

Award of the President of the United States on the United States on the Validity of the Treaty of Limits of 15 April 1858 between Costa Rica and Nicaragua, given at Washington, 22 March

ENGLISH TEXT

Grover Cleveland, President of the United States, to whom it shall concern, greeting.

The functions of Arbitrator having been conferred upon the President of the United by virtue of a Treaty signed at the city of Guatemala on the 24th day of December, 1886, between the Republics of Costa Rica and Nicaragua, whereby it was agreed that the question pending between the Contracting Governments in regard to the validity of their Treaty of Limits of the 15th day of April, 1858, should be submitted to the arbitration of the President of the United States of America; that if the Arbitrator's Award should determine that the Treaty was valid, the same award should also declare whether Costa Rica has the right of navigation of the River San Juan with vessels of war or of the revenue service; and that, in the same manner, the Arbitrator should decide, in case of the validity of the Treaty, upon all the other points of doubtful interpretation which either of the Parties might find in the Treaty and should communicate to the other Party within 30 days after the exchange of the ratifications of the said Treaty of the 24th day of December, 1886,

And the republic of Nicaragua having duly communicated to the Republic of Costa Rica 11 points of doubtful interpretation found in the said Treaty of Limits of the 15th day of April, 1858 ; and the Republic of Costa Rica having failed to communicate to the Republic of Nicaragua any points of doubtful interpretation found in the said last-mentioned Treaty.

And both Parties having duly presented their allegations and documents to the Arbitrator, and having thereafter duly presented their respective answers to the allegations of the other Party, as provided in the Treaty of the 24th day of December 1886;

And the Arbitrator, pursuant to clause V of said last-named Treaty, having delegated his powers to the Honorable George L. Rives, Assistant Secretary of State, who, after examining and considering the said allegations, documents, and answers, has made his Report in writing thereon to the Arbitrator ;

Now, therefore, I, Grover Cleveland, President of the United States of America, do hereby make the following decision and Award:-

1. The above-mentioned Treaty of Limits, signed on the 15th day of April, 1858, is valid.
2. The Republic of Costa Rica, under said Treaty and the stipulations contained in Article VI thereof, has not the right of navigation of the River San Juan with vessels of war, but she may navigate said river with such vessels of the revenue service as may be related to

and connected with her enjoyment of the " purpose of commerce " accorded to her in said Article, or as may be necessary to the protection of said enjoyment.

3. With respect to the points of doubtful interpretation communicated as aforesaid by the Republic of Nicaragua, I decide as follows:-

- (1.) The boundary-line between the Republics of Costa Rica and Nicaragua, on the Atlantic side, begins at the extremity of Punta de Castilla, at the mouth of the San Juan de Nicaragua River, as they both existed on the 15th day of April, 1858. The ownership of any accretion to said Punta de Castilla to be governed by the laws applicable to that subject.
- (2.) The central point of the Salinas Bay is to be fixed by drawing a straight line across the mouth of the bay and determining mathematically the centre of the closed geometrical figure formed by such straight line and the shore of the bay at low-water mark.
- (3.) By the central point of Salinas Bay is to be understood the centre of the geometrical figure formed as above stated. The limit of the bay towards the ocean is a straight line drawn from the extremity of Punta Arranea Barba, nearly true south, to the westernmost portion of the land about Punta Sacate.
- (4.) The Republic of Costa Rica is not bound to concur with the Republic of Nicaragua in the expenses necessary to prevent the Bay of San Juan del Norte from being obstructed ; to keep the navigation of the river or port free and unembarrassed, or to improve it for the common benefit.
- (5.) The Republic of Costa Rica is not bound to contribute any proportion of the expenses that may be incurred by the Republic of Nicaragua for any of the purpose above mentioned.
- (6.) The Republic of Costa Rica cannot prevent the Republic of Nicaragua from executing, at her own expense and within her own territory, such works of improvement, provided such works of improvement do not result in the occupation or flooding or damage of Costa Rica territory, or in the destruction or serious impairment of the navigation of the said river or any of its branches at any point where Costa Rica is entitled to navigate the same. The Republic of Costa Rica has the right to demand indemnification for any places belonging to her on the right bank of the River San Juan which may be occupied without her consent, and for any lands on the same bank which may be flooded, or damaged in any other way, in consequence of works of improvement.
- (7.) The branch of the River San Juan known as the Colorado River must not be considered as the boundary between the Republics of Costa Rica and Nicaragua in any part of its course.
- (8.) The right of the Republic of Costa Rica to the navigation of the River San Juan with men-of-war or revenue-cutters is determined and defined in the 2nd Article of this Award.
- (9.) The Republic of Costa Rica can deny to the Republic of Nicaragua the right of deviating the waters of the River San Juan, in case such deviation will result in the destruction or serious impairment of the navigation of the said river or any of its branches at any point where Costa Rica is entitled to navigate the same.
- (10.) The Republic of Nicaragua remains bound not to make any grants for canal purposes across her territory without first asking the opinion of the Republic of Costa Rica, as provided in Article VIII of the Treaty or limits of the 15th day of April, 1858. The natural rights of the Republic of Costa Rica alluded to in the said stipulation are the rights which, in view of boundaries fixed by the said Treaty of Limits, she possessed in the soil thereby recognized as belonging exclusively to her, the rights which she possesses in the harbours of San Juan del Norte and Salinas Bay, and the rights which she possesses in so much of the Rive San Juan as

lies more than 3 English miles below Castillo Viejo, measuring from the exterior fortifications of the said castle as the same existed in the year 1858, and perhaps other rights not here particularly specified. These rights are to be deemed injured in any case where the territory belonging to the Republic of Costa Rica is occupied or flooded; where there is an encroachment upon either of the said harbours injurious to Costa Rica; or where there is such an obstruction or deviation of the River San Juan as to destroy or seriously impair the navigation of the said river or any of its branches at any point where Costa Rica is entitled to navigate the same.

- (11.) The Treaty of Limits of the 15th day of April, 1858, does not give to the Republic of Costa Rica the right to be a party to grants which Nicaragua may make for interoceanic canals; though in cases where the construction of the Canal will involve an injury to the natural rights of Costa Rica, her opinion or advice, as mentioned in Article VIII of the Treaty, should be more than “advisory” or “consultative.” It would seem in such cases that her consent is necessary, and that she may thereupon demand compensation for the concessions she is asked to make; but she is not entitled, as a right, to share in the profits that the Republic of Nicaragua may reserve for herself as a compensation for such favours and privileges as she, in her turn, may concede.

In testimony whereof I have hereunto set my hand and have caused the seal of the United States to be hereunto affixed.

Done in triplicate at the city of Washington, on the 22nd day of March, in the year 1888, and of the independence of the United States the 112th.

(L.S.) GROVER CLEVELAND.

By the President:

T. F. BAYARD, *Secretary of State*.