

ARBITRATION OF CLAIM OF GEORGE C. BENNER, ET AL.

*Protocol signed at Rio de Janeiro September 6, 1902*¹

Treaty Series 413

PROTOCOL OF AN AGREEMENT SUBMITTING TO ARBITRATION THE CLAIM OF GEORGE C. BENNER, ET AL., AGAINST THE REPUBLIC OF THE UNITED STATES OF BRAZIL

The Secretary of State of the United States of America and the Envoy Extraordinary and Minister Plenipotentiary of the Republic of the United States of Brazil having agreed to submit to arbitration the claim of George C. Benner and others against the Republic of the United States of Brazil;

The United States of America and the Republic of the United States of Brazil, through their representatives, Charles Page Bryan, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Brazil, and Doctor Olyntho Maximo de Magalhães, Minister of State for Foreign Relations of the Republic of the United States of Brazil, have agreed upon and signed the following protocol:

Whereas the owners of the vessel, "James A. Simpson", citizens of the United States of America, have claimed through the Government of the United States of America from the Government of the Republic of the United States of Brazil indemnity on account of the damage inflicted upon the said vessel and her long boat by the firing of the soldiers of the Government of the Republic of the United States of Brazil and for the damage caused by the detention of the said vessel at the port of Rio de Janeiro, Brazil, it is agreed between the two Governments:

I

That the question of the liability of the Republic of the United States of Brazil to pay an indemnity in said case, and, if so found by the Arbitrator, the further question of the amount of said indemnity to be awarded and the questions of law and fact brought in issue, shall be referred to Mr. A. Grip, Envoy Extraordinary and Minister Plenipotentiary of Sweden and Norway at Washington, who is hereby appointed as Arbitrator to hear said causes and to determine the question of said liability and the amount of indemnity, if any, found by said Arbitrator to be justly due.

¹ When claimants failed to produce evidence to establish substantial damages claimed in the memorial, the United States withdrew from the arbitration of the case with the understanding that the claim would not be presented to Brazil again.

II

The Government of the United States of America will lay before the Arbitrator the claimant's evidence and all correspondence between the Government of the Republic of the United States of Brazil and the Minister of the United States of America at Petropolis, Brazil, and the dispatches from the said Minister reporting documentary evidence to the Department of State in relation to the said claim.

All questions of procedure shall be left to the determination of the Arbitrator.

III

The Government of the Republic of the United States of Brazil agrees to pay, in American gold, any amount which may be awarded by the Arbitrator, if he finds that it is liable therefor.

IV

The evidence is to be submitted to the Arbitrator on or before the first day of December, 1902, and his decision is to be rendered within three months thereafter.

V

Each Government may furnish the Arbitrator an argument or brief not later than the fifteenth day of January, 1903, a copy of which each party shall furnish to the other at the same time as to the Arbitrator.

VI

The Government of the Republic of the United States of Brazil shall pay the indemnity awarded by the Arbitrator, if any, within twelve months from the date of the award, unless an extension of the time of its payment should be granted by the Government of the United States of America.

VII

All the expenses of said arbitration are to be paid in equal moities by the said Governments.

VIII

Any award given by the Arbitrator shall be final and conclusive.

Done in duplicate in English and Portuguese at Rio de Janeiro this sixth day of September 1902.

CHARLES PAGE BRYAN [SEAL]

OLYNTHO MAXIMO DE MAGALHÃES [SEAL]