

The chairman shall be a jurist of repute who is neither a British subject nor a citizen of the United States. He shall be chosen by the Governments, or, in the event of failure to reach agreement within nine months after the exchange of ratifications of this Convention, by the President of the Permanent Administrative Council of the Permanent Court of Arbitration at The Hague described in Article 49 of the Convention for the Pacific Settlement of International Disputes concluded at The Hague on October 18, 1907.

The two national members shall be jurists of repute, who have not been associated directly or indirectly, in the present controversy. One member shall be chosen by each of the Governments.

The Governments may each designate a scientist to assist the Tribunal.

### ARTICLE III

The Tribunal shall finally decide the questions, hereinafter referred to as "the Questions," set forth hereunder, namely:—

- (1) Whether damage caused by the Trail Smelter in the State of Washington has occurred since the first day of January, 1932, and, if so, what indemnity should be paid therefor?
- (2) In the event of the answer to the first part of the preceding Question being in the affirmative, whether the Trail Smelter should be required to refrain from causing damage in the State of Washington in the future and, if so, to what extent?
- (3) In the light of the answer to the preceding Question, what measures or regime, if any, should be adopted or maintained by the Trail Smelter?
- (4) What indemnity or compensation, if any, should be paid on account of any decision or decisions rendered by the Tribunal pursuant to the next two preceding Questions?

### ARTICLE IV

The Tribunal shall apply the law and practice followed in dealing with cognate questions in the United States of America as well as International Law and Practice, and shall give consideration to the desire of the High Contracting Parties to reach a solution just to all parties concerned.

### ARTICLE V

The procedure in this adjudication shall be as follows:

1. Within nine months from the date of the exchange of ratifications of this agreement, the Agent for the Government of the United States shall present to the Agent for the Government of Canada a statement of the facts, together with the supporting evidence, on which the Government of the United States rests its complaint and petition.

2. Within a like period of nine months from the date on which this agreement becomes effective, as aforesaid, the Agent for the Government of Canada shall present to the Agent for the Government of the United States a statement of the facts, together with the supporting evidence, relied upon by the Government of Canada.

3. Within six months from the date on which the exchange of statements and evidence provided for in paragraphs 1 and 2 of this Article has been completed, each Agent shall present in the manner prescribed by paragraphs 1 and 2 an answer to the statement of the other with any additional evidence and such argument as he may desire to submit.