

N° 3310.

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DANEMARK ET TURQUIE

Traité de conciliation, de règlement  
judiciaire et d'arbitrage. Signé à  
Genève, le 8 mars 1932.

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DENMARK AND TURKEY

Treaty of Conciliation, Judicial Settle-  
ment and Arbitration. Signed at  
Geneva, March 8, 1932.

<sup>1</sup> TRADUCTION. — TRANSLATION.No. 3310. — TREATY<sup>2</sup> OF CONCILIATION, JUDICIAL SETTLEMENT AND ARBITRATION BETWEEN DENMARK AND TURKEY. SIGNED AT GENEVA, MARCH 8, 1932.

*French official text communicated by the Permanent Delegate of Denmark accredited to the League of Nations. The registration of this Treaty took place December 28, 1933.*

HIS MAJESTY THE KING OF DENMARK AND ICELAND and HIS EXCELLENCY THE PRESIDENT OF THE TURKISH REPUBLIC, being desirous of strengthening the ties of friendship which exist between Denmark and Turkey, and settling, in accordance with the highest principles of international public law, any disputes which may arise between the two countries, have resolved to conclude a Treaty for this purpose, and have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF DENMARK AND ICELAND :

Dr. Peter MUNCH, His Minister for Foreign Affairs ;

HIS EXCELLENCY THE PRESIDENT OF THE TURKISH REPUBLIC :

Dr. Tewfik RÜSTÜ Bey, His Minister for 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 undertake to settle by pacific means, and in accordance with the methods contemplated in the present Treaty, all disputes or conflicts of any kind which may arise between Denmark and Turkey and which it may not have been possible to settle by the normal methods of diplomacy.

*Article 2.*

All disputes of every kind between the High Contracting Parties with regard to which the Parties are in conflict as to their respective rights, and which it may not have 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.

Disputes for the solution of which a special procedure is provided by other Conventions in force between the High Contracting Parties shall be settled in accordance with the provisions of those Conventions.

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

<sup>1</sup> Translated by the Secretariat of the League of Nations, for information.

<sup>2</sup> The exchange of ratifications took place at Copenhagen, December 18, 1933.

*Article 3.*

Before the procedure before the Permanent Court of International Justice or before the Arbitral Tribunal, the dispute may, by agreement between the Parties, be submitted for conciliation to a permanent international commission styled "The Permanent Conciliation Commission", constituted in accordance with the present Treaty.

*Article 4.*

In the case of a dispute, the subject of which, according to the municipal law of one of the Parties, falls within the jurisdiction of the national courts, that Party may require that the dispute be not submitted to the procedure laid down in the present Treaty until a final judgment has been pronounced within a reasonable time by the competent judicial authority.

*Article 5.*

The Permanent Conciliation Commission shall be composed of five members. The Contracting Parties shall each nominate a commissioner of its own choosing, and appoint the three other commissioners by common agreement, and the President of the Commission from among them. These three commissioners may neither be nationals of the Contracting Parties nor be domiciled in their territory nor be in their service. They must all three be of different nationalities.

The commissioners shall be appointed for three years. If, on the expiry of the term of office of a member of the Commission, no provision has been made for his replacement, his term shall be deemed to be extended for a period of three years; however, the Contracting Parties reserve the right, on the expiry of the period of three years, to transfer the duties of President to another member of the Commission appointed by common agreement.

A member whose term expires while a case is proceeding shall continue to take part in the examination of the dispute until the proceedings are concluded, notwithstanding the fact that his successor may have been appointed.

In the event of the death or resignation of one of the members of the Conciliation Commission, the vacancy shall be filled for the rest of his term of office, if possible within the next three months, and in any case as soon as a dispute is submitted to the Commission.

*Article 6.*

The Permanent Conciliation Commission shall be constituted within six months 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 date when a seat falls vacant, the President of the Swiss Confederation or Her Majesty the Queen of the Netherlands shall, in the absence of an agreement, be requested to make the necessary appointments.

*Article 7.*

The Permanent Conciliation Commission shall be informed by means of a request addressed to the President by the two Parties acting in agreement.

The request, 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.

*Article 8.*

Within fifteen days from the date on which the dispute was brought before the Commission, either Party may, for the examination of that particular dispute, replace the permanent member whom it has appointed by a person possessing special competence in the matter. The Party desiring to avail itself of this right shall immediately inform the other Party. The latter shall be entitled to avail itself of the same right within fifteen days from the date on which it shall have received notification.

Each Party reserves the right immediately to nominate a deputy to replace temporarily the permanent member appointed by it, if the latter, owing to illness or any other circumstance, should be temporarily prevented from taking part in the Commission's work.

Should one of the members of the Conciliation Commission appointed jointly by the Contracting Parties be temporarily prevented from taking part in the Commission's work owing to illness or any other cause, the Parties shall agree on the appointment of a deputy who shall take his place for the time being. If no such deputy is appointed within one month of the date when the temporary vacancy occurred, the provisions of Article 6 of the present Treaty shall apply.

*Article 9.*

The task of the Permanent Conciliation Commission shall be to elucidate questions in dispute, collect with that object all necessary information by means of enquiry or otherwise, and 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 proceedings, the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an arrangement, and, if need be, the terms of the arrangement, or that it has been impossible to effect a settlement.

The proceedings of the Commission must, unless the Parties otherwise agree, be terminated within six months of the date on which the Commission was first notified of the dispute.

*Article 10.*

Failing any special provision to the contrary, the 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 unanimously decides otherwise, shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of the Hague Convention<sup>1</sup> of October 18, 1907, for the Pacific Settlement of International Disputes.

