

N° 2356.

FRANCE ET PAYS-BAS

Traité d'arbitrage et de conciliation,
et protocole. Signés à Genève, le
10 mars 1928.

**FRANCE
AND THE NETHERLANDS**

Treaty of Arbitration and Concilia-
tion, with Protocol. Signed at
Geneva, March 10, 1928.

¹ TRADUCTION. — TRANSLATION.No. 2356. — ARBITRATION TREATY² BETWEEN FRANCE AND NETHERLANDS. SIGNED AT GENEVA, MARCH 10, 1928.

French official text communicated by the Netherlands Minister at Berne. The registration of this Treaty took place June 23, 1930.

HER MAJESTY THE QUEEN OF THE NETHERLANDS and THE PRESIDENT OF THE FRENCH REPUBLIC, inspired by the friendly relations which happily unite the Netherlands nation and the French nation,

Having regard to the Arbitration Convention³ concluded between the Netherlands and France on April 6, 1904, which was renewed⁴ on December 29, 1909, and has remained in force until the present time,

Desiring to substitute therefor provisions making it possible henceforth, in conformity with the progress of international law, to ensure in all cases the pacific settlement of any disputes or conflicts of whatever nature which may arise between the two countries,

Have resolved to conclude a Treaty for that purpose and have appointed as their respective Plenipotentiaries :

HER MAJESTY THE QUEEN OF THE NETHERLANDS :

Jonkheer Frans BEELAERTS VAN BLOKLAND, Her Minister for Foreign Affairs ;

THE PRESIDENT OF THE FRENCH REPUBLIC :

M. Aristide BRIAND, Deputy, former President of the Council, Minister for Foreign Affairs ;

M. Henri FROMAGEOT, Legal Adviser to the Ministry of Foreign Affairs, Commander of the Legion of Honour ;

Who, having communicated their full powers, found in good and due form, have agreed on the following provisions :

Article 1.

The High Contracting Parties reciprocally agree that in no case will they seek the settlement, otherwise than by pacific means, of disputes or conflicts of whatever nature they may be which may arise between France and the Netherlands and which it has been impossible to settle, in a reasonable time, by the normal methods of diplomacy.

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.

² The exchange of ratifications took place at The Hague, March 10, 1930.

³ *British and Foreign State Papers*, Vol. 99, page 1085.

⁴ *British and Foreign State Papers*, Vol. 102, page 611.

Article 2.

All disputes of every kind relating to a right asserted by one of the High Contracting Parties and contested by the other which it has not been possible to settle amicably by the normal methods of diplomacy shall be submitted for decision either to the Permanent Court of International Justice or to an arbitral tribunal, as laid down hereafter. It is agreed that the disputes referred to above shall include, in particular, those mentioned in Article 13 of the Covenant of the League of Nations.

Disputes for the settlement of which a special procedure is laid down in other Conventions in force between the High Contracting Parties shall be settled in conformity with the provisions of those Conventions.

Article 3.

Before any resort is made to procedure before the Permanent Court of International Justice or to arbitration, the dispute may, by agreement between the Parties, be submitted with a view to amicable settlement to a permanent international commission, styled the *Permanent Conciliation Commission*, constituted in accordance with the present Treaty.

Article 4.

If, in the case of one of the disputes referred to in Article 2, the two Parties have not had recourse to the Permanent Conciliation Commission or if the latter has failed to bring the Parties to an agreement, the dispute shall, by Common consent be submitted by means of a special agreement either to the Permanent Court of International Justice, which shall decide under the conditions and in accordance with the procedure laid down in its Statute, or to an arbitral tribunal, which shall decide under the conditions and in accordance with the procedure laid down in the Hague Convention¹ of October 18, 1907, for the Pacific Settlement of International Disputes.

Failing agreement between the Parties as to the choice of jurisdiction, the terms of the special agreement or, in the case of arbitration procedure, the choice of the arbitrators, either Party shall, after giving one month's notice, be entitled to take the dispute, by means of an application, direct before the Permanent Court of International Justice.

Article 5.

In the case of a dispute the occasion of which, according to the municipal law of one of the Parties, falls within the competence of the national courts of such Party, the matter in dispute shall not be submitted to the procedure laid down in the present Treaty until a judgment with final effect has been pronounced, within a reasonable time, by the competent national judicial authority.

Article 6.

