

December 22, 1948

**AGREEMENT ON THE ESTABLISHMENT OF A COURT OF
ARBITRATION AND PERMANENT CONCILIATION COMMISSION
BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE
SPANISH STATE**

Note: The Agreement entered into force, December 22, 1948.

Reference: This Agreement is also published in 1-3 DFA TS, p. 167.

ELPIDIO QUIRINO
President of the Philippines

Manila, December 22, 1948

Excellency:

I have the honor to acknowledge the receipt of your note of December 22, 1948, reading as follows:

(Spanish text omitted)

PERMANENT CONCILIATION COMMISSION

Renewal:

If at the expiration of the mandate of one of the Commissioners appointed by mutual agreement according to Article III of the Treaty no substitute has been provided, his position would be considered renewed for another period of three years. Nevertheless, the Philippines and Spain reserve for themselves the right to agree to the transfer of the functions of the President to another member of the Permanent Conciliation Commission designated by common agreement.

The Commissioner whose mandate expires during the course of a pending proceeding shall continue to take part in the examination of the dispute until the matter has been terminated even if his substitute has already been designated.

Alternates:

In case one of the members of the Commission appointed by common agreement by both parties should temporarily be prevented from taking part in the work of the Commission due to illness or any other cause, the parties shall agree about the designation of an alternate who shall act temporarily as long as the absence of the Commissioner lasts. If the agreement to designate the alternate is not made within three months beginning from the temporary vacancy of the post, the matter shall be decided in conformity with the following paragraphs;

(a) each party, in every case submitted to the Commission, reserves for itself the right to appoint immediately an alternate who shall replace temporarily the permanent member designated by it, who, because of illness or some other reason, may not be able to take part in the work of the Commission,

(b) if the designation of the members who must be appointed by common agreement has not been made within the time fixed by Article III of the Treaty, or in the case of alternates, within three months, beginning from the time of the illness of the incumbent of the position, the power to appoint shall be given to a third country designated by the mutual accord of the parties, and if there is no mutual assent on this matter, each signatory of the Treaty shall designate a different country, and the choice shall be made by the countries thus designated,

(c) if, during a period of two months, there should be no agreement between the two countries chosen, each one of them shall present as many candidates as there are members to be designated from whom shall be chosen the necessary members by lot.

Substitution:

In case of death or retirement of any of the Commissioners there shall be provision for his substitution for the duration of the mandate, or at least, during the three following months, and in all events, whenever a question is submitted to the Commission.

During a period of fifteen days beginning from the date in which a question has been submitted to the Commission of Conciliation, each of the parties may, in order to examine this question, replace the permanent Member designated by it, by a person who is especially competent in the matter. The party using this right shall notify immediately the other about the matter and the latter shall have, in its turn, the right to do the same within a period of fifteen days starting from the receipt of the notice.

Actuation and Powers:

The Permanent Conciliation Commission shall intervene upon a demand directed to the President by the two parties acting in common accord.

The demand, after explaining concisely the object of the dispute shall ask the Commission to adopt and propose such measures as it may deem necessary to bring about a conciliation.

Within thirty days after receipt of the demand, the President shall convoke the members of the Commission.

"The Commission of Conciliation shall have as its mission:

the clarification of questions in dispute; the gathering of all informations that it considers useful, by means of investigations or otherwise; to strive to conciliate the two parties, and after the examination of the dispute it shall propose to the parties the terms of an arrangement which it believes suitable to the dispute and shall give the parties a period during which they should adopt it. After the expiration of this period the Commission shall make a record of its proceedings which shall declare as the case may be, that the parties have come to an agreement and the conditions of the same, or that the parties have not been able to come to a conciliation.

The work of the Commission must, unless the parties agree otherwise, be terminated within six months from the day the Commission started to intervene in the dispute.

If the parties have not arrived at any conciliation, the Commission can, unless one of the two Commissioners appointed unilaterally by either of the two parties should oppose, order, even before the Arbitration Court which may eventually be requested to intervene has made any definite resolutions, the publication of information where the opinion of each of the members of the Commission is given.

Except where there is a special stipulation to the contrary, the Permanent Conciliation Commission shall establish for each dispute its own procedure.

Except as agreed otherwise by the parties, the Permanent Conciliation Commission shall meet in the place designated by its President.

The work of the Commission shall be made public only by virtue of a decision taken by the Commission with concurrence of both parties.

The parties may be represented before the Conciliation Commission, besides the Commissioners appointed unilaterally by the parties, by agents who shall have for their mission, to serve as the intermediary between their principal and the Commission of any person whose testimony may appear to them as useful. The Commission shall have, on its part the right to ask for oral statements from the agents, counselors, and experts of both parties, as well as from any other person whose appearance it may deem useful, with the consent of the government of the requested party.

Resolution:

Unless provided otherwise by a unanimous vote of its members, the decisions of the Permanent Conciliation Commission shall be made by a majority vote.

Both parties shall facilitate the work of the Conciliation Commission and shall provide it, as freely as possible, with all the documents and informations that it may need, and giving it every facility at their disposal to enable the Commission to perform its work in the territory of either one of the Parties.

If the Commission will not succeed in effecting conciliation between the parties, the request of one party shall be sufficient for the intervention of the Arbitration Court.

ARBITRATION COURT

Actuation and Powers:

The Arbitration Court shall act to settle disputes between the parties in those cases and according to the procedure provided in Articles II and III of the Treaty. In so far as applicable, the provisions of this Note relative to "Renewal of Mandate," "Alternates," "Substitutions" and the appointment of agents as special intermediaries, in the rules pertaining to the Permanent Conciliation Commission shall also apply to the Arbitration Court.

When there is recourse to arbitration, the parties shall, within a period of three months counted from the date one of them addresses to the other the demand to go to the Arbitration Court, conclude a "Compromis" which shall clearly define: the