*Article 11.*

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

*Article 12.*

The proceedings of the Conciliation Commission shall not be public, except when a contrary decision has been taken by the Commission, with the consent of the Parties.

<sup>1</sup> *British and Foreign State Papers*, Vol. 100, page 298.

*Article 13.*

The Parties shall be represented before the 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 they may 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 agent, counsel and experts of the two Parties, as well as from all persons it may think useful to summon with the consent of their respective Governments.

*Article 14.*

Unless otherwise provided in the present Treaty, the decisions of the Conciliation Commission shall be taken by a majority vote. If the votes are equally divided, the President shall have the casting vote.

*Article 15.*

The Contracting Parties undertake to facilitate the work of the Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal so that it may, within their territories and in accordance with their laws, summon and hear witnesses or experts, and visit the localities in question.

*Article 16.*

During the proceedings of the Conciliation Commission, each commissioner shall receive emoluments, the amount of which shall be fixed by agreement between the Contracting Parties.

Each Government shall pay its own expenses and shall contribute an equal share to the joint expenses of the Commission, the emoluments referred to in paragraph 1 being included in these joint expenses.

*Article 17.*

In the absence of an agreement to bring the dispute before the Permanent Conciliation Commission or — where there is such an agreement — in the event of no amicable agreement being reached before the Permanent Conciliation Commission, the dispute shall be submitted, by special agreement, either to the Permanent Court of International Justice under the conditions and according to the procedure defined in the Statute<sup>1</sup> of the Court, or to an Arbitral Tribunal under the conditions and according to the procedure defined in the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

If the special agreement has not been drawn up within three months from the date on which one of the Parties received the request for a judicial settlement, either Party may, after a month's notice, bring the dispute direct before the Permanent Court of International Justice by means of an application.

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<sup>1</sup> Vol. VI, page 379; Vol. XI, page 405; Vol. XV, page 305; Col. XXIV, page 153; Vol. XXVII, page 417; 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 461; Vol. CXI, page 402; Vol. CXVII, page 46; Vol. CXXVI, page 430; Vol. CXXX, page 440; and Vol. CXXXIV, page 392, of this Series.

*Article 18.*

All questions on which the Governments of the two High Contracting Parties may differ without being able to reach an amicable solution by means of the normal methods of diplomacy, and which cannot be submitted for decision as provided in Article 2 of the present Treaty, and for the settlement of which no procedure has been provided by any treaty or convention in force between the Parties, shall be referred to the Permanent Conciliation Commission.

The procedure laid down in Articles 7 to 16 of the present Treaty shall be applicable.

Failing an agreement between the Parties as to the request to be submitted addressed to the Commission, either Party shall be entitled to submit the question direct to the Commission on the expiry of one month's notice.

Should the request be preferred by one Party only, such Party shall notify such request forthwith to the other Party.

*Article 19.*

If the Parties cannot be brought to an agreement, the dispute shall, at the request of either Party, be submitted for decision to an Arbitral Tribunal, which shall have power to render a decision *ex aequo et bono* in so far as there exists no rule of international law applicable to the dispute.

This Tribunal shall, unless otherwise agreed, be composed of five members, appointed according to the method laid down in Articles 5 and 6 of the present Treaty for the constitution of the Conciliation Committee. The Tribunal shall be constituted within six months from the date of the application for arbitration.

The decision of the Arbitral Tribunal shall be binding upon the Parties.

*Article 20.*

Should recourse be had to arbitration, the Contracting Parties undertake to conclude, within six months from the date of the request for arbitration, a special agreement concerning the subject of the dispute and the methods of procedure.

If this agreement cannot be concluded within the specified time either Party shall be entitled to submit the question direct to the Tribunal by a simple application. In such case the Arbitral Tribunal shall itself determine the procedure.

*Article 21.*

The provisions of the present Treaty shall not apply to disputes which, in the opinion of one of the Parties, fall, according to the principles of international law, exclusively within the scope of its sovereign right, or, in accordance with the treaties in force between them, solely within its domestic jurisdiction.

Nevertheless, the other Party may have recourse to the Permanent Court of International Justice in order to obtain a decision on this preliminary question.

*Article 22.*

During the course of conciliation, judicial or arbitration proceedings, the Contracting Parties shall abstain from all measures which might prejudicially affect the acceptance of the Conciliation Commission's proposals, or the execution of the decision of the Permanent Court of International Justice, or the award of the Arbitral Tribunal.

*Article 23.*

If the Permanent Court of International Justice or the Arbitral Tribunal holds that a decision of a judicial or other authority of one of the Contracting Parties is wholly or in part contrary to

international law, and if the constitutional law of that Party does not permit, or only partly permits, the consequences of the decision in question to be annulled by administrative action, the judicial decision or arbitral award shall determine the nature and extent of the reparation to be made to the injured party.

*Article 24.*

Disputes arising as to the interpretation or execution of the present Treaty shall, failing agreement to the contrary, be submitted direct to the Permanent Court of International Justice by a simple application.

*Article 25.*

The present Treaty shall be ratified. The instruments of ratification shall be exchanged at Copenhagen as soon as possible.

*Article 26.*

The present Treaty shall come into force on the date of the exchange of ratifications, and shall remain valid for ten years from the date on which it comes into force. Unless it shall have been denounced six months before the expiry of this period, it shall be deemed to be renewed for a further period of ten years, and so on, for successive periods.

If, at the date on which the present Treaty expires, conciliation, judicial, or arbitration proceedings are pending, they shall be continued to their conclusion.

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

Done at Geneva, in duplicate, on March 8, 1932.

(L. S.) P. MUNCH.

(I. S.) Dr. T. RÜSTÜ.