

TREATY SERIES. No. 8.

1903.

PROTOCOL

BETWEEN

**THE UNITED KINGDOM AND THE UNITED
STATES OF VENEZUELA**

RELATING TO

**THE SETTLEMENT OF THE BRITISH
CLAIMS AND OTHER MATTERS.**

Signed at Washington, February 13, 1903.

TOGETHER WITH

AGREEMENTS

**for the reference of certain Questions to the
Permanent Court of Arbitration at The Hague,
and for the decision of the Claims by a
Mixed Commission.**

Signed at Washington, May 7, 1903.

*Presented to both Houses of Parliament by Command of His Majesty.
May 1903.*

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PROTOCOL BETWEEN THE UNITED KINGDOM
AND THE UNITED STATES OF VENEZUELA,
RELATING TO THE SETTLEMENT OF THE
BRITISH CLAIMS AND OTHER MATTERS.

Signed at Washington, February 13, 1903.

TOGETHER WITH

AGREEMENTS FOR THE REFERENCE OF
CERTAIN QUESTIONS TO THE PERMANENT
COURT OF ARBITRATION AT THE HAGUE,
AND FOR THE DECISION OF THE CLAIMS
BY A MIXED COMMISSION.

Signed at Washington, May 7, 1903.

No. 1.

*Protocol between the United Kingdom and the United States of
Venezuela relating to the Settlement of the British Claims and
other Matters.*

WHEREAS certain differences have arisen between Great Britain and the United States of Venezuela in connection with the claims of British subjects against the Venezuelan Government, the Undersigned, his Excellency the Right Honourable Sir Michael H. Herbert, K.C.M.G., C.B., His Britannic Majesty's Ambassador Extraordinary and Plenipotentiary to the United States of America, and Mr. Herbert W. Bowen, duly authorized thereto by the Government of Venezuela, have agreed as follows:—

ARTICLE I.

The Venezuelan Government declare that they recognize in principle the justice of the claims which have been preferred by His Majesty's Government on behalf of British subjects.

ARTICLE II.

The Venezuelan Government will satisfy at once, by payment in cash or its equivalent, the claims of British subjects, which amount to about £5,500, arising out of the seizure and plundering of British vessels and the outrages on their crews, and the maltreatment and false imprisonment of British subjects.

ARTICLE III.

The British and Venezuelan Governments agree that the other British claims, including claims by British subjects other than those dealt with in Article VI hereof, and including those preferred by the Railway Companies, shall, unless otherwise satisfied, be referred to a Mixed Commission constituted in the manner defined in Article IV of this Protocol, and which shall examine the claims and decide upon the amount to be awarded in satisfaction of each claim.

The Venezuelan Government admit their liability in cases where the claim is for injury to, or wrongful seizure of, property, and consequently the questions which the Mixed Commission will have to decide in such cases will only be—

(a.) Whether the injury took place, and whether the seizure was wrongful; and

(b.) If so, what amount of compensation is due.

In other cases the claims shall be referred to the Mixed Commission without reservation.

ARTICLE IV.

The Mixed Commission shall consist of one British member and one Venezuelan member. In each case where they come to an agreement, their decision shall be final. In cases of disagreement, the claims shall be referred to the decision of an Umpire nominated by the President of the United States of America.

ARTICLE V.

The Venezuelan Government being willing to provide a sum sufficient for the payment within a reasonable time of the claims specified in Article III and similar claims preferred by other Governments, undertake to assign to the British Government, commencing the 1st day of March, 1903, for this purpose, and to alienate to no other purpose, 30 per cent. in monthly payments of the Customs revenues of La Guaira and Puerto Cabello. In the case of failure to carry out this undertaking, Belgian officials shall be placed in charge of the customs of the two ports, and shall administer them until the liabilities of the Venezuelan Govern-

ment, in respect of the above-mentioned claims, shall have been discharged.

Any question as to the distribution of the Customs revenues so to be assigned and as to the rights of Great Britain, Germany, and Italy to a separate settlement of their claims, shall be determined, in default of arrangement, by the Tribunal at the Hague, to which any other Power interested may appeal.

Pending the decision of the Hague Tribunal, the said 30 per cent. of the receipts of the customs of the ports of La Guaira and Puerto Cabello are to be paid over to the representatives of the Bank of England at Carácas.

ARTICLE VI.

The Venezuelan Government further undertake to enter into a fresh arrangement respecting the external debt of Venezuela, with a view to the satisfaction of the claims of the bondholders. This arrangement shall include a definition of the sources from which the necessary payments are to be provided.

