

AWARD OF THE COMMISSION OF ARBITRATION UNDER THE PROVISIONS OF THE PROTOCOL OF JANUARY 31, 1903, BETWEEN THE UNITED STATES OF AMERICA AND THE DOMINICAN REPUBLIC, FOR THE SETTLEMENT OF THE CLAIMS OF THE SAN DOMINGO IMPROVEMENT COMPANY OF NEW YORK AND ITS ALLIED COMPANIES, 14 JULY 1904¹

Arbitrage ayant pour origine des difficultés d'ordre financier survenues entre le gouvernement dominicain et la *San Domingo Improvement Company* ainsi que d'autres compagnies américaines, alliées de celle-ci — Réclamation du gouvernement des Etats-Unis d'Amérique pour le compte des compagnies américaines — Conclusion d'un protocole d'arbitrage par lequel les Parties conviennent du retrait des compagnies américaines de la République dominicaine, moyennant une indemnité déterminée pour l'abandon que ces compagnies font de leurs droits de propriété et intérêts, ainsi que de la constitution d'une commission arbitrale chargée de décider du mode de paiement de cette indemnité — Détermination par la sentence de l'époque de la remise des propriétés, de la quotité de l'intérêt, du montant des versements mensuels et des garanties et forme de la perception.

WHEREAS, by a Protocol of Agreement between the United States of America and the Dominican Republic, concluded at Santo Domingo City, January 31, 1903, it was agreed that the Dominican Government should pay to the Government of the United States the sum of four million, five hundred thousand dollars (\$4,500,000) in American gold, as full indemnity for the relinquishment by The San Domingo Improvement Company of New York, The San Domingo Finance Company of New York, The Company of the Central Dominican Railway and the National Bank of San Domingo, of all their rights, properties and interests and in full settlement of all accounts, claims and differences between the Dominican Government and the said Companies, and that the terms, on which the indemnity thus agreed upon should be paid, should be referred to a board of three arbitrators, one to be named by the President of the United States, one by the President of the Dominican Republic and the third by the President of the United States and the President of the Dominican Republic jointly, or, in case they should fail to so name him, by the President of the Dominican Republic from certain specified members of the United States Supreme Court or the United States Circuit Court of Appeals;

WHEREAS, for the purpose of carrying into effect the said Protocol, the undersigned arbitrators were appointed, viz: By the President of the United States, John G. Carlisle; by the President of the Dominican Republic, Don. Manuel de J. Galvan; and, as third arbitrator, by nomination of the President of the Dominican Republic, George Gray, one of the specified members of the United States Circuit Court of Appeals; and

¹ *Papers Relating to the Foreign Relations of the United States*, December 6, 1904, Washington, Government Printing Office, 1905, p. 274.

WHEREAS, the said arbitrators, duly organized under the said Protocol as a Board of Arbitration, have received and considered the cases and counter-cases and the arguments filed thereunder by the contracting parties through their respective agents and counsel;

The Board of Arbitration does now adjudge and award, as the terms on which the indemnity above mentioned shall be paid and the times, terms and conditions on which the aforesaid Companies shall relinquish all their rights, properties and interests, mentioned in Article V of said Protocol, and withdraw from the Dominican Republic, thus constituting a full settlement of all accounts, claims and differences between the Dominican Government and the said Companies, the following:—

Article 1. Time of Delivery of Properties

(a) Within ninety days from the making of this award, all rights and interests which the said Companies have in the National Bank of San Domingo, consisting of Six thousand three hundred and thirty-eight (6,338) shares of the capital stock thereof, shall be delivered by said Companies to the Dominican Government, on said Government giving to the Companies a release by the Bank of all claims against them.

(b) When the Dominican Government shall have paid to the United States the sum of One Million Five hundred thousand dollars (\$1,500,000), part of said principal debt, the said Companies shall deliver to the Dominican Government all the shares of the Company of the Central Dominican Railway, which shall represent, include and carry, all the rights and interests in said Railway referred to in paragraph 1 of Article V of said Protocol, and will simultaneously deliver over the full possession of said Railway, which shall be free of all debts, fixed or floating, of the said Companies, and which shall be at least in as good condition physically as it now is, less wear and tear and damage by accident or acts of God or public disturbance or the foreign enemy.

The cost of restoring the Railway from damage occurring in the meantime from any of such causes, shall be first chargeable upon the net profits of the year, and any excess of such cost shall be paid by the Dominican Government out of its Treasury in the same manner as hereinafter described in Article 4.

If such payment of One Million Five hundred thousand dollars (\$1,500,000), or any part thereof, shall be made by the Government, other than by the monthly instalments hereinafter provided, such monthly instalments shall nevertheless continue as herein provided.

