

N° 2636.

PAYS-BAS ET POLOGNE

Traité de règlement judiciaire, d'arbitrage et de conciliation. Signé à La Haye, le 12 avril 1930.

**THE NETHERLANDS
AND POLAND**

Treaty of Judicial Settlement, Arbitration and Conciliation. Signed at The Hague, April 12, 1930.

¹ TRADUCTION. — TRANSLATION.

No. 2636. — TREATY² OF JUDICIAL SETTLEMENT, ARBITRATION AND CONCILIATION BETWEEN THE NETHERLANDS AND POLAND. SIGNED AT THE HAGUE, APRIL 12, 1930.

French official text communicated by the Netherlands Minister at Bern and the Polish Delegate accredited, to the League of Nations. The registration of this Treaty took place March 10, 1931.

HER MAJESTY THE QUEEN OF THE NETHERLANDS and THE PRESIDENT OF THE POLISH REPUBLIC being desirous of strengthening the ties of friendship which unite the Netherlands and Poland and of promoting the peaceful settlement in all cases of disputes and conflicts of any kind which may arise between the two countries,

Have decided to conclude a treaty to this effect 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 POLISH REPUBLIC :

M. Stanislaw KETRZYNSKI, Envoy Extraordinary and Minister Plenipotentiary ;
Professor Julian MAKOWSKI, Doctor of Laws, Chief of the Treaties Section of the Ministry of Foreign Affairs ;

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

Article 1.

The High Contracting Parties reciprocally undertake in no case to seek the settlement, by other than pacific means, of disputes or conflicts of any kind which may arise between the Netherlands and Poland and which it may not have been possible to settle within a reasonable period by the normal methods of diplomacy.

Article 2.

All disputes of every kind which concern a right claimed by one of the High Contracting Parties and opposed by the other Party, and which it may not have been possible to settle amicably by the normal methods of diplomacy, shall be submitted for decision to the Permanent

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 Warsaw, January 27, 1931.

Court of International Justice. In exceptional cases and for special reasons either Party shall have the right to request that such disputes shall be submitted to an Arbitral Tribunal as hereinafter laid down. It is understood that the disputes to which this paragraph refers include those mentioned in Article 13 of the Covenant of the League of Nations.

This undertaking shall only apply to disputes which may arise after the ratification of the present Treaty with regard to events occurring subsequent to the said ratification.

Disputes for the settlement of which a special procedure is or shall be 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 had to procedure before the Permanent Court of International Justice or to arbitral procedure, the dispute may by common consent of 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 a dispute of the nature described in Article 2, the two Parties have not had recourse to the Permanent Conciliation Commission, or if this Commission has not succeeded in bringing the Parties to an amicable agreement, the dispute shall be submitted by common consent by means of a special agreement either to the Permanent Court of International Justice acting under the conditions and in accordance with the procedure laid down in its Statute¹, or in the exceptional cases mentioned in Article 2 and if either High Contracting Party so requests, to an Arbitral Tribunal acting under the conditions and in accordance with the procedure laid down by the Hague Convention² of October 18, 1907, for the Pacific Settlement of International Disputes.

Should there be no agreement between the Parties, in a case of arbitral procedure, as to the choice of arbitrators, the President of the Swiss Confederation shall be requested by either or both Parties to make the necessary appointments.

In the event of the special agreement not being concluded within three months of the setting up of the Tribunal, such Tribunal shall be informed of the dispute by means of an application by either of the Parties.

Should neither High Contracting Party ask that the question be submitted to an Arbitral Tribunal, and in the event of no agreement between the Parties as to the terms of the special agreement, either Party shall, after giving two months notice, be entitled to submit the question to the direct Permanent Court of International Justice by means of an application.

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.

Should the arbitral or judicial award declare that a decision or measure taken by some judicial or other authority of one of the Parties to the dispute is entirely or partly at variance with

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. LXXVIII, page 435; Vol. LXXXVIII, page 272; Vol. XCII, page 362; Vol. XCVI, page 180; Vol. C, page 153; Vol. CIV, page 492; Vol. CVII, page 462; et Vol. CXI, page 402, of this Series.

