AD HOC ARBITRATION

ARGENTINE-CHILE FRONTIER CASE (ARGENTINA, CHILE)

AWARD

09 December 1966

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Table of Contents

Award.........................................................................................................................................................................................................................1
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, \(^2\) (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 \(^3\) His Majesty King Edward VII on 20th November 1902, made an Award \(^4\) 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 IV of the Treaty of Arbitration;

AND WHEREAS the Government of the Republic of Chile by letter dated 15th September, 1964, invited Our Government in the United Kingdom of Great Britain and Northern Ireland 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 Our Government in the United Kingdom 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 Our Government in the United Kingdom;

AND WHEREAS Our Government in the United Kingdom, after consultation with the Parties, were satisfied that it would be appropriate for them to

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\(^2\) State Papers, Vol. 95, p. 759.
\(^3\) State Papers, Vol. 88, p. 553.
\(^4\) State Papers, Vol. 95, p. 162. See also Vol. IX of these Reports, p. 37.
act as Arbitrator in the controversy and that they were empowered to give effect to Article V of the Treaty of Arbitration;

AND WHEREAS Our Government in the United Kingdom, in pursuance of Article V of the Treaty of Arbitration, determined the Agreement for Arbitration (Compromiso) at London on 1st April, 1965;

AND WHEREAS for the purpose of fulfilling their duties as Arbitrator Our Government in the United Kingdom appointed a Court of Arbitration composed of the following three members,

Lord McNair as President,

Mr. L. P. Kirwan,

Brigadier K. M. Papworth, and appointed Professor D. H. N. Johnson as Registrar of the Court of Arbitration;

AND WHEREAS the Parties have presented to the Court of Arbitration written pleadings and maps and other documents;

AND WHEREAS, having heard representatives of the Parties, the Court of Arbitration, by means of a Field Mission appointed by it, in December, 1965 and January and February, 1966 examined the area in dispute and arranged for an aerial survey of that area to be made under the guidance of the Court of Arbitration;

AND WHEREAS representatives of the Parties took part in oral hearings before the Court of Arbitration between 19th September and 21st October, 1966;

AND WHEREAS the Court of Arbitration has considered the question put before it by Article I of the Agreement for Arbitration (Compromiso) and has reported to Our Government in the United Kingdom its conclusions thereon, which it has reached in accordance with the principles of international law;

AND WHEREAS Our Government in the United Kingdom have fully and carefully studied the Report of the Court of Arbitration (a copy of which Report is annexed to, and constitutes an integral part of, this Award);

Now, in pursuance of Articles VIII and IX of the Agreement for Arbitration (Compromiso) and in the name of Our Government in the United Kingdom, We, Elizabeth the Second, by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith, etc. etc. etc., make the following Award upon the question which has been the subject of this Arbitration, namely:

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?

1. From Boundary Post 16 on the north bank of the River Palena the boundary shall cross the Palena to the mouth of the River Encuentro. It shall then follow the thalweg of the Encuentro to Point A ¹ at the Confluence. The boundary shall then turn eastwards and follow the thalweg of the Encuentro for about 16 kilometres to Point B. The line shall then turn

¹ The location of Point A and subsequent Points is shown on the diagram and air photographs incorporated in the annexed copy of the Report of the Court of Arbitration. The diagram is not intended as an authoritative map. It is only an index to the air photographs. These photographs are the sole authority for the exact location of the Points.
westwards and ascend by way of a small lake to the local water-parting at Point C. Thence it shall turn south and follow the local water-parting for about 2 kilometres to Point D. The boundary shall then turn west and follow the local water-parting for about 6 kilometres to Point E on the hills sometimes known as Cordón de los Morros. Turning south it shall follow the local water-parting for about 2 kilometres to point F. It shall then turn west along the local water-parting to Point G on top of a hill just east of the River Engaño. The boundary shall proceed by a straight line to Point H on a low hill west of the River Engaño, and thence by a straight line to Point I, on the water-parting north of Cerro de la Virgen. Turning southwards, it shall follow the local water-parting to Point J at Cerro de la Virgen. The boundary shall then follow the local water-parting southwards to the northern shore of Lake General Paz at Boundary Post 17.

2. This Award shall be executed by the demarcation of the course of the boundary in the sector between Boundary Posts 16 and 17 as established in paragraph 1 above, and by each of the Parties taking such other steps as may be necessary to carry out the Award.

3. The Director of Military Survey at Our Ministry of Defence in the United Kingdom (hereinafter referred to as “the Director”) is appointed as the authority responsible for carrying out the demarcation in accordance with this Award and such further directions as may be given by or on behalf of Our Principal Secretary of State for Foreign Affairs. The Director shall appoint a Demarcation Mission for this purpose.

4. The Demarcation Mission shall consist of

(i) an Officer of Our Land Forces, who shall be in charge of the Mission and

(ii) such Officers or Non-Commissioned Officers (not exceeding 3 in number) of Our Land Forces as may be appointed by the Director. The Director shall in writing notify the Agents of the Parties of the names of all such Officers and Non-Commissioned Officers, indicating which is the Officer in charge.

5. Each of the Parties shall appoint a Liaison Officer to accompany the Mission, and shall in writing notify the Director of the name of its Liaison Officer.

6. The official language of the Mission shall be English.

7. The Mission shall, so far as weather permits, begin the demarcation of the boundary not later than 7th January, 1967. It shall so arrange its work as to complete the demarcation of the boundary during the Southern summer of 1966-67, weather permitting.

8. The Mission shall erect a boundary post at each point identified in paragraph 1 of this Award, or, if necessary in order to take account of geographical realities, as close as possible to each such point within a distance of not more than 300 metres therefrom. If any such displacement occurs, the course of the boundary shall, if required, be revised by the Officer in charge of the Mission to the extent necessary for it to pass through the actual location of the boundary posts. Where it is not possible to erect a boundary post on the actual site on which it is otherwise desirable to place it, the post may be erected to one side of that site. In that case, a suitable inscription shall be made on the boundary post.

9. The Director shall, as soon as possible after the completion of the demarcation, submit to Our Government in the United Kingdom a report on the work of the Mission.
10. Each of the Parties shall as soon as possible within a period of six months from the date of the present Award notify in writing Our Principal Secretary of State for Foreign Affairs that it has taken all steps necessary to carry out the Award.

Given in triplicate under Our hand and seal, at Our Court of St. James's, this Ninth day of December, One thousand Nine hundred and Sixty-six, in the Fifteenth year of Our Reign.