(c) When the principal of said debt of Four Million Five hundred thousand dollars (\$4,500,000) shall have been reduced to Two Million Seventy-six thousand Six hundred and thirty-five dollars (\$2,076,635), then shall begin the delivery of the bonds of the Dominican Republic mentioned in paragraph 3 of Article V of the Protocol of the amount of Eight hundred and thirty thousand Six hundred and fifty-four pounds sterling (£830,654). The bonds to be delivered shall not include any of the Three hundred and fifty-one thousand Four hundred pounds sterling (£351,400) of Unified Scrip, admitted by the Companies to be the property of the Dominican Republic and heretofore tendered by the Companies to the Dominican Government, under the provisions of Article 6 of the contract of April 18, 1900; and the said Three hundred and fifty-one thousand Four hundred pounds sterling (£351,400) of Unified Scrip shall be delivered to the Dominican Government within thirty days from the date of this Award. With regard to the delivery of the amount of Eight hundred and thirty thousand Six hundred and fifty-four pounds sterling

(£830,654) of bonds, exclusive of the Three hundred and fifty-one thousand Four hundred pounds sterling (£351,400) admitted to be the property of the Dominican Republic, this is understood to constitute a guarantee on the part of the Companies that there are outstanding not more than One Million One hundred and forty-eight thousand Six hundred pounds sterling (£1,148,600) of 4 per centum obligations, including French-American Reclamation Consols (stamped and unstamped), Unified 4 per centum Scrip, and the 4 per centum bonds embraced in the Eight hundred and thirty thousand Six hundred and forty-four pounds sterling (£830,654) of bonds to be delivered under this award, and that, if any bonds of the issues of 1888, 1890, or 1893, shall hereafter be presented for conversion, the Companies will protect the Dominican Government. The delivery of the bonds by said Companies to the Dominican Government shall be in monthly installments *pro rata* to the payments of principal made to the United States, so that One thousand dollars (\$1,000) or Two hundred pounds sterling (£200) of bonds shall be delivered for each Five hundred dollars (\$500) of principal debt paid.

Article 2. Rate of Interest

The principal sum of Four Million Four hundred and eighty-one thousand Two hundred and fifty dollars (\$4,481,250) and any and all balances thereof due and payable to the United States by the Dominican Government shall bear interest from the date of this award, at the rate of four per centum per annum. All payments made shall be applied first to the interest accrued.

Article 3. Amount of Monthly Instalments

Said principal and interest shall be payable in monthly instalments of Thirty-seven thousand Five hundred dollars (\$37,500) each, during the first two years, and of Forty-one thousand Six hundred and sixty-six dollars and sixty-six cents (\$41,666.66) each, thereafter, to the Financial Agent of the United States, on the first day of each month, beginning with the month of September, 1904, and shall be made in gold coin or currency of the United States, or in such good bills of exchange as shall be acceptable to said Agent. In the former case, the cost of shipment to New York, and in the latter case the discount to maturity and charges incident to the collection of such bills of exchange, shall be added to the amount of the monthly instalment.

The net profits of the operation of said Railway, until its delivery under Article I hereof, during each year, beginning from the first day of July, 1904, as shall annually be stated by its General Manager, shall be and constitute a further credit upon said principal debt.

Article 4. Security and Mode of Collection

Security: The said debt and interest and the monthly payments thereof, as herein determined, shall be secured as follows:—

The Customs Revenues and Port Dues of the ports of entry or custom houses of Puerto Plata, Sánchez, Samaná and Montecristy, and of all other ports of entry or custom houses now existing or which may hereafter be established, on the coast or in the interior, north of eighteen degrees and forty-five minutes of North Latitude, and east of the Haitian boundary, are hereby assigned and designated as security for the payment of the debt and interest herein mentioned.

Until payment of said debt and interest, the tariff of Customs Duties and Port Dues now prevailing shall not be reduced in any case or to any person more than twenty per centum, without the consent of the United States.

The said debt and interest shall also constitute a first lien upon the Central Dominican Railway, until its delivery to the Dominican Republic as provided in this award.

Mode of Collection: The United States shall appoint a Financial Agent, who shall establish an office in the Dominican Republic.

In case of failure to receive during any month the sum then due, the said Financial Agent shall have full power and authority by himself or by his appointees, to forthwith enter into possession of the Custom House at Puerto Plata in the first instance, and to assume charge of the collection of the Customs Duties and Port Dues at that port, and, to that end, shall fix and determine those Duties and Dues and enforce their payment, possessing and exercising all the present powers of the "Interventor de Aduana" and of the "Administrador de Hacienda" and of all other officials authorized by law to participate in the collection and determination of Duties and Dues and the enforcement of their payment.

