

No. 125

Agreement for  
Arbitration  
(Compromiso)  
dated 1st  
April 1965

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AGREEMENT FOR ARBITRATION (COMPROMISO) DATED 1ST APRIL 1965

AGREEMENT FOR ARBITRATION (COMPROMISO) OF A CONTROVERSY BETWEEN THE  
ARGENTINE REPUBLIC AND THE REPUBLIC OF CHILE DETERMINED BY THE  
GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN  
IRELAND ON 1ST APRIL, 1965

Whereas the Argentine Republic and the Republic of Chile (hereinafter referred to as "the Parties") are parties to a General Treaty of Arbitration signed at Santiago on 28th May, 1902 (hereinafter referred to as "the Treaty of Arbitration");

And whereas His Britannic Majesty's Government duly accepted the duty of Arbitrator conferred upon them by the Treaty of Arbitration;

And whereas in pursuance of an agreement between the Parties dated 17th April, 1896, His Majesty King Edward VII on 20th November, 1902, made an Award containing decisions upon certain parts of the boundary between the territories of the Parties (hereinafter referred to as "the 1902 Award");

And whereas a controversy has arisen between the Parties concerning the interpretation and fulfilment of part of the 1902 Award;

And whereas the Parties have been unable to determine the points, questions, or differences involved in the controversy in accordance with Article 4 of the Treaty of Arbitration;

And whereas the Government of the Republic of Chile by letter dated 15th September, 1964, invited Her Majesty's Government to intervene as Arbitrator in the controversy;

And whereas the Ministers for Foreign Affairs of the Parties, by Joint Declaration made at Santiago on 6th November, 1964, agreed that the present controversy should be settled by Her Majesty's Government in accordance with the provisions of the Treaty of Arbitration and without prejudice to the attitude which both Parties had adopted in the dispute;

And whereas the Government of the Argentine Republic by a letter dated 25th November, 1964, and the Memorandum enclosed therewith, assented to the settlement of the controversy by arbitration by Her Majesty's Government;

And whereas Her Majesty's Government, after consultation with the Parties, are satisfied that it would be appropriate for them to act as Arbitrator in the controversy and that they are empowered to give effect to Article 5 of the Treaty of Arbitration;

And whereas under Article 5 of the Treaty of Arbitration it is the duty of the Arbitrator to determine the Agreement (Compromiso), the time, place and formalities of the proceedings and to settle any difficulties of procedure as to which disputes may arise in the course of the arbitration;

And whereas for the purpose of fulfilling their duties as Arbitrator Her Majesty's Government have appointed a Court of Arbitration composed of the following three members,

Lord McNair as President,

Mr. L.P. Kirwan and

Brigadier K.M. Papworth

and have appointed Professor D.H.N. Johnson as Registrar of the Court of Arbitration;

And whereas the Parties have, pending the making of an Award in this controversy by Her Majesty's Government and its execution, undertaken to use their best endeavours to prevent the occurrence of any incidents in the vicinity of the boundary which is the subject of the present controversy and any other actions which might in any way hinder Her Majesty's Government in fulfilling their functions as Arbitrator;

Her Majesty's Government, in pursuance of the Treaty of Arbitration, have determined the Agreement (Compromiso) as follows:-

ARTICLE 1

- (1) The Court of Arbitration, acting in accordance with the provisions of the present agreement (Compromiso) shall consider the following question and report to Her

Agreement for  
Arbitration  
(Compromiso)  
dated 1st  
April 1965

Majesty's Government its conclusions thereon:

To the extent, if any, that the course of the boundary between the territories of the Parties in the Sector between boundary posts 16 and 17 has remained unsettled since the 1902 Award, what, on the proper interpretation and fulfilment of that Award, is the course of the boundary in that Sector?

The formulation of the above question shall be without prejudice to any burden of proof.

- (2) The Court of Arbitration shall reach its conclusions in accordance with the principles of international law.

ARTICLE II

- (1) Each of the Parties shall within one month of the date of the signature of the present agreement (Compromiso) appoint an Agent or Agents for the purposes of the Arbitration and shall communicate the name and London Address of the Agent or Agents to the other Party and to the Court of Arbitration. If more than one Agent is appointed by either Party, they shall be authorised to act jointly and severally.
- (2) The seat of the Court of Arbitration shall be in London.

ARTICLE III

- (1) The Court of Arbitration shall, subject to the provisions of the present Agreement (Compromiso), after consultation with the Parties determine the order and dates of the delivery of written pleadings and maps and all other questions of procedure, written and oral, that may arise. The fixing of the order in which these documents shall be delivered shall be without prejudice to any question of any burden of proof.
- (2) The Registrar shall notify to the Parties an address for the filing of their written pleadings and other documents.

ARTICLE IV

The official language of the Court of Arbitration shall

be English. Each of the Parties shall be responsible for furnishing the Court of Arbitration with written English translations of any document or oral statement the original of which is in any other language.

No. 125

Agreement for  
Arbitration  
(Compromiso)  
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April 1965

ARTICLE V

Each Party shall give to any member of the Court of Arbitration and any of its staff, and to any authorised representatives of the other Party who have been requested by the Court of Arbitration to accompany the members of the Court of Arbitration, free access to its territory (including any disputed territory) on the understanding that the grant of such access shall in no way prejudice the rights of either Party as to the ownership of the territory to, on, through or over which such access is granted.

ARTICLE VI

In the event of the Parties jointly or the Court of Arbitration desiring a survey, by air or otherwise, for the purposes of the Arbitration, such survey shall be made under the guidance of the Court of Arbitration at the expense of the Parties.

ARTICLE VII

The Court of Arbitration is competent to decide upon the interpretation and application of the present Agreement (Compromiso).

ARTICLE VIII

The Award shall decide definitely each point in dispute and shall state the reasons on which each decision is based.

ARTICLE IX

The Award shall fix by whom, in what manner and the time within which it shall be executed, including any demarcation which the Award may direct, and the Court of Arbitration shall not be functus officio until it has approved any such demarcation and has notified Her Majesty's Government that in the opinion of the Court of Arbitration the Award has been executed.

ARTICLE X

The Award shall be legally binding upon both the Parties and there shall be no appeal from it, except as provided in

No. 125

Agreement for  
Arbitration  
(Compromiso)  
dated 1st  
April 1965

Article 13 of the Treaty of Arbitration.

ARTICLE XI

Each of the Parties shall defray its own expenses and one half of the expenses of Her Majesty's Government in relation to the Arbitration.

ARTICLE XII

Should any member of the Court of Arbitration or the Registrar die or become unable to act, the vacancy shall be filled by Her Majesty's Government, and the proceedings shall continue as if such vacancy had not occurred.

ARTICLE XIII

The Award shall be notified to each of the Parties by delivery to the London address of its Agent or Agents.

In witness whereof the present Agreement (Compromiso) has been signed on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland.

Done at London the first day of April, 1965, in the English language, in a single original, which shall be deposited in the archives of the Government of the United Kingdom, who shall transmit a certified true copy to the Government of the Argentine Republic and the Government of the Republic of Chile.

MICHAEL STEWART