

N° 3338.

PAYS-BAS ET VENEZUELA

Traité d'arbitrage, de règlement
judiciaire et de conciliation. Signé
à La Haye, le 5 avril 1933.

**THE NETHERLANDS
AND VENEZUELA**

Treaty of Arbitration, Judicial Settle-
ment and Conciliation. Signed at
The Hague, April 5, 1933.

¹ TRADUCTION. — TRANSLATION.No. 3338. — TREATY² OF ARBITRATION, JUDICIAL SETTLEMENT AND CONCILIATION BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE UNITED STATES OF VENEZUELA. SIGNED AT THE HAGUE, APRIL 5, 1933.

French official text communicated by the Netherlands Chargé d'Affaires a. i. at Berne and by the Minister for Foreign Affairs of the United States of Venezuela. The registration of this Treaty took place January 27, 1934.

HER MAJESTY THE QUEEN OF THE NETHERLANDS
and

THE PRESIDENT OF THE UNITED STATES OF VENEZUELA,

Being desirous of strengthening the ties of friendship which unite the Netherlands and the United States of Venezuela, and of promoting the peaceful settlement of disputes which may arise between the two States,

Have decided 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 UNITED STATES OF VENEZUELA :

M. José Ignacio CÁRDENAS, Envoy Extraordinary and Minister Plenipotentiary of the United States of Venezuela to Her Majesty the Queen of the Netherlands ;

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 to settle in an amicable manner any conflicts and disputes which may arise between the two countries and which it has not been possible to settle within a reasonable period by the normal methods of diplomacy.

Article 2.

All disputes of a juridical character which it has not been possible to settle amicably by the normal methods of diplomacy, including that relating to the interpretation of the present Treaty, shall be referred either to an arbitral tribunal or to the Permanent Court of International Justice, in accordance with the provisions laid down hereinafter.

The provision of the preceding paragraph shall not apply to disputes arising out of events prior to the present Treaty and belonging to the past, or to disputes bearing upon questions which international law reserves for the exclusive competence of States.

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, December 19, 1933.

Disputes for the settlement of which a special procedure is provided by other treaties in force between the High Contracting Parties shall be settled in conformity with the provisions of such treaties.

Article 3.

Prior to any procedure before the Permanent Court of International Justice or the arbitral tribunal, a 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 that Commission has not succeeded in bringing the Parties to an amicable agreement, the dispute shall be referred by common consent, by means of a special agreement, either to an arbitral tribunal acting under the conditions and in accordance with the procedure laid down by the Hague Convention¹ of October 18, 1907, for the Pacific Settlement of International Disputes, or to the Permanent Court of International Justice acting under the conditions and in accordance with the procedure laid down in its Statute².

If the Parties fail to agree upon the choice of a Court, upon the terms of the special agreement or, if they have chosen arbitral procedure, upon the choice of arbitrators, the dispute shall be brought before the Permanent Court of International Justice, which shall give judgment on the basis of the claims submitted to it.

Article 5.

In the case of a dispute arising out of a claim brought by a national of one of the two States against the other State, the subject of which according to the municipal law of the latter Party falls within the competence of the national courts of such Party, the procedure laid down in the present Treaty shall apply only in the case of denial of justice, including unconscionable delay on the part of the Courts, or in the case of a judicial decision against which no appeal lies and which is incompatible with the obligations arising from a treaty or with other international obligations of the State, or which is manifestly unjust.

The question whether any of the above cases arises may be settled by arbitration or by reference to a court of law, in accordance with the provisions of Article 4.

Disputes shall not be submitted to the procedure provided for in the present Treaty until all the ordinary legal remedies have been exhausted.

Article 6.

Should the arbitral tribunal or the Permanent Court of International Justice declare that a decision taken or a measure ordered by a judicial or other authority of one of the Parties to the dispute is entirely or partly at variance with international law, and if the constitutional law of the said Party precludes the annulment or allows of only partial annulment of the consequences of the said decision or measure, the High Contracting Parties agree that equitable compensation shall be accorded to the injured Party in the arbitral or judicial award.

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

² Vol. VI, page 379; Vol. XI, page 405; Vol. XV, page 305; Vol. 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. LXXXVIII, page 435; Vol. LXXXVIII, page 272; Vol. XCH, 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 7.

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

If the Parties cannot agree as to the application to be made to the Commission, either Party shall be entitled, at one month's notice to the other Party, to refer the question direct to the said Commission.