ARTICLE VII.

The British and Venezuelan Governments agree that, inasmuch as it may be contended that the establishment of a blockade of Venezuelan ports by the British naval forces has, *ipso facto*, created a state of war between Great Britain and Venezuela, and that any Treaty existing between the two countries has been thereby abrogated, it shall be recorded in an exchange of notes between the Undersigned that the Convention between Great Britain and Venezuela of October 29, 1834, which adopted and confirmed, *mutatis mutandis*, the Treaty of April 18, 1825, between Great Britain and the State of Colombia, shall be deemed to be renewed and confirmed, or provisionally renewed and confirmed, pending conclusion of a new Treaty of Amity and Commerce.

ARTICLE VIII.

Immediately upon the signature of this Protocol arrangements will be made by His Majesty's Government, in concert with the Governments of Germany and Italy, to raise the blockade of the Venezuelan ports.

His Majesty's Government will be prepared to restore the vessels of the Venezuelan navy which have been seized, and further to release any other vessels captured under the Venezuelan flag, on the receipt of a guarantee from the Venezuelan Government that they will hold His Majesty's Government indemnified in respect of any proceedings which might be taken against them by the owners of such ships or of goods on board them.

ARTICLE IX.

The Treaty of Amity and Commerce of October 29, 1834, having been confirmed in accordance with the terms of Article VII of this Protocol, His Majesty's Government will be happy to renew diplomatic relations with the Government of Venezuela.

Done in duplicate at Washington, this 13th day of February, 1903.

(L.S.)	(Signed)	MICHAEL H. HERBERT.
(L.S.)	(Signed)	HERBERT W. BOWEN.

No. 2.

Agreement for the Reference of Certain Questions to the Permanent Court of Arbitration at the Hague.

WHEREAS Protocols have been signed between Great Britain, Germany, Italy, United States of America, France, Spain, Belgium, the Netherlands, Sweden and Norway, and Mexico on the one hand, and Venezuela on the other hand, containing certain conditions agreed upon for the settlement of claims against the Venezuelan Government;

And whereas certain further questions arising out of the action taken by the Governments of Great Britain, Germany, and Italy, in connection with the settlement of their claims, have not proved to be susceptible of settlement by ordinary diplomatic methods;

And whereas the Powers interested are resolved to determine these questions by reference to arbitration, in accordance with the provisions of the Convention for the Pacific Settlement of International Disputes, signed at the Hague on the 29th July, 1899;

The Governments of Great Britain and Venezuela have, with a view to carry out that Resolution, authorized their Representatives, that is to say:

For Great Britain, his Excellency Sir Michael Henry Herbert, G.C.M.G., C.B., His Britannic Majesty's Ambassador Extraordinary and Plenipotentiary to the United States of America, and for Venezuela, Mr. Herbert W. Bowen, duly authorized thereto by the Government of Venezuela, to conclude the following Agreement:--

ARTICLE I.

The question as to whether or not Great Britain, Germany, and Italy are entitled to preferential or separate treatment in the payment of their claims against Venezuela shall be submitted for final decision to the Tribunal at the Hague.

Venezuela having agreed to set aside 30 per cent. of the Customs revenues of La Guaira and Puerto Cabello for the payment of the claims of all nations against Venezuela, the Tribunal at the Hague shall decide how the said revenues shall be divided between the Blockading Powers on the one hand and the other Creditor Powers on the other hand, and its decision shall be final.

If preferential or separate treatment is not given to the Blockading Powers, the Tribunal shall decide how the said revenues shall be distributed among all the Creditor Powers; and the Parties hereto agree that the Tribunal in that case shall consider, in connection with the payment of the claims out of the 30 per cent., any preference or pledges of revenue enjoyed by any of the Creditor Powers, and shall accordingly decide the question of distribution so that no Power shall obtain preferential treatment, and its decision shall be final.

ARTICLE II.

The facts on which shall depend the decision of the questions stated in Article I shall be ascertained in such manner as the Tribunal may determine.

ARTICLE III.

The Emperor of Russia shall be invited to name and appoint from the members of the Permanent Court of the Hague three Arbitrators to constitute the Tribunal which is to determine and settle the questions submitted to it under and by virtue of this Agreement. None of the Arbitrators so appointed shall be a subject or citizen of any of the Signatory or Creditor Powers.

This Tribunal shall meet on the first day of September, 1903, and shall render its decision within six months thereafter.

ARTICLE IV.

The proceedings shall be carried on in the English language, but arguments may, with the permission of the Tribunal, be made in any other language also.

