CHILE

CONVENTION BETWEEN THE UNITED STATES AND CHILE FOR PREVENTION OF SMUGGLING OF INTOXICATING LIQUORS, SIGNED MAY 27, 1930

711.259/3

The Chilean Ambassador (Dávila) to the Acting Secretary of State

No. 12 WASHINGTON, February 17, 1930.

EXCELLENCY: I have the honor to inform Your Excellency that I have received instructions from my Government to inquire of Your Excellency if the Government of the United States of America is disposed to sign with the Republic of Chile a Convention for the Prevention of the Smuggling of Alcoholic Liquors that will permit Chilean vessels carrying such liquors to call at American ports.—

At the present time, Chilean ships must unload all their alcoholic liquors in Cristobal on the voyage north, to be reloaded upon their return. This occasions much trouble, as is natural, and much loss of money through theft, leakage and breakage, etc., and places our boats in a very unfavorable situation in comparison with those of countries that have signed this class of Convention with the United States.—

If the Government of the United States deems it convenient I should be very glad to present for Your Excellency's consideration a draft of a Convention taking as a basis those of the same character that have already been signed by Your Excellency's Government.—

I avail myself [etc.] CARLOS G. DÁVILA

711.259720

The Secretary of State to the Chilean Ambassador (Dávila)

WASHINGTON, May 23, 1930.

EXCELLENCY: I have the honor to refer to your note of February 17, 1930, and to the acknowledgment of the Acting Secretary of State, dated March 3, 1930,[1] concerning the negotiation between the United States and Chile of a convention for the prevention of the smuggling of alcoholic liquors.

I take pleasure in informing you that this Government will be glad to conclude a treaty for the prevention of the smuggling of alcoholic

[1] Not printed.

liquors with the Government of Chile similar to the treaties on the subject which it has, during recent years, concluded with other countries. The draft of such a treaty is enclosed for your consideration.[2]

It will be noted that, in accordance with Article V of the draft treaty, the two Governments reserve the right, three months before the expiration of one year from the date of the exchange of ratifications, to propose modifications in the terms of the treaty.

The policy of the United States with reference to treaties of this nature is at present the subject of careful consideration by several of the Departments of this Government. Some dissatisfaction with the operation of this form of treaty has been expressed. Accordingly, it must be considered as not unlikely that the Government of the United States will take advantage of the foregoing provision of Article V at the appropriate time.

Accept [etc.] H. L. STIMSON

711.259/21

The Chilean Ambassador (Dávila) to the Secretary of State

No. 40 WASHINGTON, May 26, 1930.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's communication of May 23rd, in which Your Excellency was good enough to inform me that the Government of the United States of America would be glad to conclude a treaty with my Government for the prevention of the smuggling of alcoholic liquors similar to the treaties on the same subject already concluded with other countries. Your Excellency also enclosed a draft of the proposed treaty.—

I have the honor to inform Your Excellency that I have been instructed by my Government to sign the proposed treaty, and I await Your Excellency's pleasure.—

The attention of my Government has been called to the attitude of several Departments of Your Excellency's Government concerning the policy of the United States with reference to such treaties, and the likelihood of Your Excellency's Government taking advantage of that provision of Article V by which modifications may be proposed three months before the expiration of one year from the date of exchange of ratifications.—

I avail myself [etc.] CARLOS G. DÁVILA

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[2] Not printed.

Treaty Series No. 829

Convention Between the United States of America and Chile, Signed at Washington, May 27, 1930 [3]

The President of the United States of America and the President of the Republic of Chile, being desirous of avoiding any difficulties which might arise between the Governments of the two countries in connection with the laws in force in the United States on the subject of alcoholic beverages, have decided to conclude a convention for that purpose, and have appointed as their Plenipotentiaries:

The President of the United States of America: Mr. Henry L. Stimson, Secretary of State of the United States of America; and

The President of the Republic of Chile: His Excellency Señor Don Carlos G. Dávila, Ambassador Extraordinary and Plenipotentiary of Chile in Washington;

Who, having communicated their full powers, found in good and due form, have agreed as follows:

ARTICLE I

The High Contracting Parties respectively retain their rights and claims without prejudice by reason of this convention with respect to the extent of their territorial jurisdiction.

ARTICLE II

(1) The Chilean Government agree that they will raise no objection to the boarding of private vessels under the Chilean flag outside the limits of territorial waters by the authorities of the United States, its territories or possessions, in order that enquiries may be addressed to those on board and an examination be made of the ship's papers for the purpose of ascertaining whether the vessel or those on board are endeavoring to import or have imported alcoholic beverages into the United States, its territories or possessions, in violation of the laws there in force. When such enquiries and examination show a reasonable ground for suspicion, a search of the vessel may be initiated.

