

N° 195.

ROYAUME-UNI
DE GRANDE-BRETAGNE ET
D'IRLANDE ET PÉROU

Convention relative à la propriété
minière « La Brea y Pariñas »,
signée à Lima le 27 août 1921.

UNITED KINGDOM
OF GREAT BRITAIN AND
IRELAND AND PERU

Agreement respecting the mineral
property " La Brea y Pariñas ",
signed at Lima, August 27, 1921.

No. 195. — AGREEMENT¹ BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND AND PERU, RESPECTING THE MINERAL PROPERTY "LA BREA Y PARIÑAS", SIGNED AT LIMA AUGUST 27, 1921.

Textes officiels anglais et espagnol communiqués par les Ministères des Affaires étrangères de Sa Majesté Britannique et de la République Péruvienne. L'enregistrement de cette Convention a eu lieu le 12 décembre 1921.

Whereas differences have arisen between the Government of the REPUBLIC OF PERU and the Government of HIS BRITANNIC MAJESTY concerning certain Supreme Resolutions or Decrees of the first Government in relation to the Mineral Property of "La Brea y Parinas", situated in the province of Paita, Republic of Peru, and owned by the heirs of the late William Keswick, a British subject, and leased to the London and Pacific Petroleum Co Ltd., a company incorporated under the laws of Great Britain, and

Whereas the Government of His Britannic Majesty has requested the Government of the Republic of Peru to submit said differences to international arbitration, and the Congress of Peru, by law No. 3016, promulgated by the President of Peru on January 10, 1919, has authorized the Executive Power to conclude an agreement with the Government of His Britannic Majesty to submit to the definite decision of an International Tribunal the controversy pending between the two Governments in the matter above mentioned ;

Now therefore the REPUBLIC OF PERU, through its representative, Dr. Alberto SALOMON, Minister of Foreign Relations, and HIS BRITANNIC MAJESTY, through his representative, Mr. A. C. GRANT DUFF, Envoy Extraordinary and Minister Plenipotentiary, the said representatives having reciprocally exhibited to each other their full powers, have concluded the following agreement :

Article 1.

It is agreed that the following controversy shall be submitted for definite decision to a Tribunal of Arbitration to be constituted as hereinafter provided.

The Government of the Republic of Peru contends that the Supreme Resolutions or Decrees of March 31, 1911, March 15 and May 22, 1915, relating to the Mineral Property of "La Brea y Pariñas", are valid and legal and should be enforced, and that the said Mineral Property is subject to the general body of mining laws which may be in force in Peru now or in the future.

The Government of His Britannic Majesty, on the other hand, contends that the said Mineral Property has a legal status distinct from that of mineral property acquired and held in the usual manner under the Mining Ordinances or the Mining Code of Peru ; that the said Mineral Property is not subject to the general body of mining laws or to legislation inconsistent with such distinct status, and that the Supreme Resolutions or Decrees above mentioned are invalid and cannot legally be enforced.

¹ Cette convention ne comporte pas de ratification.

TEXTE ESPAGNOL. — SPANISH TEXT.

No. 195. — CONVENIO¹ ENTRE EL PERÚ Y EL REINO UNIDO DE GRAN BRETAÑA É IRLANDA, REFERENTE À LA PROPIEDAD MINERA « LA BREA Y PARIÑAS », FIRMADO EN LIMA EL 27 DE AGOSTO DE 1921.¹

English and Spanish official texts communicated by His Britannic Majesty's Foreign Office and by the Ministry for Foreign Affairs of Peru. The registration of this Convention took place on December 12, 1921.

Por cuanto, entre el Gobierno de la REPUBLICA PERUANA y el de SU MAJESTAD BRITANICA se ha producido desinteligencia sobre algunas resoluciones supremas o decretos del primero de dichos Gobiernos, relativos a la propiedad minera La Brea y Pariñas, situada en la provincia de Paita, Republica del Peru, perteneciente a los herederos del finado William Keswick, súbdito británico, y arrendada a la London & Pacific Petroleum C^o Limited, compañía registrada bajo las leyes de la Gran Bretaña ;

y por cuanto el Gobierno de Su Majestad Británica ha pedido al Gobierno de la Republica Peruana someter dicha desinteligencia a arbitraje internacional, y el Congreso del Peru, por ley numero 3016, promulgada por el Presidente de la República el 10 de enero de 1919, autorizó al Poder Ejecutivo para celebrar un acuerdo con el Gobierno de Su Majestad Británica para someter a la resolucíon definitiva de un tribunal internacional la controversia pendiente entre los dos Gobiernos, en el asunto antes mencionado ;

Por tanto, la REPUBLICA PERUANA, representada por el doctor Alberto SALOMON, Ministro de Estado en el despacho de Relaciones Exteriores, y SU MAJESTAD BRITÁNICA, por medio de su representante Mr. A. C. GRANT DUFF, Enviado Extraordinario y Ministro Plenipotenciario, que se exhibieron reciprocamente sus plenos poderes, han concluido el siguiente convenio :

Artículo 1.

