

MIXED CLAIMS COMMISSION

*Exchange of notes at Washington, December 31, 1928, extending agreement of August 10, 1922*¹

Entered into force December 31, 1928

45 Stat. 2698; Treaty Series 766

The Secretary of State to the German Ambassador

DEPARTMENT OF STATE
Washington, December 31, 1928

EXCELLENCY :

I have the honor to refer to your note of November 26, 1928, regarding the concluding of an agreement between the United States and Germany for the extension of the jurisdiction of the Mixed Claims Commission, United States and Germany, to include claims of the same character as those of which the Commission now has jurisdiction under the agreement between the two Governments signed August 10, 1922,² which were not filed in time to be submitted to the Commission under the terms of the notes exchanged at the time of signing that agreement but which were filed with the Department of State prior to July 1, 1928.

You state that your Government is prepared to do its share to bring about a settlement of these so-called late claims, but that it considers that the preparation and adjudication of the claims should be governed by the same legal principles as have so far been applied in the proceedings of the Mixed Claims Commission, and that means should be found by which a prompt and speedy preparation and adjudication of the claims involved may be fully guaranteed. Your Government suggests that as an appropriate means to this end, fixed and final terms should be agreed upon for the filing of claims and defense material, including the necessary evidence, and that a requirement should be made that all claims to be adjudicated by the Commission should be presented for judgment within a fixed period of time. You add that, owing to the fact that the adjudication of the late claims will necessitate the continuance of the expensive machinery of the Mixed Claims Commission for some months, which would not otherwise be necessary or which would not have been necessary to the same extent if the claims had been

¹ See footnote 1, *ante*, p. 149.

² TS 665, *ante*, p. 149.

presented within the time prescribed by the agreement of August 10, 1922, your Government considers that the claimants for whom a remedy will thus be afforded should participate to an appropriate extent in the expenses which will result from the prolongation of the life of the Commission. This, you suggest, might be accomplished by the collection of a fee for the final filing of each claim, thus eliminating to the greatest possible extent claims which are unfounded or which are presented in unjustified amounts, and an additional fee for preparing and adjudicating the claim.

I desire to express my appreciation of the willingness of your Government to cooperate with my Government in an effort to complete the adjudication of the claims defined above. My Government, equally with your Government, is anxious that the work of the Mixed Claims Commission should be completed at the earliest date practicable and will use its best endeavors to that end. With respect to your suggestion that the claimants who will be benefited by an extension of time for the presentation of so-called late claims should share to an appropriate extent the additional expense incident to the prolongation of the labors of the Mixed Claims Commission, my Government considers that it would not be feasible to require the deposit of a fee as a condition precedent to the adjudication of the claims. In an effort, however, to meet the views of your Government that it should be relieved of this additional expense, the President would be willing to recommend to the Congress that the one-half of one per cent which the Secretary of the Treasury is authorized by the "Settlement of War Claims Act of 1928"³ to deduct from awards made by the Mixed Claims Commission before payment thereof to the claimants as reimbursement for the expenses of the United States incident to the adjudication of the claims, shall, in so far as regards the late claims, be made available to your Government for defraying such expenses as may be incurred by your Government in connection with the adjudication of such late claims. I, therefore, suggest the following as the terms of the agreement between the two Governments:

(1) That all the late claims of American nationals against Germany, notice of which was filed with the Department of State prior to July 1, 1928, of the character of which the Mixed Claims Commission, United States and Germany, now has jurisdiction under the claims agreement concluded between the United States and Germany on August 10, 1922, shall be presented to the Commission with the supporting evidence within six calendar months from the first day of February, 1929;

(2) That the answer of the German Government to each claim presented shall, together with supporting evidence, be filed with the Commission within six calendar months from the date on which the claim is presented to the Commission, as provided for in paragraph 1;

³ 45 Stat. 254.

(3) That the subsequent progress of the claims before the Commission, including the submission of additional evidence and the filing of briefs, shall be governed by rules prescribed by the Commission, it being understood that both Governments are equally desirous of expediting the completion of the work of the Commission;

(4) That the preparation and adjudication of the claims shall be governed by the same legal principles as have so far been applied in the proceedings before the Mixed Claims Commission;

(5) That the President will recommend to the Congress that the one-half of one per cent. which the Secretary of the Treasury is authorized by the "Settlement of War Claims Act of 1928" to deduct from awards made by the Mixed Claims Commission before payment thereof to the claimants for application to the expenses of the United States incident to the adjudication of the claims, shall, in so far as regards the late claims, be made available to the German Government for defraying such expenses as may be incurred by that Government in connection with the adjudication of such late claims.

Upon the receipt from you of a note expressing the concurrence of your Government in the conditions outlined in paragraphs 1 to 5 inclusive, the agreement contemplated by paragraph (j) of Section 2 of the "Settlement of War Claims Act of 1928" will be regarded as consummated.

Accept, Excellency, the renewed assurances of my highest consideration.

FRANK B. KELLOGG

His Excellency

HERT FRIEDRICH WILHELM VON PRITTWITZ UND GAFFRON
Ambassador of Germany

The German Ambassador to the Secretary of State

[TRANSLATION]

GERMAN EMBASSY
Washington, D.C., December 31, 1928

MR. SECRETARY OF STATE:

I have the honor to acknowledge receipt of Your Excellency's note of December 31, 1928, with reference to the adjudication of the late claims before the Mixed Claims Commission, United States and Germany.

In reply thereto I beg to express to Your Excellency the concurrence of my Government in the proposals for adjusting this matter, as outlined in paragraphs 1 to 5 inclusive of Your Excellency's note, and to inform you that my Government considers the agreement contemplated by subsection (j)

of Section 2 of the "Settlement of War Claims Act of 1928" as thus consummated.

Accept, Excellency, the renewed assurance of my highest consideration.

F. W. v. PRITTWITZ

His Excellency

The Secretary of State
of the United States

Mr. FRANK B. KELLOGG
Washington, D.C.