

SETTLEMENT OF CLAIMS

Convention signed at San José July 2, 1860

Senate advice and consent to ratification January 16, 1861

Ratified by Costa Rica January 16, 1861

*Senate advice and consent to exchange of ratifications March 12, 1861*¹

Ratified by the President of the United States November 7, 1861

Ratifications exchanged at Washington November 9, 1861

Entered into force November 9, 1861

Proclaimed by the President of the United States November 11, 1861

Terminated in March 1873 upon final payment of awards

12 Stat. 1135; Treaty Series 63²

The United States of America and the Republic of Costa Rica, desiring to adjust the claims of citizens of said States, against Costa Rica, in such a manner as to cement the good understanding and friendly relations now happily subsisting between the two Republics, have resolved to settle such claims by means of a Convention; and, for that purpose, appointed and conferred full powers, respectively, to wit:

The President of the United States on Alexander Dimitry, Minister Resident of said United States in the Republic of Costa Rica, and His Excellency, the Constitutional President of said Republic of Costa Rica, on Manuel José Carazo and Francisco Maria Iglesias, who, upon an exchange of their plenary powers, which were found in good and proper form, have agreed to the following Articles:

ARTICLE I

It is agreed that all claims of Citizens of the United States upon the government of Costa Rica, arising from injuries to their persons, or damages to their property, under any form whatsoever, through the action of Authorities of the Republic of Costa Rica, statements of which, soliciting the interposition of the government of the United States, have been presented to the Department of State at Washington, or to the diplomatic agents of said United

¹ On Mar. 12, 1861, the Senate gave its advice and consent to exchange of ratifications at "such time as may be convenient to the Plenipotentiaries of the respective parties thereto, the limitations contained in the ninth Article thereof to the contrary notwithstanding."

² For a detailed study of this convention, see 8 Miller 469.

States at San José of Costa Rica, up to the date of the signature of this Convention, shall, together with the documents in proof, on which they may be founded, be referred to a Board of Commissioners, consisting of two members, who shall be appointed in the following manner: one, by the government of the United States of America, and one by the government of the Republic of Costa Rica:— *Provided*, however, that no claim of any citizen of the United States, who may be proved to have been a belligerent during the occupation of Nicaragua by the troops of Costa Rica, or the exercise of authority, by the latter, within the territory of the former, shall be considered as one proper for the action of the Board of Commissioners herein provided for.

In case of the death, absence, or incapacity, of either Commissioner, or in the event of either Commissioner's omitting, or ceasing, to act; the government of the United States of America, or that of the Republic of Costa Rica, respectively, or the Minister of the latter, in the United States, acting by its direction, shall forthwith proceed to fill the vacancy thus occasioned.

ARTICLE II

The Commissioners, so named, shall meet at the City of Washington, within ninety days from the exchange of the ratifications of this Convention; and before proceeding to business, they shall, each of them, exhibit a solemn oath, made and subscribed before a competent authority, that they will carefully examine into, and impartially decide, according to the principles of justice and of equity, and to the stipulations of treaty, upon all the claims laid before them, under the provisions of this Convention, by the government of the United States, and in accordance with such evidence as shall be submitted to them on the part of said United States and of the Republic of Costa Rica, respectively. And their oath to such effect shall be entered upon the record of their proceedings.

Said Commissioners shall then proceed to name an Arbitrator, or Umpire, to decide upon any case or cases, concerning which they may disagree, or upon any point or points of difference, which may arise in the course of their proceedings. And if they cannot agree in the selection, the Arbitrator or Umpire shall be appointed by the Minister of His Majesty the King of the Belgians, to the United States, whom the two high contracting parties shall invite to make such appointment, and whose selection shall be conclusive on both parties.

ARTICLE III

The Arbitrator, or Umpire, being appointed, the Commissioners shall, without delay, proceed to examine and determine the claims which may be presented to them, under the provisions of this Convention, by the government of the United States, as stated in the preceding Article; and they shall

hear, if required, one person in behalf of each government, on every separate claim.

Each government shall furnish, upon request of either of the Commissioners, such papers in its possession as may be deemed important to the just determination of any claims of citizens of the United States, referred to the Board, under the provisions of the First Article.

In cases,—whether touching injuries to the person, limb or life of any said citizens, or damages committed, as stipulated, in the First Article, against their property,—in which the Commissioners may agree to award an indemnity, they shall determine the amount to be paid. In cases, in which said Commissioners cannot agree, the points of difference shall be referred to the Arbitrator, or Umpire, before whom each of the Commissioners may be heard, and his decision shall be final.