Queda convenido que se someterá para la resolucíon definitiva a un Tribunal de Arbitraje, constituido en la forma que más adelante se indicará, la cuestíon siguiente :

El Gobierno de la Republica Peruana sostiene que la resoluciones supremas o decretos de 31 de marzo de 1911, 15 de marzo y 22 de mayo de 1915, relativos a la propiedad minera La Brea y Pariñas, son válidos y legales y deben ejecutarse, y que dicha propiedad mientras esta sometida al cuerpo general de leyes de minas que, ahora o más tarde, estén en vigor en el Peru.

El Gobierno de Su Majestad Británica, por su parte, sostiene que la referida propiedad minera y poseída de la manera usual, bajo las Ordenanzas de Minería o el Código de Minas del Peru ; que dicha propiedad no está sujeta al cuerpo general de leyes mineras ni a las leyes que sean incompatibles con aquella condición distinta ; y que las resoluciones supremas antes mencionadas no tienen valor y no pueden ejecutarse legalmente.

¹ This Convention does not require ratification.

The Tribunal of Arbitration shall include in its award a decision on all and on each of the questions respectively raised by the contracting parties in the foregoing controversy, which as above indicated relates to measures adopted on or before May 22, 1915. The award shall be treated as decisive only as regards questions between the Republic of Peru and the proprietors of the mineral property "La Brea y Pariñas", and not as regards questions between said proprietors and other private individuals.

Article 2.

The Tribunal of Arbitration shall be constituted as follows :

Within one month after the signing of this Agreement each Government shall appoint an Arbitrator and communicate his name to the other Government.

The Third Arbitrator shall be the President of the Federal Court of the Republic of Switzerland. The Third Arbitrator shall be the President of the Tribunal.

In case the Third Arbitrator named by this agreement should omit or decline to act, the vacancy thus created shall be filled by a supplementary agreement between the two high contracting parties.

Any two of the arbitrators shall constitute a *quorum* of the Tribunal, and shall have power to decide all questions before the Tribunal, including the final award.

In case the Arbitrator appointed by either Government should die, resign, or become disabled, or should omit or decline to act, the vacancy thus created shall be filled within one month by the appointment of another Arbitrator.

The Tribunal may appoint a permanent secretary and may determine his duties.

The parties shall as soon as possible agree upon some person at Washington, D.C., to whom each party shall deliver four copies of all notices of appointments, cases, counter-cases, arguments, original documents or authenticated copies thereof and other papers delivered or produced by either party to the other. It shall be the duty of such person to forward to each of the Arbitrators one copy of every paper so delivered to him and to retain for the records of the Tribunal the fourth copy thereof which shall be open to inspection by the agents of either party. Such person shall whenever so directed by the Tribunal deliver to the permanent secretary of the Tribunal any papers retained by him as aforesaid.

Each Government shall, within one month after the signing of the Agreement, appoint an Agent, whose official address shall be at Washington, D. C., to represent it in all matters connected with the arbitration, and shall at the same time communicate his name and official address to the other Government.

Each Government shall have also the right to designate Counsel, who shall be heard by the Tribunal under such regulations as it may prescribe.

Article 3.

The Agent of each Government, shall, within nine months from the date of the signing of this Agreement, deliver at Washington, D.C., to the Agent of the other Government, twelve copies of a printed Case, accompanied with printed copies of all the documentary and other evidence upon which it relies.

Within three months after the expiration of the period for the delivery of the Cases, the Agent of each Government shall, in like manner, deliver to the Agent of the other Government, at Washington, D.C., twelve copies of a printed Counter-case accompanied with printed copies of all additional documentary and other evidence upon which it relies. The Third Arbitrator may, however, extend the time for the delivery of the Counter-cases.

Either Government may call upon the other to produce original documents, referred to in its Case or Counter-case, and such original shall be promptly produced at Washington D.C., unless it shall be shown that they no longer exist, or that they form part of the public archives and cannot properly be withdrawn, and in the latter case, duly authenticated copies shall be furnished in the

same manner as above directed for the originals, but the originals shall be open to the inspection of the authorized representative of either Government.

The Tribunal shall have like power to call for the production of original documents and to make inspection thereof through its authorized representatives.

The right to inspect in any and all cases above mentioned shall extend to the whole of any document of which part only is alleged or referred to by the party bringing it forward, and to any enclosures therein, or annexes thereto, or minutes or endorsements thereon.

Article 4.

The Tribunal shall meet within one month after the expiration of the period prescribed for the delivery of the Cases, on a day and at a place to be named by the Third Arbitrator.

Each Arbitrator shall then make and sign a solemn declaration that he will carefully examine and impartially decide the questions presented to the Tribunal for decision, and the declarations so made shall be entered in the record of the proceedings of the Tribunal.

Subsequent sessions may be held at such place as the Tribunal may prefer.

Article 5.

Within two months after the delivery of the Countercases, each Government may, through its Agent, deliver in duplicate to each of the Arbitrators, and to the Agent, or the Counsel, if any, of the other party, a printed argument of the questions embraced in the Cases and Countercases.

The Tribunal shall have power to require further arguments, printed or oral.