² *British and Foreign State Papers*, Vol. 100, page 298.

international law, and if the constitutional law of the said Party precludes the annulment or only allows of partial annulment of the effects of the said decision or measure, the Parties agree that equitable satisfaction shall be accorded to the injured Party in the judicial or arbitral award.

Article 7.

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 by any other 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.

If the Parties cannot agree upon the terms of the application to be presented to the Commission, either Party shall be entitled after a month's notice to submit the question direct to the said Commission.

In all cases, if the Parties differ as to whether or not the dispute is of the nature referred to in Article 2 and therefore capable of settlement by a judicial decision, such difference shall, prior to 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 an agreement, by an application of one of the Parties.

Article 8.

The Permanent Conciliation Commission mentioned in the present Treaty shall be composed of five members, who shall be appointed as follows : 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 ; these 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 ; 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 the result of death, resignation or any other permanent or temporary cause shall be filled as quickly as possible, and within a period which shall not exceed three months, in the manner fixed for appointments.

Article 9.

The Permanent Conciliation Commission shall be constituted within the year following the exchange of 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 an application addressed to the President in the manner prescribed in Articles 3 and 7 as the case may be.

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

If the application 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 lay down a period within which they are to make their decision.

At the close of its work the Commission shall draw up a report stating the result thereof, a copy of which shall be submitted to each of the Parties.

The Parties shall in no case be bound by statements of fact or legal or other considerations upon which the Commission shall have agreed.

Subject to the provisions of Article 7, paragraph 3, the proceedings of the Commission must unless the Parties otherwise agree, be terminated within six months from the day of the first meeting of the Commission.

Article 13.

Failing any special provision 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 where otherwise decided by the Commission with the consent of the Parties.

The High Contracting Parties undertake not to publish the results of the Commission's labours without previous consultation with one another.

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 have power to take any decision relative to the substance of the dispute unless all the members have been duly summoned and are present.

Article 18.

The High Contracting Parties undertake to facilitate the work of the Permanent Conciliation Commission and, in particular, to secure for it the assistance of their competent authorities and to supply it to the greatest possible extent with all relevant documents and information as well as to take the necessary measures to enable the Commission to summon and hear witnesses or experts in their territory, and to visit the localities concerned.

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 Statute, or, if the case demands, the Arbitral Tribunal, shall lay down within the shortest possible time the provisional measures to be adopted ; the Permanent Conciliation Commission shall if necessary proceed in the same way, if the Parties so agree.

Each of the High Contracting Parties undertakes to abstain from all measures which might have a prejudicial effect on the execution of the decision or on the arrangements proposed by the Permanent Conciliation Commission, and in general to abstain from any sort of action whatsoever which might aggravate or extend the dispute.

Article 21.

The present Treaty shall remain applicable between the High Contracting Parties even though other Powers are also interested in the dispute.

Article 22.

Any dispute arising between the High Contracting Parties as to the interpretation of the present Treaty shall, except as otherwise agreed, be submitted to the Permanent Court of International Justice on the application of either or both Parties.

Article 23.

The present Treaty shall be ratified. The ratifications shall be exchanged at Warsaw as soon as possible.

Article 24.

The present Treaty shall enter into force on the thirtieth day after the exchange of ratifications and shall continue to be valid for a period of five years from the date of its entry into force. Unless denounced at least six months before the expiry of that period it shall be deemed to be renewed for further successive periods of five years.

If, at the time when the present Treaty expires, proceedings in virtue thereof are pending before the Permanent Conciliation Commission, the Permanent Court of International Justice or the Arbitral Tribunal, these proceedings shall be duly completed.

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

Done in duplicate at The Hague, April 12, 1930.

(L. S.) BEELAERTS VAN BLOKLAND.

(L. S.) Stanislaw KETRZYNSKI.

(L. S.) Dr. J. MAKOWSKI.