ARTICLE IV

The Commissioners shall issue certificates of the sums to be paid to the claimants, respectively, whether by virtue of the awards agreed to between themselves, or of those made by them, in pursuance of decisions of the Arbitrator, or Umpire; and the aggregate amount of said sums, decreed by the certificates of award, made by the Commissioners, in either manner above indicated, and of the Sums also accruing from Such certificates of award as the Arbitrator, or Umpire, may, under the authority hereinafter conferred by the Seventh Article, have made and issued, with the rate of interest stipulated in the present Article, in favor of any claimant, or claimants, shall be paid to the government of the United States, in the City of Washington, in equal semi-annual instalments. It is, however, hereby agreed, by the contracting parties, that the payment of the first instalment shall be made eight months from the termination of the labors of the Commission; and, after such first payment, the second, and each succeeding, one shall be made semi-annually, counting from the date of the first payment; and the whole payment of such aggregate amount, or amounts, shall be perfected within the term of ten years from the termination of said Commission; and each of said Sums shall bear interest (also payable semi-annually) at the rate of six per cent. per annum from the day, on which the awards, respectively, will have been decreed.

To meet these payments, the government of the Republic of Costa Rica hereby specially appropriates fifty per cent. of the net proceeds of the revenues, arising from the Customs of the said Republic; but if such appropriation should prove insufficient to make the payments as above stipulated, the government of said Republic binds itself to provide other means for that purpose.

ARTICLE V

The Commission herein provided shall terminate its labors in nine months from, and including, the day of its organization. They shall keep an accurate record of all their proceedings, and they may appoint a Secretary, versed in the Knowledge of the English and of the Spanish languages, to assist in the transaction of their business. And, for the conduct of such business, they are hereby authorized to make all necessary and lawful rules.

ARTICLE VI

The proceedings of this Commission shall be final and conclusive with respect to all the claims of citizens of the United States, which, having accrued prior to the date of this Convention, may be brought before it for adjustment; and the United States agree for ever to release the government of the Republic of Costa Rica, from any farther accountability for claims, which shall be rejected, either by the board of Commissioners, or by the Arbitrator, or Umpire aforesaid; or for such as, being allowed by either the Board or the Umpire, the government of Costa Rica shall have provided for and satisfied in the manner agreed upon in the Fourth Article.

ARTICLE VII

In the event, however, that upon the termination of the labors of said Commission stipulated for in the Fifth Article of this Convention, any case, or cases, should be pending before the Umpire and awaiting his decision; it is hereby understood and agreed, by the two contracting parties, that, though the Board of Commissioners may, by such limitation, have terminated their action, said Umpire is hereby authorized and empowered to proceed to make his decision, or award, in such case, or cases, pending as aforesaid; and upon his certificate thereof, in each case, transmitted to each of the two governments, mentioning the amount of indemnity, if such shall have been allowed by him—together with the rate of interest specified by the Fourth Article—such decision or award shall be taken and held to be binding and conclusive, and it shall work the same effect as though it had been made by both the Commissioners under their own agreement, or by them upon decision of the case, or of the cases, respectively, pronounced by the Umpire of said Board, during the period prescribed for its sessions: *Provided*, however, that a decision on every case, that may be pending at the termination of the labors of the Board, shall be given by the Umpire within sixty days from their final adjournment; and that, at the expiration of the said sixty days, the authority and power, hereby granted to said Umpire, shall cease.

ARTICLE VIII

Each government shall pay its own Commissioner; but the Umpire, as well as the incidental expenses of the Commission, including the defrayal of the

services of a Secretary, who may be appointed under the Fifth Article, shall be paid one-half by the United States and the other half by the Republic of Costa Rica.

ARTICLE IX

The present Convention shall be approved and ratified by the President of the United States of America, by and with the advice and consent of the Senate of the said States; and by the President of the Republic of Costa Rica with the consent and approbation of the Supreme Legislative Power of said Republic; and the ratifications shall be exchanged in the City of Washington within the space of eight months from the date of the signature hereof, or sooner if possible.³

In faith whereof, and by virtue of our respective full powers, we, the Undersigned, have signed the present Convention, in duplicate, and have hereunto affixed our seals.

Done at the City of San José, on the second day of July, in the year one thousand, eight hundred and sixty; and in the eighty-fourth year of the independence of the United States of America, and of the independence of Costa Rica the thirty-ninth.

ALEX ^r DIMITRY	[SEAL]
MANUEL J. CARAZO	[SEAL]
FRAN ^{co} M. IGLESIAS	[SEAL]

³ See footnote 1, p. 1019.