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**UNITED STATES OF AMERICA
and
MEXICO**

Exchange of notes constituting an agreement regarding settlement of the claim of the " Pious Fund of the Californias ". Tlatelolco and Mexico City, 1 August 1967

Authentic texts: English and Spanish.

Registered by the United States of America on 1 November 1969.

**ÉTATS-UNIS D'AMÉRIQUE
et
MEXIQUE**

Échange de notes constituant un accord relatif au règlement de la question du « Fonds pieux des Californias ». Tlatelolco et Mexico, 1^{er} août 1967

Textes authentiques : anglais et espagnol.

Enregistré par les États-Unis d'Amérique le 1^{er} novembre 1969.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
 BETWEEN THE UNITED STATES OF AMERICA AND
 MEXICO REGARDING SETTLEMENT OF THE CLAIM
 OF THE "PIOUS FUND OF THE CALIFORNIAS"

I

The Mexican Secretary of Foreign Relations to the American Ambassador

[SPANISH TEXT — TEXTE ESPAGNOL]

[TRANSLATION² — TRADUCTION³]

SECRETARÍA
 DE RELACIONES EXTERIORES
 ESTADOS UNIDOS MEXICANOS
 MÉXICO

MINISTRY FOR FOREIGN RELATIONS
 UNITED MEXICAN STATES
 MEXICO

506277

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Tlatelolco, D.F.
 a 1º de agosto de 1967

Tlatelolco, D.F., August 1, 1967

Señor Embajador :

Mr. Ambassador :

Tengo el honor de referirme a la atenta nota de Vuestra Excelencia número 781, de fecha 4 de diciembre de 1964, en la que solicitó ser informado de los pasos que el Gobierno de México estaría dispuesto a dar para resolver el caso del llamado « Fondo Piadoso de las Californias ».

El caso del llamado « Fondo Piadoso de las Californias » se rige por el laudo pronunciado el 14 de octubre de 1902 en la Corte Permanente de Arbitraje de La Haya, por el tribunal constituido de conformidad con el Protocolo de Compromiso entre Méxi-

I have the honor to refer to Your Excellency's note No. 781, dated December 4, 1964, in which you asked to be informed of the steps that the Government of Mexico would be willing to take to settle the case of the so-called " Pious Fund of the Californias. "

The case of the " Pious Fund " is governed by the award handed down on October 14, 1902 in the Permanent Court of Arbitration at The Hague by the tribunal constituted in accordance with the Protocol between Mexico and the United States of

¹ Came into force on 1 August 1967 by the exchange of the said notes.

² Translation by the Government of the United States of America.

³ Traduction du Gouvernement des États-Unis d'Amérique.

co y los Estados Unidos de América firmado en Washington el 22 de mayo de 1902.

El laudo arbitral de 14 de octubre de 1902 estatuyó:

- (a) la reclamación presentada por el Gobierno de los Estados Unidos de América, en favor del Arzobispo de San Francisco y del Obispo de Monterrey, se rige por el principio de *res judicata* en virtud de la sentencia arbitral de Sir Edward Thornton de 11 de noviembre de 1875, enmendada por él el 24 de octubre de 1876;
- (b) en los términos de dicha sentencia arbitral, el Gobierno de los Estados Mexicanos fué condenado a pagar al Gobierno de los Estados Unidos de América la cantidad de 1,420,682.67 pesos mexicanos, en moneda de curso legal en México, correspondiente a las anualidades vencidas pero no pagadas desde el 2 de febrero de 1869 al 2 de febrero de 1902;
- (c) el Gobierno de los Estados Unidos Mexicanos fué asimismo condenado a pagar al Gobierno de los Estados Unidos de América el 2 de febrero de cada año, a perpetuidad, una renta anual de 43,050.99 pesos mexicanos, en moneda de curso legal en México.

