States in Caracas, by authority of his Government, shall forthwith proceed to fill the vacancy.

The Commissioners so named shall meet in the city of Caracas within four months from the exchange of the ratifications of this convention; and, before proceeding to business, they shall make solemn oath that they will carefully examine and impartially decide according to justice, and in compliance with the provisions of this convention, all claims submitted to them, and such oath shall be entered on the record of their proceedings.

The Commissioners shall then proceed to appoint an Umpire to decide upon any case or cases concerning which they may disagree, or upon any point of difference that may arise in the course of their proceedings. And if they cannot agree in the selection, the Umpire shall be named by the Diplomatic Representative either of Switzerland or of Russia, in Washington, on the previous invitation of the high contracting parties.

ARTICLE II

So soon as the Umpire shall have been appointed, the Commissioners shall proceed, without delay, to examine the claims which may be presented to them under this convention; and they shall, if required, hear one person in behalf of each Government on every separate claim. Each Government shall furnish, on request of either Commissioner, all such documents and papers in its possession, as may be deemed important to the just determination of any claim.

In cases where they agree to award an indemnity, they shall determine the amount to be paid, and issue certificates of the same. In cases when the Commissioners cannot agree, the points of difference shall be referred to the Umpire, before whom each of the Commissioners may be heard, and whose decision shall be final.

The Commissioners shall make such decision as they shall deem, in reference to such claims, conformable to justice, even though such decisions amount to an absolute denial of illegal pretensions, since the including of any such in this convention is not to be understood as working any prejudice in favor of any one, either as to principles of right or matters of fact.

ARTICLE III

The Commissioners shall issue certificates of the sums to be paid to the claimants, respectively, by virtue of their decisions or those of the Umpire, and the aggregate amount of all sums awarded by the Commissioners, and of all sums accruing from awards made by the Umpire, shall be paid to the Government of the United States. Payments of said sums shall be made in equal annual payments, to be completed within ten years from the date of the termination of the labor of the commission; the first payment to be made

six months from same date. Semi-annual interest shall be paid on the several sums awarded, at a rate of five per cent. per annum from the date of the termination of the labors of the commission.

ARTICLE IV

The commission shall terminate its labors in twelve months from the date of its organization, except that thirty days' extension may be given to issue certificates, if necessary, on the decisions of the Umpire in the case referred to in the following article. They shall keep a record of their proceedings, and may appoint a secretary.

ARTICLE V

The decisions of this commission and those (in case there may be any) of the Umpire, shall be final and conclusive as to all pending claims at the date of their installation. Claims which shall not be presented within the twelve months herein prescribed will be disregarded by both Governments, and considered invalid.

In the event that, upon the termination of the labors of said commission, there should remain pending one or more cases before the Umpire awaiting his decision, the said Umpire is authorized to make his decision and transmit same to the Commissioners, who shall issue their certificates thereupon and communicate [them] to each Government, which shall be held binding and conclusive; provided, however, that his decision shall be given within thirty days from the termination of the labors of the commission, and after the expiration of the said thirty days any decision made shall be void and of no effect.

ARTICLE VI

Each Government shall pay its own Commissioner, and shall pay one-half of what may [be] due the Umpire and secretary, and one-half the incidental expenses of the commission.

ARTICLE VII

The present convention shall be ratified, and the ratifications exchanged, so soon as may be practicable, in the city of Caracas.

In testimony whereof the Plenipotentiaries have signed this convention, and hereunto affixed the seals of the Ministry of Foreign Relations of the United States of Venezuela, and of the Legation of the United States of America, in Caracas, this twenty-fifth day of April, in the year one thousand eight hundred and sixty-six.

The Minister Resident of the United States of America

E. D. CULVER [SEAL]

The Minister of Foreign Relations of the United States of Venezuela

RAFAEL SEIJAS [SEAL]