

N° 1251.

ALLEMAGNE ET MEXIQUE

Arrangement relatif au règlement des indemnités à accorder aux ressortissants allemands pour dommages subis à l'occasion des troubles révolutionnaires au Mexique. Signé à Mexico, le 16 mars 1925.

GERMANY AND MEXICO

Arrangement relating to the Compensation to be granted to German Nationals for Damage suffered on the occasion of the Revolutionary Disturbances in Mexico. Signed at Mexico, March 16, 1925.

¹ TRANSLATION.

No. 1251. — ARRANGEMENT BETWEEN GERMANY AND MEXICO RELATING TO THE COMPENSATION TO BE GRANTED TO GERMAN NATIONALS FOR DAMAGE SUFFERED ON THE OCCASION OF THE REVOLUTIONARY DISTURBANCES IN MEXICO. SIGNED AT MEXICO, MARCH 16, 1925.

THE PRESIDENT OF THE GERMAN REICH, of the one part, and THE PRESIDENT OF THE UNITED STATES OF MEXICO, of the other part, acting on behalf of their respective countries, have decided, in view of the voluntary proposal made by the latter to the German Government on July 14, 1921, with a view to the pecuniary compensation of German nationals for damage and loss suffered by reason of revolutionary acts committed between November 20, 1910 and May 31, 1920, inclusive, to conclude an Arrangement on this question. For this purpose they have appointed as their Plenipotentiaries :

THE PRESIDENT OF THE GERMAN REICH :

M. Eugen WILL, Envoy Extraordinary and Minister Plenipotentiary in Mexico ;

THE PRESIDENT OF THE UNITED STATES OF MEXICO :

M. Aarón SÁENZ, Secretary of State and Minister for Foreign Affairs ;

Who, having communicated their full powers found in good and due form, have agreed upon the following provisions :

Article I.

All the claims specified in Article IV of the present Arrangement shall be submitted to a Commission consisting of three members, to be appointed, one by the President of the German Reich, another by the President of the United States of Mexico and the third, who shall preside over the Commission, jointly by the two Presidents. Should the latter not reach an agreement upon this matter within two months reckoned from the date of the exchange of the instruments of ratification, the Chairman of the Commission shall be appointed by the President of the Governing Body of the Permanent Court of Arbitration at The Hague. The request for such appointment must be addressed by the two Presidents to the President of the above-mentioned body within a month ; after the expiry of this period it must be addressed by the President more immediately concerned. In no case may the third arbitrator be a German or a Mexican or a national of a country which has claims against Mexico such as form the subject of the present Arrangement.

In the event of the death of a member of the Commission, or should a member be prevented from discharging his duties, or for some reason abstain from doing so, he shall immediately be replaced in accordance with the same procedure as is followed in his appointment.

¹ Translated by the Secretariat of the League of Nations.

Article II.

The members of the Commission thus appointed shall meet at Mexico City within four months of the exchange of the instruments of ratification of the present Arrangement. Before entering upon his duties, each member of the Commission shall make a solemn signed declaration in which he undertakes to examine carefully all claims submitted and to give an impartial decision in conformity with the principles of equity, taking into account the fact that Mexico desires to compensate the victims of her own accord, and not because any obligation to do so could be derived from the provisions of Article XVIII of the Treaty of Friendship, Commerce and Navigation in force between the German Reich and the United States of Mexico. It shall, therefore, be sufficient to prove that the alleged damage has been suffered and that it may be attributed to one of the causes mentioned in Article IV of the present Arrangement for Mexico to be prepared voluntarily to accord compensation.

The foregoing declaration shall be included in the Minutes of the Commission.
The Commission shall fix the date and place of its subsequent meetings.

Article III.

The German Reich appreciates the friendly attitude adopted by the United States of Mexico in consenting to its responsibility being fixed for the purposes of the present Arrangement only, in accordance with the principles of equity, and in refraining from basing a dismissal of these claims on Article XVIII of the Treaty of Friendship, Commerce and Navigation now in force between the two countries and signed on December 5, 1882, at Mexico City. Accordingly, the German Reich solemnly declares that it agrees that the present Arrangement shall not modify the Treaty in question either wholly or in part or either tacitly or expressly, and that it undertakes not to refer to the present Arrangement as a precedent.

Article IV.

The Commission shall recognise all claims against Mexico for loss or damage which German nationals or companies, undertakings, associations or German legal persons shall have suffered, and for loss or damage which shall have been suffered by German nationals in companies, associations or other grouped interests, provided that in this case the share of the victim in the total capital of the company or association to which he belonged prior to the time at which the damage or loss was incurred, amounted to more than 50 per cent., and provided also that the Commission is furnished with evidence of the surrender of the claimant's proportionate share in the loss or damage as a member of such company or association. The loss or damage referred to in the present Article must have been caused between November 20, 1910 and May 31, 1920 inclusive, by the following forces :

- (1) By the forces of a *de jure* or *de facto* Government ;
- (2) By revolutionary forces which as the result of victory have established a *de jure* or *de facto* Government, or by counter-revolutionary forces ;
- (3) By forces constituting scattered remnants of the troops mentioned in the previous paragraph, up to the time when the *de jure* Government was established through the termination of a revolution ;
- (4) By disbanded forces of the Federal Army ;
- (5) By insurrections or uprisings or by other revolutionary forces than those mentioned in paragraphs 2, 3 and 4 of the present Article or by robber bands, if it can be proved in each case that the competent authorities omitted to take reasonable measures to suppress such insurrections, uprisings, mutinies or acts of brigandage, or to punish

the offenders, or if it is proved that the authorities were responsible for some other act of omission.