All questions on which the High Contracting Parties shall differ without being able to reach an amicable solution by means of the normal methods of diplomacy, the settlement of which cannot be attained by means of a judicial decision as provided in Article 2 of the present Treaty, and for the settlement of which no procedure has been laid down in a treaty or convention in force between the Parties, shall be submitted to the Permanent Conciliation Commission, whose duty it shall be to propose to the Parties an acceptable solution and in any case to present a report.

Failing agreement between the Parties as to the application to be made to the Commission, either Party shall, after giving one month's notice, be entitled to submit the question direct to the said Commission.

¹ *British and Foreign State Papers*, Vol. 100, page 298.

In all cases, if there is a disagreement between the Parties as to whether the dispute is or is not a dispute of the character referred to in Article 2, and therefore capable of being settled by a judicial decision or award, such disagreement shall, before any procedure before the Permanent Conciliation Commission, be submitted for decision to the Permanent Court of International Justice by agreement between the High Contracting Parties or, failing agreement, on the application of either Party.

Article 7.

Failing any settlement before the Permanent Conciliation Commission in the cases referred to in Article 6, the High Contracting Parties who are Members of the League of Nations retain the right, in conformity with the Covenant of the League of Nations, to bring matters likely to lead to a rupture or to disturb international peace before the Council of the League of Nations, which shall proceed in conformity with the Covenant.

Article 8.

The Permanent Conciliation Commission mentioned in the present Treaty shall be composed of five members, who shall be appointed as follows, that is to say : the High Contracting Parties shall each nominate a commissioner chosen from among their respective nationals, and shall appoint, by common agreement, the other three commissioners from among the nationals of third Powers ; those three commissioners must be of different nationalities, and the High Contracting Parties shall appoint the President of the Commission from among them.

The commissioners are appointed for three years, and their mandate is renewable. Their appointment shall continue until their replacement, and in any case until the termination of the work in hand at the moment of the expiry of their mandate.

Vacancies which may occur as a result of death, resignation or any other permanent or temporary cause shall be filled within the shortest possible time and in any case within three months, in the manner fixed for the nominations.

Article 9.

The Permanent Conciliation Commission shall be constituted within six months from the exchange of the ratifications of the present Treaty.

If the nomination of the members to be appointed by common agreement should not have taken place within the said period, or, in the case of the filling of a vacancy, within three months from the time when the seat falls vacant, the President of the Swiss Confederation shall, in the absence of other agreement, be requested to make the necessary appointments.

Article 10.

The Permanent Conciliation Commission shall be informed by means of a request addressed to the President, as provided for, according to the circumstances, in Articles 3 and 6.

The request, after giving a summary account of the subject of the dispute, shall contain the invitation to the Commission to take all necessary measures with a view to arriving at an amicable settlement.

If the request emanates from only one of the Parties, notification thereof shall be made without delay to the other Party.

Article 11.

Within fifteen days from the date when one of the High Contracting Parties shall have brought a dispute before the Permanent Conciliation Commission, either Party may, for the examination

of the particular dispute, replace its commissioner by a person possessing special competence in the matter.

The Party making use of this right shall immediately inform the other Party ; the latter shall in that case be entitled to take similar action within fifteen days from the date when the notification reaches it.

Article 12.

The task of the Permanent Conciliation Commission shall be to elucidate questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of settlement which seem suitable to it and, if necessary, lay down a period within which they are to make their decision.

At the close of its labours, the Commission shall draw up a report stating the result thereof and a copy of this report shall be delivered to each Party.

The Parties shall never be bound by the considerations of fact or law or any other considerations accepted by the Commission.

Subject to the provisions of Article 6, paragraph 3, the labours of the Commission must, unless the Parties otherwise agree, be terminated within six months from the day on which the Commission shall have been notified of the dispute.

Article 13.

Failing any special provisions to the contrary, the Permanent Conciliation Commission shall lay down its own procedure, which in any case must provide for both Parties being heard. In regard to enquiries, the Commission, unless it decides unanimously to the contrary, shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

Article 14.

The Permanent Conciliation Commission shall meet, in the absence of agreement by the Parties to the contrary, at the place selected by its President.

Article 15.

The proceedings of the Permanent Conciliation Commission shall not be public except when a decision to that effect has been taken by the Commission with the consent of the Parties.