If the Parties differ as to whether or not the dispute is a dispute 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.

Article 8.

The Permanent Conciliation Commission provided for 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 the other three Commissioners by common agreement from among the nationals of third Powers ; these three Commissioners shall be of different nationalities, and the High Contracting Parties shall appoint the President of the Commission from among them.

The Commissioners shall be appointed for six years ; their mandate shall be renewable. They shall remain in office until their replacement, and in any case until the termination of any work in course at the time of the expiry of their mandate.

A substitute for each of the five members shall be appointed in the manner provided for the appointment of each of the five members referred to in the first paragraph. Each substitute member shall automatically become an ordinary member should a vacancy occur as a result of death or resignation. Such substitute shall serve on the Commission temporarily should the member whose substitute he is be temporarily prevented from attending.

Vacancies occurring among the substitute members through their being called on, as provided for in the previous paragraph, permanently to succeed an ordinary member who has died or resigned, shall be filled in the manner fixed for appointments, as quickly as possible, and within a period not exceeding three months.

Article 9.

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

Should the ordinary members or substitutes to be chosen by mutual agreement not have been appointed within the specified period, or, in the case of the replacement of substitute members, within three months from the date on which the seat became vacant, the President of the Permanent Court of International Justice shall in the absence of any other agreement be requested by the High Contracting Parties to make the necessary appointments. Should the President be prevented from doing so or should he be a national of one of the Parties, the Vice-President shall be requested to make the said appointments. Should the latter be prevented or should he be a national of one of the Parties, the senior of the other judges on the list of Judges of the Court who is a national of neither Party shall be requested to make the said appointments.

Article 10.

The Permanent Conciliation Commission shall be informed by means of a request addressed to the President in the circumstances provided for in Articles 3 or 7 as the case may be.

The application, after being given an 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 on which one of the High Contracting Parties refers a dispute to the Permanent Conciliation Commission, either Party may, for the examination of such dispute, replace its commissioner by a person possessing special competence in the matter.

Either 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 on which the notification reaches it.

Article 12.

The task of the Permanent Conciliation Commission shall be to elucidate the questions in dispute, to collect with that object all useful 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 to it suitable, and if desirable may lay down a period within which the Parties 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 report shall be communicated to each of the Parties.

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

Subject to the provisions of Article 7, paragraph 3, the proceedings of the Commission shall, unless the Parties otherwise agree, be terminated within six months from the day on which the case was referred to the Commission.

Article 13.

In the absence of any special provisions to the contrary, the Permanent Conciliation Commission shall establish its own procedure, which shall in any case provide for the hearing of both Parties. 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 unless 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 proceedings without having previously consulted 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 the Parties and the Commission ; the Parties may, moreover, be assisted by counsel and experts appointed by them for that purpose, and may request that all persons whose evidence appears to them relevant should be heard.

The Commission for its part shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties, and from any persons whom it may think useful to summon to appear, subject to 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 bearing upon the substance of the dispute unless all the members have been duly summoned and unless at least all the members jointly appointed by the Parties are present.

Article 18.

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

Article 19.

During the proceedings 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 all cases, and particularly if the question on which the Parties differ arises out of acts already committed or on the point of commission, the Permanent Conciliation Commission, in agreement with the Parties, or the Permanent Court of International Justice, acting in accordance with Article 41 of its Statute, or the Arbitral Tribunal, according to circumstances, may lay down within the shortest possible time any provisional measures to be adopted.

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

Article 21.

The provisions of the present Treaty shall not apply to disputes which affect the interests or are connected with the acts of a third State.

Article 22.

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

Article 23.

The present Treaty shall come into force immediately upon the exchange of ratifications and shall remain in force for 10 years from the time of its entry into force. It shall be communicated to the League of Nations for registration in accordance with Article 18 of the Covenant. Unless denounced six months before the expiration of the said period, it shall be deemed to be renewed by tacit agreement for a further period of five years, and so on thereafter.

If at the time of the expiration of the present Treaty, any proceedings taken in virtue of the present Treaty are pending before the Permanent Conciliation Commission, the Permanent Court of International Justice or the Arbitral Tribunal, such proceedings shall be continued until their completion.

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

Done at The Hague, in duplicate, April 5, 1933.

(L. S.) BEELAERTS VAN BLOKLAND.

(L. S.) José Ig. CÁRDENAS.