The Commission shall also recognise claims for loss or damage caused by acts of the civil authorities, but only if they can be attributed to revolutionary events and disturbances occurring in the period referred to in the present Article and if they can be attributed to one or other of the forces mentioned in paragraphs 1, 2 and 3 of the present Article.

Article V.

The Commission shall fix its own rules of procedure within the limits of the provisions of the present Arrangement.

Each Government may appoint a representative as well as advisers, who may submit to the Commission verbally or in writing such evidence and material as they may consider necessary to adduce in support of claims or against them.

The Commission shall take its decisions by a majority vote. The Chairman shall have a casting vote.

Spanish or English shall be employed both in the proceedings of the Commission and in its decisions.

Article VI.

The Commission shall keep an exact record of all claims and cases submitted to it and also of the Minutes of their proceedings with corresponding dates.

For this purpose each Government shall appoint a Secretary. The said Secretaries shall be subordinate to the Commission and comply with its instructions.

Each Government may also appoint and employ any assistant secretaries that it may deem necessary. The Commission may also appoint and employ any auxiliary personnel which it may require in order to discharge its mission.

Article VII.

In view of the fact that the Mexican Government desires to arrive at a friendly settlement of the claims specified in Article IV and to accord to the claimants fair compensation for the damage and loss which they have suffered, it is decided that the Commission shall not dismiss or reject a claim simply for the reason that the legal remedies had not all been sought before the claim was submitted.

For the purpose of determining the amount to be granted as compensation for material damage, the basis taken shall be the value given by the persons concerned to the fiscal authorities, except in very special cases deemed to be such by the Commission.

The amount of compensation for personal damage shall not exceed the largest compensation granted by Germany in similar cases.

Article VIII.

All claims must be submitted to the Commission within six months from the date of its first meeting, except in certain special cases, when the majority of the members of the Commission consider the reasons given for the delay satisfactory; the period within which these exceptional claims may be submitted must not exceed the ordinary time-limit by more than two months.

The Commission shall hear, examine and decide upon all claims submitted to it within two years of the date of its first meeting.

Three months after the first meeting of the members of the Commission, and every two months subsequently, the Commission shall submit to each Government a report setting forth in detail the work that has been accomplished and containing a list of the claims submitted, dealt with and decided upon.

The Commission shall give its decision upon each claim submitted to it within six months of the date on which the proceedings regarding the said claim are concluded.

Article IX.

The High Contracting Parties undertake to regard the Commission's decisions upon each claim dealt with as final and to give full legal effect to each separate decision. They also agree that the result of the work of the Commission shall be regarded as a full, comprehensive and final settlement of all claims against the Mexican Government, on whichever of the grounds enumerated in Article IV of the present Arrangement these claims may have been based. Finally, they agree that from the moment the Commission has concluded its work, any claim of the kind mentioned, whether submitted to the Commission or not, shall in future be regarded as finally and irrevocably settled, provided, however, that those claims submitted to the Commission have actually been examined and decided upon.

Article X.

The form in which the Mexican Government shall pay compensation shall be fixed by the two Governments as soon as the Commission has concluded its work. Payments shall be made by the Mexican Government to the German Government in gold or in an equivalent currency.

Article XI.

Each Government shall pay the salaries of its own member of the Commission and of its personnel.

The general expenses of the Commission and the salary of the third member shall be borne by the two Governments in equal shares.

Article XII.

Claims submitted by German nationals to the National Claims Commission in accordance with the Decree of August 30, 1919, and the regulations in execution thereof, shall be subject to the following provisions :

I. In so far as they have been decided upon and not disputed by the claimants within the time-limit fixed by law, they shall come under Article IX of the present Arrangement and their payment shall be regulated in accordance with the terms of Article X.

II. In so far as they have been decided upon but have been disputed by the claimants in virtue of Article XII of the said Decree, they shall, in execution of that Decree, be submitted for confirmation, modification or annulment of the decision to the Commission appointed in accordance with the present Arrangement.

III. In so far as they are under consideration and not yet decided upon they shall be submitted to the Commission established by the present Arrangement and be subject to the terms of this Arrangement.

Article XIII.

The present Arrangement shall be drawn up in German and Spanish and it is agreed that, if any doubt arises regarding its interpretation, the Spanish text shall be authentic.

Article XIV.

The High Contracting Parties shall ratify the present Arrangement in conformity with their Constitutions. The exchange of the instruments of ratification shall take place at Mexico City as soon as possible, and the Arrangement shall enter into force on the publication of the exchange of the instruments of ratification.

In faith whereof, the respective Plenipotentiaries have signed the present Arrangement and have thereto affixed their seals.

Done in duplicate at Mexico City, March the sixteenth, nineteen hundred and twenty-five.

(Signed) Eugen WILL.

(Signed) Aarón SÁENZ.