Article 6.

The Tribunal shall have power to administer oaths to witnesses and to take their testimony, either oral or in writing, employing an interpreter when necessary.

The Tribunal shall also have power to issue commissions to take testimony.

Article 7.

The Tribunal shall decide questions submitted to it upon the evidence and arguments submitted by the contracting Governments, but it may, from time to time, should it find occasion to do so, call upon the Agent of either Government to submit additional documents, evidence and explanations.

Article 8.

Each Government shall provide for the remuneration of the Arbitrator, and of the Agent, Counsel and any other persons appointed by it. All other expenses, including the honorarium of the Third Arbitrator, shall be paid by the two Governments in equal proportions.

Article 9.

The award shall be rendered within the period of two months after the Tribunal shall have declared the arguments to be closed ; but the Tribunal may in its discretion extend this period.

Article 10.

The High Contracting Parties agree to treat the award rendered under this Agreement as a full, perfect and final settlement of the controversy to which this Agreement relates.

In case the Tribunal should, before rendering its award, suggest terms of settlement which the two Governments may accept as satisfactory, or in case the two Governments should themselves agree upon terms of settlement, the Tribunal shall, in either case, incorporate such settlement in an award which shall be treated as the award of the Tribunal.

Any dispute arising between the two Governments as to the interpretation or execution of the award shall be submitted to the Tribunal.

Article 11.

It is understood and agreed in conformity with a principle of law recognized as being necessarily applicable to the circumstances of the present case, that, pending the award of the Tribunal or the determination of any dispute arising as to its interpretation or execution, the *statu quo*, in respect to the Mineral Property "La Brea y Pariñas", shall not be disturbed, and particularly that the above-mentioned Decree of March 15, 1915, shall not be enforced in whole or in part.

In witness whereof the undersigned have signed their names and fixed their seals in Lima, on the twenty-seventh day of August of the year one thousand nine hundred and twenty one.

(L. S.) (Signed) A. SALOMON.

(L. S.) (Signed) A. C. GRANT DUFF.

Es conforme :

El Oficial Mayor de R. R. E. E.,

ELGUERA.

¹ TRADUCTION. — TRANSLATION.

No. 195. — CONVENTION ENTRE LE ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE ET LE PÉROU, RELATIVE A LA PROPRIÉTÉ MINIÈRE « LA BREA Y PARIÑAS », SIGNÉE A LIMA LE 27 AOUT 1921.

Considérant qu'un différend s'est élevé entre le Gouvernement de la République du Pérou et le Gouvernement de Sa Majesté britannique au sujet de certaines résolutions suprêmes ou décrets du premier de ces Gouvernements, concernant la propriété minière « La Brea y Pariñas », située dans la province de Païta (République du Pérou), possédée par les héritiers de feu William Keswick, sujet britannique, et affermée par la London and Pacific Petroleum Co (Ltd.), société constituée conformément aux dispositions de la législation britannique ;

Considérant que le Gouvernement de Sa Majesté Britannique a prié le Gouvernement de la République du Pérou de soumettre le différend en question à l'arbitrage international et que le Congrès péruvien, en vertu de la loi N° 3016, promulguée par le Président du Pérou le 10 janvier 1919, a autorisé le pouvoir exécutif à conclure un accord avec le Gouvernement de Sa Majesté britannique pour soumettre à la décision définitive d'un tribunal international le litige pendant entre les deux Gouvernements ;

La RÉPUBLIQUE DU PÉROU, par l'organe de son représentant, le D^r Alberto SALOMON, Ministre des Affaires étrangères ;

Et SA MAJESTÉ BRITANNIQUE, par l'organe de son représentant, M. A. C. GRANT DUFF, Envoyé extraordinaire et Ministre plénipotentiaire, — lesquels se sont communiqué réciproquement leurs pleins pouvoirs, ont conclu l'accord suivant :

Article 1.

Il est convenu que le différend ci-dessous sera soumis à la décision définitive d'un tribunal d'arbitrage qui devra être constitué comme il est prévu plus loin.

Le Gouvernement de la République du Pérou prétend que les résolutions suprêmes ou décrets du 31 mars 1911, des 15 mars et 22 mai 1915, relativement à la propriété minière de la « Brea y Pariñas », sont valables et conformes à la loi et doivent être appliquées et que, en outre, la propriété minière en question tombe sous le coup de l'ensemble des lois minières présentes ou futures de la République du Pérou.

Le Gouvernement de Sa Majesté britannique, d'autre part, prétend que la propriété minière en question possède un statut juridique distinct de celui des propriétés minières acquises et possédées dans les formes ordinaires, conformément aux ordonnances sur les mines ou au code minier du Pérou ; que la dite propriété ne tombe pas sous le coup de l'ensemble des lois minières ou d'une législation incompatible avec un statut distinct de cette nature, et que les résolutions suprêmes ou décrets indiqués plus haut ne sont pas valables et ne peuvent être légalement appliqués.

¹ Traduit par le Secrétariat de la Société des Nations.

¹ Translated by the Secretariat of the League of Nations.