(2) If there is reasonable cause for belief that the vessel has committed or is committing or attempting to commit an offense against the laws of the United States, its territories or possessions, prohibiting the importation of alcoholic beverages, the vessel may be seized and taken into a port of the United States, its territories or possessions, for adjudication in accordance with such laws.

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[3] In English and Spanish; Spanish text not printed. Ratification advised by the Senate, June 28, 1930; ratified by the President, July 21, 1930; ratified by Chile, October 2, 1930; ratifications exchanged at Washington, November 25, 1930; proclaimed by the President, November 26, 1930.

(3) The rights conferred by this article shall not be exercised at a greater distance from the coast of the United States, its territories or possessions, than can be traversed in one hour by the vessel suspected of endeavoring to commit the offense. In cases, however, in which the liquor is intended to be conveyed to the United States, its territories or possessions, by a vessel other than the one boarded and searched, it shall be the speed of such other vessel, and not the speed of the vessel boarded, which shall determine the distance from the coast at which the right under this article can be exercised.

ARTICLE III

No penalty or forfeiture under the laws of the United States shall be applicable or attach to alcoholic liquors or to vessels or persons by reason of the carriage of such liquors, when such liquors are listed as sea stores or cargo destined for a port foreign to the United States, its territories or possessions, on board Chilean vessels voyaging to or from ports of the United States, or its territories or possessions, or passing through the territorial waters thereof, and such carriage shall be as now provided by law with respect to the transit of such liquors through the Panama Canal, provided that such liquors shall be kept under seal continuously while the vessel on which they are carried remains within said territorial waters and that no part of such liquors shall at any time or place be unladen within the United States, its territories or possessions.

ARTICLE IV

Any claim by a Chilean vessel for compensation on the ground that it has suffered loss or injury through the improper or unreasonable exercise of the rights conferred by Article II of this convention or on the ground that it has not been given the benefit of Article III shall be referred for the joint consideration of two persons, one of whom shall be nominated by each of the High Contracting Parties.

Effect shall be given to the recommendations contained in any such joint report. If no joint report can be agreed upon, the claim shall be referred to the Permanent Court of Arbitration at The Hague described in the Convention for the pacific settlement of international disputes, concluded at The Hague, October 18, 1907. The arbitral tribunal shall be constituted in accordance with Article 87 (Chapter IV) and with Article 59 (Chapter III) of the said Convention. The proceedings shall be regulated by so much of Chapter IV of the said Convention and of Chapter III thereof (special regard being had for Articles 70 and 74, but excepting Articles 53 and 54) as the tribunal may consider to be applicable and to be consistent with the provisions of this agreement. All sums of money which may be awarded by the tribunal on account of any claim shall be paid within eighteen

months after the date of the final award without interest and without deduction, save as hereafter specified. Each Government shall bear its own expenses. The expenses of the tribunal shall be defrayed by a ratable deduction from the amount of the sums awarded by it, at a rate of five per cent on such sums, or at such lower rate as may be agreed upon between the two Governments; the deficiency, if any, shall be defrayed in equal moieties by the two Governments.

ARTICLE V

This Convention shall be subject to ratification and shall remain in force for a period of one year from the date of the exchange of ratifications.

Three months before the expiration of the said period of one year, either of the High Contracting Parties may give notice of its desire to propose modifications in the terms of the Convention.

If such modifications have not been agreed upon before the expiration of the term of one year mentioned above, the Convention shall lapse.

If no notice is given on either side of the desire to propose modifications, the Convention shall remain in force for another year, and so on automatically, but subject always in respect of each such period of a year to the right on either side to propose as provided above three months before its expiration modifications in the convention, and to the provision that if such modifications are not agreed upon before the close of the period of one year, the convention shall lapse.

ARTICLE VI

In the event that either of the High Contracting Parties shall be prevented either by judicial decision or legislative action from giving full effect to the provisions of the present convention the said convention shall automatically lapse, and, on such lapse or whenever this convention shall cease to be in force, each High Contracting Party shall enjoy all the rights which it would have possessed had this convention not been concluded.

The present convention shall be duly ratified by the High Contracting Parties in accordance with their respective constitutional methods; and the ratifications shall be exchanged at Washington as soon as possible.

In witness whereof, the respective Plenipotentiaries have signed the present convention in duplicate in the English and Spanish languages and have thereunto affixed their seals.

Done at the city of Washington this twenty-seventh day of May, nineteen hundred and thirty.

HENRY L. STIMSON [SEAL]
CARLOS G. DÁVILA [SEAL]