En cumplimiento del laudo arbitral de 14 de octubre de 1902, el Gobierno de la República Mexicana pagó al Gobierno de los Estados Unidos de América la cantidad de 1,420,682.67 pesos mexicanos, correspondiente a las anualidades ven-

America signed in Washington on May 22, 1902.¹

The arbitral award of October 14, 1902 provided as follows:

- (a) The claim presented by the Government of the United States of America on behalf of the Archbishop of San Francisco and the Bishop of Monterey is governed by the principle of *res judicata* by virtue of the arbitral award of Sir Edward Thornton of November 11, 1875, as amended by him on October 24, 1876.
- (b) By the terms of the said arbitral award, the Government of the United Mexican States was ordered to pay to the Government of the United States of America the sum of 1,420,682.67 Mexican pesos, legal tender of Mexico, representing the annuities accrued but not paid from February 2, 1869 to February 2, 1902.
- (c) The Government of the United Mexican States was likewise ordered to pay to the Government of the United States of America on February 2 of each year, in perpetuity, an annuity of 43,050.99 Mexican pesos, legal tender of Mexico.

In compliance with the arbitral award of October 14, 1902 the Government of the Mexican Republic paid to the Government of the United States of America the sum of 1,420,682.67 Mexican pesos, covering the annuities accrued from February

¹ De Martens, *Nouveau Recueil général de Traités*, deuxième série, tome XXXII, p. 189.

cidas desde el 2 de febrero de 1869 al 2 de febrero de 1902; y asimismo pagó al Gobierno de los Estados Unidos de América, las anualidades que fueron venciendo posteriormente hasta el 2 de febrero de 1914, inclusive.

En consecuencia, para dar cabal satisfacción al laudo arbitral de 14 de octubre de 1902, se encuentran pendientes las siguientes obligaciones a cargo del Gobierno de los Estados Unidos Mexicanos:

- a) las anualidades vencidas a partir de la fecha de la suspensión de los pagos;
- b) las que, en el futuro, sigan venciendo el 2 de febrero de cada año en los términos del apartado tercero del laudo arbitral de 14 de octubre de 1902.

Habiendo desaparecido las causas que motivaron la suspensión de los pagos anuales correspondientes al llamado « Fondo Piadoso de las Californias », mi Gobierno está en la mejor disposición de llegar a un arreglo con el Gobierno de Vuestra Excelencia para liquidar definitivamente esta cuestión con base en el laudo de 14 de octubre de 1902.

Animado del deseo de dar una muestra de esa buena disposición, el Gobierno de México hizo entrega al Gobierno de los Estados Unidos de América, en abril de 1966, de la cantidad de 43,050.99 pesos mexicanos, por concepto de la anualidad correspondiente a dicho año.

Además, se han celebrado conversaciones entre representantes del Gobierno Mexicano y del Gobierno de Vuestra Excelencia para determinar, por una parte, el monto de la

2, 1869 to February 2, 1902; and it likewise paid to the Government of the United States of America the annuities that accrued subsequently up to February 2, 1914, inclusive.

Consequently, in order to comply fully with the terms of the arbitral award of October 14, 1902, the Government of the United Mexican States must meet the following obligations:

- (a) The annuities accrued since the date of suspension of the payments;
- (b) Those that will continue to accrue, in the future, on February 2 of each year under the terms of paragraph three of the arbitral award of October 14, 1902.

Since the reasons for the suspension of the annual payments pertaining to the " Pious Fund of the Californias " no longer exist, my Government is quite willing to make an arrangement with Your Excellency's Government to settle this matter definitively on the basis of the award of October 14, 1902.

Desiring to give a token of its goodwill, the Government of Mexico paid to the Government of the United States of America in April 1966 the sum of 43,050.99 Mexican pesos, representing the annuity for that year.

Furthermore, talks have been held between representatives of the Mexican Government and of Your Excellency's Government in order to determine, on the one hand, the total

cantidad que el Gobierno de México está obligado a pagar por concepto de anualidades vencidas conforme al laudo arbitral de 14 de octubre de 1902 y, por otra parte, el monto de la cantidad que el Gobierno de México podría entregar al Gobierno de los Estados Unidos de América, por una sola vez, para liberarse de la obligación que le impuso el apartado tercero del laudo arbitral de 14 de octubre de 1902 de pagar a perpetuidad una renta anual de 43,050,99 pesos mexicanos.

Como resultado de las conversaciones a que he aludido, estoy en aptitud de proponer a Vuestra Excelencia el arreglo definitivo del caso del llamado « Fondo Píadoso de las Californias » conforme a las siguientes bases:

I. — El Gobierno de los Estados Unidos Mexicanos pagará al Gobierno de los Estados Unidos de América la cantidad de 8.269.-616,51 pesos, equivalente a 662.099,00 dólares, para satisfacer el importe de todas las anualidades vencidas hasta la fecha. Para fijar esta cantidad, se ha tomado en cuenta el tipo de cambio del peso mexicano respecto del dólar de los Estados Unidos de América que prevalecía a la fecha del vencimiento de cada una de las anualidades que se adeudan.

