

SETTLEMENT OF CLAIMS

Convention signed at Lima January 12, 1863

*Senate advice and consent to ratification, with an amendment, February 18, 1863*¹

*Ratified by the President of the United States, with an amendment, February 24, 1863*¹

Ratified by Peru April 15, 1863

Ratifications exchanged at Lima April 18, 1863

Entered into force April 18, 1863

Proclaimed by the President of the United States May 19, 1863

*Terminated November 27, 1863*²

Treaty Series 280³

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF PERU FOR THE SETTLEMENT OF THE PENDING CLAIMS OF THE CITIZENS OF EITHER COUNTRY AGAINST THE OTHER

The United States of America and the Republic of Peru, desiring to settle and adjust amicably the claims which have been made by the citizens of each country against the Government of the other, have agreed to make arrangements for that purpose by means of a Convention, and have named as their Plenipotentiaries to confer and agree thereupon as follows: The President of

¹ In the convention as signed the opening phrase of art. I reads as follows:

"The claims of the American citizens, Dr. Charles Easton, Edmund W. Sartori and the owners of the Whale ship William Lee, against the Government of Peru, and the Peruvian citizen Stephen Montano, against the Government of the United States, shall be referred to a mixed commission, composed of four members appointed as follows:"

The U.S. amendment called for substitution of the following wording:

"All claims of citizens of the United States against the Government of Peru, and of citizens of Peru against the Government of the United States, which have not been embraced in conventional or diplomatic agreement between the two Governments or their Plenipotentiaries, and statements of which, soliciting the interposition of either government, may, previously to the exchange of the ratifications of this convention, have been filed in the Department of State at Washington, or the Department of Foreign Affairs at Lima, shall be referred to a mixed commission composed of four members, appointed as follows:"

The text printed here is the amended text as proclaimed by the President.

² For final report of Commission, see Moore, *International Arbitrations*, vol. II, p. 1620.

³ For a detailed study of this convention, see 8 Miller 915.

the United States Christopher Robinson, Envoy Extraordinary and Minister Plenipotentiary of said States to Peru, and the President of Peru Don José Gregorio Paz Soldan, the Minister of Foreign Relations and President of the Council of Ministers, who, after having communicated to each other their respective full powers, found to be in due and proper form, have agreed as follows:

ARTICLE I⁴

All claims of citizens of the United States against the Government of Peru, and of citizens of Peru against the Government of the United States, which have not been embraced in conventional or diplomatic agreement between the two Governments or their Plenipotentiaries, and statements of which, soliciting the interposition of either government, may, previously to the exchange of the ratifications of this convention, have been filed in the Department of State at Washington, or the Department of Foreign Affairs at Lima, shall be referred to a mixed commission composed of four members, appointed as follows: Two by the Government of the United States and two by the Government of Peru. In case of the death, absence, or incapacity of either commissioner, or in the event of either commissioner ceasing to act, the Government of the United States, or its Envoy Extraordinary and Minister Plenipotentiary in Peru, acting under its direction, or that of the Republic of Peru, shall forthwith proceed to fill the vacancy thus occasioned.

ARTICLE II

The commissioners so named shall immediately after their organization, and before proceeding to any other business, proceed to name a fifth person to act as an arbitrator or umpire in any case or cases in which they may themselves differ in opinion.

ARTICLE III

The commissioners appointed as aforesaid shall meet in Lima within three months after the exchange of the ratifications of this Convention; and each one of the commissioners, before proceeding to any business, shall take an oath, made and subscribed before the most Excellent Supreme Court, that they will carefully examine and impartially decide, according to the principles of justice and equity, the principles of international law and treaty stipulations, upon all the claims laid before them under the provisions of this Convention, and in accordance with the evidence submitted on the part of either Government. A similar oath shall be taken and subscribed by the person selected by the commissioners as arbitrator or umpire, and said oaths shall be entered upon the record of the proceedings of said commission.

⁴ For a U.S. amendment to art. I, see footnote 1, p. 1030.

ARTICLE IV

The arbitrator or umpire being appointed, the commissioners shall, without delay, proceed to examine and determine the claims specified in the first article, and shall hear, if required, one person in behalf of each Government on each separate claim. Each Government shall furnish, at the request of either of the commissioners, the papers in its possession which may be important to the just determination of any of the claims referred.

ARTICLE V

From the decision of the commissioners there shall be no appeal; and the agreement of three of them shall give full force and effect to their decisions as well with respect to the justice of their claims as to the amount of indemnification that may be adjudged to the claimants, and in case the commissioners cannot agree, the points of difference shall be referred to the arbitrator or umpire, before whom the commissioners may be heard, and his decision shall be final.

ARTICLE VI

The decision of the mixed commission shall be executed without appeal by each of the contracting parties, and it shall be the duty of the commissioners to report to the respective Governments the result of their proceedings; and if the decision of said commissioners require the payment of indemnities to any of the claimants, the sums determined by the said commissioners shall be paid by the Government against which they are awarded within one month after said Government shall have received the report of said commissioners; and for any delay in the payment of the sum awarded after the expiration of said month, the sum of six per cent. interest shall be paid during such time as said delay shall continue.

ARTICLE VII

For the purpose of facilitating the labors of the mixed commission, each Government shall appoint a secretary to assist in the transaction of their business and to keep a record of their proceedings, and for the conduct of their business said commissioners are authorized to make all necessary rules.

ARTICLE VIII

The decisions of this commission, or of the umpire in case of a difference between the commissioners, shall be final and conclusive, and shall be carried into full effect by the two contracting parties. The commission shall terminate its labors in six months from and including the day of its organization; provided, however, if at the time stipulated for the termination of said commission, any case or cases should be pending before the umpire and awaiting his decision, it is understood and agreed by the two contracting parties, that said umpire is authorized to proceed and make his decision or award in such case

or cases, and upon his report thereof to each of the two Governments, mentioning the amount of indemnity, if such shall have been allowed by him, such award shall be final and conclusive in the same manner as if it had been made by the commissioners under their own agreement; provided that said decision shall be made by said umpire within thirty days after the final adjournment of said commission, and at the expiration of the said thirty days, the power and authority hereby granted to said umpire shall cease.

ARTICLE IX

Each Government shall pay its own commissioners and secretary, but the umpire shall be paid, one-half by the Government of the United States and one-half by the Republic of Peru.

ARTICLE X

The present Convention shall be ratified and the ratifications thereof shall be exchanged in the term of four months from the date hereof.

In faith whereof, the respective Plenipotentiaries have signed the same and affixed their respective seals.

Done in the city of Lima this twelfth day of January, in the year of our Lord one thousand eight hundred and sixty-three.

CHRISTOPHER ROBINSON [SEAL]

JOSÉ G. PAZ SOLDAN [SEAL]