

## CLAIMS: THE CASE OF ROBERT H. MAY

*Protocol of an agreement signed at Washington February 23, 1900*

*Entered into force February 23, 1900*

*Supplemented by protocol of May 10, 1900*<sup>1</sup>

*Terminated upon fulfillment of its terms*<sup>2</sup>

1900 For. Rel. 656; Treaty Series 150

PROTOCOL OF AN AGREEMENT BETWEEN THE SECRETARY OF STATE OF THE UNITED STATES OF AMERICA AND ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY OF THE REPUBLIC OF GUATEMALA FOR SUBMISSION TO AN ARBITRATOR OF THE CLAIM OF ROBERT H. MAY AGAINST THE REPUBLIC OF GUATEMALA AND OF THE CLAIM OF THE REPUBLIC OF GUATEMALA AGAINST SAID MAY.

The United States of America and the Republic of Guatemala, through their representatives, John Hay, Secretary of State of the United States of America, and Antonio Lazo Arriaga, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Guatemala, have agreed upon and signed the following protocol.

Whereas, the United States of America, on behalf of Robert H. May, has claimed indemnity from the Government of Guatemala for a debt alleged to be due him from that Government under certain contracts between him and that Government in connection with the Guatemala Northern Railroad and for damages alleged to have been caused him by that Government, its civil or military authorities in connection therewith; and the Government of Guatemala denies any liability therefor; and

Whereas, the Government of Guatemala has claimed that said May is indebted to it both on account of said contracts and of damages caused by his alleged unlawful acts or those of his agents or employees acting by his authority; and said May, to secure his faithful performance of said contract, has delivered to said Government a promissory note, signed by certain third parties for \$40,120.79; and the Government of the United States denies any liability on May's part to said Government of Guatemala on account of said claims;

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<sup>1</sup> TS 151, *post*, p. 476.

<sup>2</sup> The arbitrator returned an award in favor of the claimant on Nov. 16, 1900 (TS 152); for text, see 1900 For. Rel. 659.

It is therefore agreed between the two Governments, with the consent of said May and of his attorney of record :

#### I

That the questions of law and fact brought in issue between the two Governments in respect of their claims shall be referred to the decision of Mr. George Francis Birt Jenner Her Britannic Majesty's Minister Resident and Consul General to the Republics of Guatemala, Honduras, Nicaragua, Costa-Rica and Salvador, whose award shall be final and conclusive.

#### II

That within thirty days from the date of the signing of this protocol, each party shall furnish to the other and to the arbitrator a copy of the memorial on which its own claim is based; and within ninety days after such signing each Government shall furnish to the other and to the arbitrator copies of all the documents, papers, accounts, official correspondence and other evidence on file at their respective Foreign Offices relating to these claims, and of all affidavits of their respective witnesses relating thereto: Provided, that said arbitrator may request either Government to furnish such additional proof as he may deem necessary in the interests of justice, and each Government agrees to comply with said request as far as possible; but he shall not for such purpose delay his decision.

#### III

That each Government by its counsel, and said May by his attorney, may severally submit to said arbitrator an argument in writing touching the questions involved within sixty days from the date limited for the submission of the evidence; but the arbitrator shall not for such purpose nor in any event delay his decision beyond four months from the date of the submission to him of the evidence aforesaid.

#### IV

It shall be the duty of said arbitrator to decide both cases upon such evidence as may have been filed before him and solely upon the issues of law and fact presented by the claim and counterclaim and upon the consideration of said entire controversy, he shall render an award in favor of the party entitled thereto; which shall not exceed the amount claimed by said party as shown by the evidence, and interest thereon from the time said sums were due until the date of the award, and said award shall bear six per cent interest from said date until paid.

#### V

The award shall be payable in American gold, and in case said award shall be against said May, said Government of Guatemala may retain the afore-

said note as security and collect it for the payment of said award, which said May agrees to pay within six months from the date of the award, the Government of the United States being in nowise responsible for the payment thereof. In case said award shall be against said Government of Guatemala, then said Government shall surrender to May said note. Said Government shall pay the indemnity awarded against it by the arbitrator, if any, as soon as the Legislative Assembly of Guatemala shall authorize the payment; but the time thus allowed shall in no case exceed six months from the day the decision is rendered, unless an extension of the time of its payment should be granted by the Government of the United States.

#### VI

Reasonable compensation to the arbitrator for all his services and expenses, is to be paid in equal moieties by the said Governments.

#### VII

This protocol shall be submitted for approval and ratification on the part of Guatemala, to its Legislative Assembly. When so approved and ratified the Government of Guatemala will promptly notify the Government of the United States thereof. Unless so approved and ratified and said notice given by April 1, 1900, this protocol shall be deemed null and void.

Done in duplicate in English and Spanish at Washington this 23d day of February, 1900.

JOHN HAY  
ANTO. LAZO ARRIAGA