II. — Con el fin de liberarse de la obligación que le impuso el laudo arbitral de 14 de octubre de 1902 de pagar al Gobierno de los Estados Unidos de América, a perpetuidad, una renta anual de 43.050,99 pesos mexicanos, el Gobierno de los Estados Unidos Mexicanos pagará al Gobierno de los Estados Unidos de América, por una sola vez, la cantidad de 717.513,03 pesos mexicanos, equivalente a 57.447,00 dólares

amount that the Government of Mexico is obliged to pay in accrued annuities under the arbitral award of October 14, 1902, and, on the other hand, the total amount that the Government of Mexico could pay to the Government of the United States, in a lump sum, to relieve itself of the obligation imposed upon it by the third paragraph of the arbitral award of October 14, 1902, to pay in perpetuity an annuity of 43,050.99 Mexican pesos.

As a result of the talks to which I have referred, I am in a position to propose to Your Excellency the definitive settlement of the case of the " Pious Fund of the Californias " on the following bases:

I. The Government of the United Mexican States will pay to the Government of the United States of America the sum of 8,269,616.51 pesos, equivalent to 662,099.00 dollars, in payment of all the annuities accrued to date. In determining this amount, the exchange rate of the Mexican peso in terms of the United States dollar in effect on the due date of each of the annuities owing was taken into account.

II. In order to relieve itself of the obligation imposed upon it by the arbitral award of October 14, 1902, to pay an annuity of 43,050.99 Mexican pesos to the Government of the United States of America in perpetuity, the Government of the United Mexican States will pay 717,513.03 Mexican pesos to the Government of the United States of America in a lump sum, equivalent to 57,447.00 dollars of the

de los Estados Unidos de América. Esta cantidad ha sido determinada teniendo en cuenta que, impuesta al 6 % anual, produciría una renta igual a la que fija la citada sentencia arbitral de 14 de octubre de 1902.

III. — En consideración al pago de las sumas señaladas en los párrafos I y II anteriores, el Gobierno de los Estados Unidos de América por sí y a nombre del Arzobispo de San Francisco y del Obispo de Monterrey, sus sucesores y causahabientes, conviene en dar por totalmente liquidada, pagada y finiquitada la reclamación que presentó contra el Gobierno de los Estados Unidos Mexicanos, a beneficio de aquellos, conocida con el nombre de « Fondo Piadoso de las Californias » y libera en lo absoluto al Gobierno de los Estados Unidos Mexicanos de cualquier obligación que pudiera derivarse para éste de la sentencia arbitral de Sir Edward Thornton de 11 de noviembre de 1875, enmendada por él el 24 de octubre de 1876 y de la sentencia arbitral pronunciada el 14 de octubre de 1902, en la Corte Permanente de La Haya, por el Tribunal de Arbitraje constituido de conformidad con el Protocolo de Compromiso entre la República de México y los Estados Unidos de América firmado en Washington el 22 de mayo de 1902. En consecuencia, el Gobierno de los Estados Unidos de América, por sí y a nombre del Arzobispo de San Francisco y del Obispo de Monterrey, de sus sucesores y derechohabientes renuncia para siempre a toda reclamación que pudiera tener contra el Gobierno de los Estados Unidos Mexicanos por el concepto del llamado « Fondo Piadoso de las Californias ».

En caso de que el Gobierno de los Estados Unidos de América esté de acuerdo con los términos de este arreglo, mi Gobierno considerará que

United States of America. This amount has been determined by taking into account the fact that, at 6 percent per year, it would produce an annuity equal to the one fixed by the arbitral award of October 14, 1902.