Except as herein otherwise stipulated, the procedure shall be regulated by the Convention of the Hague of July 29, 1899.

ARTICLE V.

The Tribunal shall, subject to the general provision laid down in Article 57 of the International Convention of July 29, 1899, also decide how, when, and by whom the costs of this Arbitration shall be paid.

ARTICLE VI.

Any nation having claims against Venezuela may join as a party in the Arbitration provided for by this Agreement.

Done at Washington, this 7th day of May, 1903.

(L.S.)	(Signed)	MICHAEL H. HERBERT.
(L.S.)	(Signed)	HERBERT W. BOWEN.

No. 3.

Agreement for the decision of the Claims by a Mixed Commission.

WHEREAS, by a Protocol signed on the 13th February, 1903, by his Excellency the Right Honourable Sir Michael Henry Herbert, G.C.M.G., C.B., His Britannic Majesty's Ambassador Extraordinary and Plenipotentiary to the United States of America, and Mr. Herbert W. Bowen, duly authorized thereto by the Government of Venezuela, it was agreed that certain claims by British subjects, including those preferred by the Railway Companies, against the Government of Venezuela should, unless otherwise satisfied, be referred, under the conditions specified in the Protocol, to a Mixed Commission, to consist of one British and one Venezuelan member, and that in each case where the Commissioners came to an agreement their decision should be final; and that, in cases of disagreement, the claims should be referred to the decision of an Umpire nominated by the President of the United States of America:

Now the Undersigned, his Excellency the Right Honourable Sir Michael Henry Herbert, G.C.M.G., C.B., His Britannic Majesty's Ambassador Extraordinary and Plenipotentiary to the United States of America, and Mr. Herbert W. Bowen, duly authorized thereto by the Government of Venezuela, have further agreed as follows:—

One member of the Commission shall be appointed by His Britannic Majesty's Government and the other by the Government of Venezuela, and the Umpire shall be nominated by the President of the United States of America.

If either of the said Commissioners or the Umpire should fail or cease to act, his successor shall be appointed forthwith in the same manner as his predecessor. The said Commissioners and Umpire are to be appointed as soon as possible.

The Commissioners and the Umpire shall meet at Caracas on the first day of June, 1903.

Before assuming the functions of their office, the Commissioners, and the Umpire, if necessary, shall make solemn oath or declaration carefully to examine and impartially to decide according

to justice and the provisions of the Protocol of the 13th February, 1903, and of the present Agreement, all claims submitted to them, and the oath or declaration so made shall be embodied in the record of their proceedings. The Commissioners, or, in case of their disagreement, the Umpire, shall decide all claims upon a basis of absolute equity, without regard to objections of a technical nature, or of the provisions of local legislation.

The decisions of the Commission, and, in the event of their disagreement, those of the Umpire, shall be final and conclusive. They shall be given in writing. All Awards shall be made payable in sterling money of Great Britain or its equivalent in silver at the current rate of exchange of the day.

The Commissioners, or Umpire, as the case may be, shall investigate and decide the said claims upon such evidence or information only as shall be furnished by or on behalf of the Governments of Great Britain and Venezuela respectively. They shall be bound to receive and consider all written documents or statements which may be presented to them by or on behalf of the Governments respectively in support of or in answer to any claim, and to hear oral or written arguments submitted by the Agent of each Government on every claim. In case of their failure to agree in opinion upon any individual claim, the Umpire shall decide.

Every claim shall be formally presented to the Commissioners within thirty days from the day of their first meeting, unless the Commissioners or the Umpire in any case extend the time for presenting the claim for a further period not exceeding three months. The Commissioners shall be bound to examine and decide upon every claim within six months from the day of its first formal presentation; and, in case of their disagreement, the Umpire shall examine and decide within a corresponding period from the date of such disagreement.

The Commissioners and the Umpire shall keep an accurate record of their proceedings. For that purpose each Commissioner shall appoint a Secretary versed in the language of both countries to assist him in the transaction of the business of the Commission.

In the proceedings, either the English or Spanish language may be used. Except as herein stipulated, all questions of procedure shall be left to the determination of the Commissioners, or, in case of their disagreement, to the Umpire.

Reasonable remuneration to the Commissioners and to the Umpire for their services and expenses, and the other expenses of the said Arbitration, are to be paid in equal moieties by the Powers parties to this Agreement.

Done at Washington, this 7th day of May, 1903.

(L.S.)	(Signed)	MICHAEL H. HERBERT.
(L.S.)	(Signed)	HERBERT W. BOWEN.