The High Contracting Parties undertake not to publish the result of the Commission's work without previously consulting each other.

Article 16.

The Parties shall be represented before the Permanent Conciliation Commission by agents, whose duty it shall be to act as intermediaries between them and the Commission ; they may, moreover, be assisted by counsel and experts appointed by them for that purpose, and request that all persons whose evidence appears to them useful should be heard.

The Commission on its side shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties, as well as from all persons it may think useful to summon with the consent of their Government.

Article 17.

Unless otherwise provided in the present Treaty the decisions of the Permanent Conciliation Commission shall be taken by a majority vote.

The Commission shall not take any decision relating to the substance of the dispute unless all the members have been duly convened and the President and at least two members are present. In the event of only three members and the President being present, the President shall have a casting vote.

Article 18.

The High Contracting Parties undertake to facilitate the labours of the Permanent Conciliation Commission and particularly to ensure it the assistance of their competent authorities, to supply it to the greatest possible extent with all relevant documents and information and to take the necessary measures to allow the Commission to proceed in their territory to the summoning and hearing of witnesses or experts, and to visit the localities in question.

Article 19.

During the labours of the Permanent Conciliation Commission, each commissioner shall receive emoluments the amount of which shall be fixed by agreement between the High Contracting Parties, each of which shall contribute an equal share.

Article 20.

In any case, and particularly if the question on which the Parties differ arises out of acts already committed or on the point of commission, the Permanent Court of International Justice, acting in accordance with Article 41 of its Statute¹, or, according to the circumstances, the arbitral tribunal, shall lay down within the shortest possible time the provisional measures to be adopted. The Permanent Conciliation Commission may, if necessary, act in the same way after agreement between the Parties.

The High Contracting Parties undertake respectively to abstain from all measures likely to affect prejudicially the execution of the decision or the arrangements proposed by the Permanent Conciliation Commission, and in general to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

Article 21.

The present Treaty continues applicable as between the High Contracting Parties even when other Powers are also interested in the dispute.

Article 22.

Should any dispute arise between the High Contracting Parties concerning the interpretation of the present Treaty, such dispute shall be brought before the Permanent Court of International Justice in accordance with the procedure laid down in Article 4, paragraph 2.

Article 23.

The present Treaty shall be ratified and the ratifications shall be exchanged at The Hague as soon as possible.

¹ Vol. VI, page 379; Vol. XI, page 404; Vol. XV, page 304; Vol. XXIV, page 152; Vol. XXVII, page 416; Vol. XXXIX, page 165; Vol. XLV, page 96; Vol. L, page 159; Vol. LIV, page 387; Vol. LXIX, page 70; Vol. LXXII, page 452; Vol. LXXXVIII, page 435; Vol. LXXXVIII, page 272; Vol. XCII, page 362; Vol. XCVI, page 180; and Vol. C, page 153, of this Series.

Article 24.

The present Treaty shall enter into force as soon as the ratifications have been exchanged and shall remain in force for a period of ten years as from its entry into force. If it has not been denounced six months before the expiration of this period, it shall be deemed to be tacitly renewed for further successive periods of five years.

If, on the expiration of the present Treaty, any proceedings whatsoever in virtue of this Treaty are pending before the Permanent Conciliation Commission, the Permanent Court of International Justice or the arbitral tribunal, such proceedings shall be continued until they are duly completed.

Article 25.

As soon as the present Treaty enters into force, the Arbitration Convention concluded between France and the Netherlands on April 6, 1904, and renewed by the Convention of December 29, 1909, shall be deemed to be abrogated.

In faith whereof the above-mentioned Plenipotentiaries have signed the present Treaty and have thereto affixed their seals.

Done at Geneva in two copies on the tenth day of March, one thousand nine hundred and twenty-eight.

(L. S.) BEELAERTS VAN BLOKLAND.

(L. S.) A. BRIAND.

(L. S.) Henri FROMAGEOT.

PROTOCOL.

The High Contracting Parties agree that the provision of Article 1 of the Arbitration Treaty signed on this day's date, whilst applicable to disputes that arose prior to its conclusion, cannot justify the presentation or renewal of claims relating to former events, which belong to the past and which are not at present the subject of any dispute between the two Governments.

(L. S.) BEELAERTS VAN BLOKLAND.

(L. S.) A. BRIAND.

(L. S.) Henri FROMAGEOT.