III. In consideration of the payment of the sums specified in paragraphs I and II above, the Government of the United States of America, for itself and on behalf of the Archbishop of San Francisco and the Bishop of Monterey and their successors and assigns, agrees to consider as fully settled, paid, and discharged the claim that it presented against the Government of the United Mexican States for their benefit, known by the name of the " Pious Fund of the Californias, " and completely releases the Government of the United Mexican States from any obligation that might devolve upon it from the arbitral award of Sir Edward Thornton of November 11, 1875, as amended by him on October 24, 1876, and from the arbitral award handed down on October 14, 1902 in the Permanent Court of Arbitration at The Hague by the arbitral tribunal constituted in accordance with the Protocol between the Republic of Mexico and the United States of America signed in Washington on May 22, 1902. Consequently, the Government of the United States of America, for itself and on behalf of the Archbishop of San Francisco and the Bishop of Monterey and their successors and assigns, renounces forever any claim that it might have against the Government of the United Mexican States on account of the so-called " Pious Fund of the Californias. "

In the event that the Government of the United States of America agrees to the terms of this arrangement, my Government will consider

la presente nota y la que Vuestra Excelencia me dirija expresando la conformidad de su Gobierno y dándose por recibida de las cantidades fijadas en los párrafos I y II anteriores, constituye un Acuerdo entre los Estados Unidos Mexicanos y los Estados Unidos de América para la liquidación, el pago y finiquito definitivos de la reclamación conocida con el nombre de « Fondo Piadoso de las Californias », el cual surtirá efectos a partir de la fecha de la nota de respuesta de Vuestra Excelencia.

Aprovecho esta oportunidad para renovar a Vuestra Excelencia el testimonio de mi más alta consideración.

Antonio CARRILLO F.

Excelentísimo Señor
Fulton Freeman
Embajador de los Estados Unidos
de América
Ciudad

this note and the note that Your Excellency sends me, expressing the consent of your Government and acknowledging payment of the amounts specified in paragraphs I and II above, as constituting an Agreement between the United Mexican States and the United States of America for the definitive settlement, payment, and discharge of the claim known by the name of " Pious Fund of the Californias ", the Agreement to be in effect from the date of Your Excellency's note in reply.

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

Antonio CARRILLO F.

His Excellency
Fulton Freeman
Ambassador of the United States
of America
City

II

The American Ambassador to the Mexican Secretary of Foreign Relations

Mexico City, August 1, 1967

Excellency:

I have the honor to refer to Your Excellency's note No. 506277 of August 1, 1967, communicating, in accordance with the understanding reached during discussions between representatives of the Government of the United States and Your Excellency's Government, the offer of Your Excellency's Government to settle the claim of the " Fondo Piadoso de las Californias " which was the subject of an award rendered on October 14, 1902, in the Permanent Court of Arbitration at The Hague by a tribunal established in accordance with an agreement of May 22, 1902, between the Governments of the United States and Mexico.

Your Excellency's Government offers to pay to the Government of the United States a lump sum of 719,546 United States dollars, equivalent to 8,987,129.54 Mexican pesos, in full and final settlement of the claim. Such amount takes into consideration all unpaid annuities to date based upon the US dollar exchange rate of the Mexican peso in effect upon the due date of each annuity and the present capital value of the annual amount payable in perpetuity based upon a 6 % rate of interest and a conversion rate of 12.49 Mexican pesos to 1 United States dollar. Payment is conditioned upon the Government of the United States and the Archbishop of San Francisco and the Bishop of Monterey and their successors and assigns releasing the Government of the United Mexican States of any and all claims which they ever had, now have, or may have for or by reason of any cause, matter or thing whatsoever arising out of the decision rendered on October 14, 1902, by a Panel of the Permanent Court of Arbitration at The Hague based upon the claim of the so-called "Fondo Piadoso de las Californias."

The Government of the United States accepts the above-mentioned proposal of the Government of the United Mexican States and hereby acknowledges the receipt of payment of the sum of 719,546 United States dollars in full and final settlement of all claims which the Government of the United States and the Archbishop of San Francisco and the Bishop of Monterey and their successors and assigns now have or either may have for or by reason of any cause, matter or thing whatsoever arising out of the decision rendered on October 14, 1902, by a Panel of the Permanent Court of Arbitration at The Hague based upon the claim of the so-called "Fondo Piadoso de las Californias" and considers this note and Your Excellency's note as an agreement between the Governments of the United States and the United Mexican States for the settlement, payment and release of the claim known by the name of "Fondo Piadoso de las Californias," such agreement to be effective from the date of this note.

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

Fulton FREEMAN

His Excellency Antonio Carrillo Flores
Secretary of Foreign Relations
Mexico, D.F.
