

ADJUSTMENT OF CLAIMS

Convention signed at Guayaquil November 25, 1862

Senate advice and consent to ratification January 28, 1863

Ratified by the President of the United States February 13, 1863

Ratified by Ecuador July 26, 1864

Ratifications exchanged at Quito July 27, 1864

Entered into force July 27, 1864

Proclaimed by the President of the United States September 8, 1864

Terminated in March 1874 upon payment of claim

13 Stat. 631; Treaty Series 77¹

The United States of America and the Republic of Ecuador desiring to adjust the Claims of citizens of said States against Ecuador, and of citizens of Ecuador against the United States, have, for that purpose, appointed, and conferred full powers respectively, to wit: The President of the United States on Frederick Hassaurek, Minister Resident of the United States in Ecuador, and the President of Ecuador on Juan José Flores, General-in-Chief of the armies of the Republic, who, after exchanging their full powers, which were found in good and proper form, have agreed on the following articles:

ARTICLE 1st

All claims on the part of Corporations, Companies, or individuals, citizens of the United States upon the Government of Ecuador, or of Corporations, Companies or individuals, citizens of Ecuador, upon the Government of the United States, shall be referred to a board of Commissioners consisting of two members one of whom shall be appointed by the Government of the United States, and one by the Government of Ecuador. In case of death, absence, resignation, or incapacity of either Commissioner, or in the event of either Commissioner omitting or ceasing to act the Government of the United States, or that of Ecuador respectively, or the Minister of the United States in Ecuador, in the name of his Government, shall forthwith proceed to fill the vacancy thus occasioned. The Commissioners so named shall meet in the City of Guayaquil, within ninety days from the exchange of the ratifications of this Convention; and before proceeding to business, shall make

¹ For a detailed study of this convention, see 8 Miller 869.

solemn oath that they will carefully examine, and impartially decide, according to justice, and in compliance with the provisions of this Convention, all Claims that shall be submitted to them; and such oath shall be entered on the record of their proceedings.

The 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 of difference which may arise in the course of their proceedings. And if they cannot agree in the selection, the umpire shall be appointed by Her Britannic Majesty's Chargé d'Affaires, or (excepting the Minister Resident of the United States) by any other Diplomatic Agent in Quito whom the two high contracting parties shall invite to make such appointment.

ARTICLE 2^d

The arbitrator or umpire being appointed the Commissioners shall, without delay, proceed to examine the claims which may be presented to them by either of the two Governments; 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 commissioner, such papers, in its possession, as may be deemed important to the just determination of any claim or claims.

In cases where they 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 umpire before whom each of the Commissioners may be heard, and whose decision shall be final.

ARTICLE 3^d

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 the umpire; and the aggregate amount of all sums decreed by the Commissioners, and of all sums accruing from awards made by the Umpire under the authority conferred by the fifth Article, shall be paid to the Government to which the respective claimants belong. Payment of said sums shall be made in equal annual instalments to be completed within nine years from the date of the termination of the labors of the Commission; the first payment to be made six months after the same date. To meet these payments both Governments pledge the revenues of their respective nations.

ARTICLE 4th

The Commission shall terminate its labors in twelve months from the date of its organization. They shall keep a record of their proceedings and may appoint a Secretary versed in the knowledge of the English and Spanish languages.

ARTICLE 5th

The proceedings of this Commission shall be final and conclusive with respect to all pending claims. Claims which shall not be presented to the Commission within the twelve months it remains in existence, will be disregarded by both Governments and considered invalid. In the event that, upon the termination of the labors of said Commission, any case or cases should be pending before the Umpire, and awaiting his decision, said umpire is hereby authorised to make his decision or award in such case or cases, and his certificate thereof, in each case, transmitted to each of the two Governments, shall be held to be binding and conclusive; provided, however that his decision shall be given within thirty days from the termination of the labors of the Commission, at the expiration of which thirty days his power and authority shall cease.

ARTICLE 6th

Each Government shall pay its own Commissioner; but the umpire as well as the incidental expenses of the commission shall be paid one half by the United States and the other half by Ecuador.

ARTICLE 7th

The present Convention shall be ratified, and the ratifications exchanged in the City of Quito.

In faith whereof we, the respective Plenipotentiaries, have signed this Convention and hereunto affixed our Seals in the City of Guayaquil this twenty fifth day of November, in the year of our Lord 1862.

F. HASSAUREK	[SEAL]
JUAN JOSÉ FLORES	[SEAL]