Said Financial Agent shall have power from time to time to appoint subordinate officials and employees. The Customs Duties and Port Dues shall be paid to him or to his appointees directly by the exporters and importers or other persons liable therefor in cash or in *pagarés* drawn to the order of said Financial Agent or his appointees, and such payment, and such payment alone, shall operate as a release of the goods and as a discharge of such importers and exporters and other persons from the liability for payment of such Customs Duties and Port Dues.

The Dominican Government may appoint such officials as it may deem proper for the purpose of inspecting the collection of duties.

Out of the sums collected by the Financial Agent and his appointees the said Agent shall pay in the following order:

- (a) The expenses of collection.
- (b) The Special Apartados, as follows: —

Port of Puerto Plata:

Wharf Concession;
 Freight Concession;
 Personal duties;
 Old Foreign Debt, one and one-half ($1\frac{1}{2}$) per centum of import duties;
 Colon, one-half ($\frac{1}{2}$) per centum of import and export duties.

Port of Samaná:

Wharf Concession;
 Old Foreign Debt, one and one-half ($1\frac{1}{2}$) per centum of import duties;
 Colon, one-half ($\frac{1}{2}$) per centum on import and export duties.

Port of Sánchez:

Wharf Concession;
 Samaná-Santiago railway concession, seven (7) per centum of import duties;
 Macoris branch railway concession, two (2) per centum of customs receipts;
 Old Foreign Debt, one and one-half ($1\frac{1}{2}$) per centum of import duties;
 Colon, one-half ($\frac{1}{2}$) per centum import and export duties.

Port of Montecristy:

Improvement River Yaque Concession;
 "Gobernación";
 Old Foreign Debt, one and one-half ($1\frac{1}{2}$) per centum of import duties;
 Colon, one-half ($\frac{1}{2}$) per centum of import and export duties.

- (c) The sums due under this Award.
- (d) "Deuda Flotante Interior" and "Deuda Flotante Vicini," each five (5) per centum.

The excess, if any, after said payments, shall be paid over by said Financial Agent to the Minister of Hacienda of the Dominican Government at the time recognized by the United States or to his order. And the said Financial Agent shall render monthly an account of his collections and disbursements to the said Minister of Hacienda. He shall not be obstructed in the peaceful exercise of his duties under this Award.

In case the sums collected at Puerto Plata shall at any time be insufficient for the payment of the amounts due hereunder, or in case of any other manifest necessity, or if the Dominican Government shall so request, the said Financial Agent or his appointees shall have and exercise at Sánchez, Samaná and Montecristy, and at any or all of the ports of entry or custom houses within the territorial limits above described, all the rights and powers vested in him or them by this Award in respect of the port of Puerto Plata.

This possession, power and duty shall continue until six months after all arrears hereunder shall have been paid, and further, until the Dominican Government requests the restoration of the *status quo ante*; but said Financial Agent and his appointees shall re-enter said custom houses and resume the exercise of all the powers and authority as above described, at any subsequent time when a like default in payment shall be made by the Dominican Government.

To the end that the capacity of the Dominican Republic punctually to make the payments required by this Award shall not hereafter be impaired, the Financial Agent herein mentioned shall act as Financial Adviser to the Dominican Government, in all matters affecting its ability to pay this Award.

Article 5

In the month of January in each year the Dominican Government shall make up, in accord with the Financial Agent herein mentioned, a statement showing the total fiscal revenues of the Republic for the preceding year.

Article 6

The salaries and necessary traveling and other expenses of the Financial Agent and his appointees shall be paid by the Dominican Government in monthly instalments in the same manner and with the same security as the monthly instalments of debt provided herein by Article 4.

Article 7

In addition to the monthly instalment of Thirty-seven thousand five hundred dollars (\$37,500) provided for in Article 3, there shall be paid to the Financial Agent, during the month of August, 1904, a sum sufficient to pay an equal moiety of the compensation of the arbitrators, and an equal moiety of all expenses of this arbitration, being the amount for which the Dominican Republic is liable, under Article VIII of the Protocol, which amounts shall be certified to the Dominican Government by the Department of State of the United States of America.

And in case of the failure to pay said amount, or any part thereof, during the said month of August, the Financial Agent shall have and exercise in the collection thereof, the same powers as hereinbefore conferred upon him in

case of default in the payment of the said monthly instalments on the principal and interest of said debt.

This Award is given and rendered at Washington, on this fourteenth day of July, in the year one thousand nine hundred and four.

IN WITNESS WHEREOF, we have hereunto affixed our hands and seals.

[SEAL]

Geo. GRAY
President

[SEAL]

John G. CARLISLE

[SEAL]

Manuel DE J. GALVAN
