BERING SEA ARBITRATION

Agreements signed at Washington December 18, 1891
Entered into force December 18, 1891
Expired May 7, 1892, upon entry into force of convention of February 29, 1892 [1]

I Malloy 744; Treaty Series 140–2

ARTICLES FOR INSERTION IN ARBITRATION AGREEMENT

The following is the text of Articles for insertion in the Behring Sea Arbitration Agreement as settled in the Diplomatic Correspondence between the Government of the United States and the Government of Great Britain:

I

What exclusive jurisdiction in the sea now known as the Behring's Sea, and what exclusive rights in the seal fisheries therein, did Russia assert and exercise prior and up to the time of the cession of Alaska to the United States?

II

How far were these claims of jurisdiction as to the seal fisheries recognized and conceded by Great Britain?

III

Was the body of water now known as the Behring's Sea included in the phrase "Pacific Ocean", as used in the Treaty of 1825 between Great Britain and Russia; [2] and what rights, if any, in the Behring's Sea were held and exclusively exercised by Russia after said Treaty?

IV

Did not all the rights of Russia as to jurisdiction, and as to the seal fisheries in Behring's Sea east of the water boundary, in the Treaty between the United States and Russia of the 30th March, 1867,[3] pass unimpaired to the United States under that Treaty?

[1] TS 140–1, *post*, p. 220.
[2] *British and Foreign State Papers*, vol. 12, p. 38.
[3] TS 301, *ante*, vol. 11, p. 1216, UNION OF SOVIET SOCIALIST REPUBLICS.

V

Has the United States any right, and, if so, what right of protection or property in the fur seals frequenting the islands of the United States in Behring Sea when such seals are found outside the ordinary three-mile limit?

VI

If the determination of the foregoing questions as to the exclusive jurisdiction of the United States shall leave the subject in such position that the concurrence of Great Britain is necessary to the establishment of Regulations for the proper protection and preservation of the fur seal in, or habitually resorting to, the Behring's Sea, the Arbitrators shall then determine what concurrent Regulations outside the jurisdictional limits of the respective Governments are necessary, and over what waters such Regulations should extend, and to aid them in that determination the report of a Joint Commission to be appointed by the respective Governments shall be laid before them, with such other evidence as either Government may submit.

The Contracting Powers furthermore agree to co-operate in securing the adhesion of other Powers to such Regulations.

VII

The respective Governments having found themselves unable to agree upon a reference which shall include the question of the liability of each for the injuries alleged to have been sustained by the other, or by its citizens, in connection with the claims presented and urged by it; and, being solicitous that this subordinate question should not interrupt or longer delay the submission and determination of the main questions, do agree that either may submit to the Arbitrators any question of fact involved in said claims and ask for a finding thereon, the question of the liability of either Government upon the facts found to be the subject of further negotiation.

JAMES G. BLAINE	*18 December 1891*
JULIAN PAUNCEFOTE	*18 Dec. 1891*

JOINT COMMISSION AGREEMENT

The following is the text of the Behring's Sea Joint Commission Agreement as settled in the Diplomatic Correspondence between the Government of the United States and the Government of Great Britain:

Each Government shall appoint two Commissioners to investigate conjointly with the Commissioners of the other Government all the facts having relation to seal life in Behring's Sea, and the measures necessary for its proper protection and preservation.

The four Commissioners shall, so far as they may be able to agree, make a joint report to each of the two Governments, and they shall also report, either jointly or severally, to each Government on any points upon which they may be unable to agree.

These reports shall not be made public until they shall be submitted to the Arbitrators, or it shall appear that the contingency of their being used by the Arbitrators cannot arise.

JAMES G. BLAINE	*18 December 1891*
JULIAN PAUNCEFOTE	*18 Dec. 1891*