

N° 3635.

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**DANEMARK ET VENEZUELA**

Traité d'arbitrage, de règlement judiciaire et de conciliation. Signé à La Haye, le 19 décembre 1933.

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**DENMARK AND VENEZUELA**

Treaty of Arbitration, Judicial Settlement and Conciliation. Signed at The Hague, December 19th, 1933.

<sup>1</sup> TRADUCTION. — TRANSLATION.

No. 3635. — TREATY<sup>2</sup> OF ARBITRATION, JUDICIAL SETTLEMENT AND CONCILIATION BETWEEN DENMARK AND THE UNITED STATES OF VENEZUELA. SIGNED AT THE HAGUE, DECEMBER 19TH, 1933.

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*French official text communicated by the Permanent Delegate of Denmark accredited to the League of Nations and by the Minister for Foreign Affairs of Venezuela. The registration of this Treaty took place April 4th, 1935.*

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HIS MAJESTY THE KING OF DENMARK AND ICELAND  
and

THE PRESIDENT OF THE UNITED STATES OF VENEZUELA,

Being desirous of strengthening the ties of friendship uniting Denmark and the United States of Venezuela, and of promoting the pacific settlement of any differences which may arise between the two States,

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

HIS MAJESTY THE KING OF DENMARK AND ICELAND :

His Excellency M. Harald SCAVENIUS, Envoy Extraordinary and Minister Plenipotentiary of Denmark to Her Majesty the Queen of the Netherlands ;

THE PRESIDENT OF THE UNITED STATES OF VENEZUELA :

Monsieur José Ignacio CÁRDENAS, Envoy Extraordinary and Minister Plenipotentiary of the United States of Venezuela to His Majesty the King of Denmark ;

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 undertake to settle amicably any disputes and conflicts of views which may arise between Denmark and the United States of Venezuela and which it may not have been possible to settle within a reasonable period by the normal methods of diplomacy.

*Article 2.*

All legal disputes which it may not have been possible to settle amicably by the normal methods of diplomacy, including disputes relating to the interpretation of the present Treaty, shall be submitted either to an arbitral tribunal or to the Permanent Court of International Justice in accordance with the following provisions.

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<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 The Hague, December 17th, 1934.

The provisions contained in the preceding paragraph shall not apply to disputes arising out of facts prior to the present Treaty and belonging to the past, or to disputes on questions which, by international law, are solely within the domestic jurisdiction of the States.

Disputes for the solution of which a special procedure is laid down in other treaties in force between the High Contracting Parties shall be settled in accordance with the provisions of such treaties.

#### *Article 3.*

Before any recourse is had to procedure before the Permanent Court of International Justice or the Arbitral Tribunal, 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 that Commission has not succeeded in bringing about a settlement between them, the dispute shall be submitted jointly under a special agreement either to an Arbitral Tribunal, which shall deal with the dispute subject to the conditions and in accordance with the procedure laid down in the Hague Convention<sup>1</sup> of October 18th, 1907, for the Pacific Settlement of International Disputes, or to the Permanent Court of International Justice, which shall deal with it subject to the conditions and in accordance with the procedure laid down in its Statute<sup>2</sup>.

If the Parties fail to agree as to the choice of a court, the terms of the special agreement or, should they opt for arbitration, 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 by a national of one of the two Parties against the other State, on a subject which, under the domestic legislation of the latter Party, falls within the jurisdiction of its national courts, the procedure laid down in the present Treaty shall only be applicable in the case of (a) denial of justice, including excessive delay on the part of the courts, (b) a judicial decision from which there is no appeal and which is incompatible with the obligations arising out of a treaty or with the other international obligations of the State or which is obviously unjust.

If one of the above-mentioned cases arises, the solution of the difficulty may be sought in arbitration or a judicial settlement in accordance with the provisions of Article 4.

The dispute shall only be subjected to the procedure laid down in the present Treaty after the ordinary legal procedure open to foreigners by the legislation of the State against which the claim is made has been exhausted.

#### *Article 6.*

If the Arbitral Tribunal or the Permanent Court of International Justice states that a judgment, or a measure ordered by a court of law or other authority of one of the Parties to the dispute, is wholly or in part contrary to international law, and if the constitutional law of that Party does not permit or only partially permits the consequences of such judgment or measure to be annulled,

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

<sup>2</sup> 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. 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; Vol. CXXXIV, page 392; Vol. CXLVII, page 318; Vol. CLII, page 282; and Vol. CLVI, page 176, of this Series.

the High Contracting Parties agree that the arbitral award or judicial sentence shall grant the injured party equitable compensation.

*Article 7.*

All questions on with the High Contracting Parties may differ without being able to reach an amicable solution by the normal methods of diplomacy, 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, which shall be required to propose an acceptable solution to the Parties and in all cases to submit a report to them. This provision does not apply to disputes arising out of acts prior to the present Treaty which belong to the past.

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

If there is a conflict between the Parties as to whether or no the dispute is of the nature of a legal dispute within the meaning of Article 2, and hence liable to be settled by a decision, such conflict shall, before any procedure is instituted before the Permanent Conciliation Commission, be submitted for a decision of 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 one member from among their respective nationals and shall jointly appoint the three other members from among the nationals of third Powers ; these three members must 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 three years. If the term of office of a member who has been jointly appointed expires without either of the Parties opposing its renewal, it shall be deemed to be renewed for a further period of three years. Similarly, if on the expiry of the term of office of a member appointed by one of the Parties, that Party has not provided for his replacement, his appointment shall be deemed to be renewed for three years.

A member whose term of office expires during the course of a procedure continues to take part in the examination of the dispute until the procedure is terminated, despite the fact that his successor may have been appointed.

In case of the death or retirement of one of the members of the Conciliation Commission, steps shall be taken to provide for his replacement for the remainder of the term of his mandate, if possible within the following three months, and in any case as soon as a dispute has been submitted to the Commission.

*Article 9.*

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

If the nomination of the members to be appointed by joint agreement should not have taken place within the said period, or, in the case of the filling of a vacancy, within three months of the date on which the seat fell 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 nominations. If the President is prevented, or if he is a national of one of the Parties, the Vice-President shall be requested to make the said nominations. If he is prevented or if he is a national of one of the Parties, the first of the other judges on the panel of the Court, not being a national of either Party, shall be requested to make the said nominations.

*Article 10.*

The Permanent Conciliation Commission shall be informed by means of a request addressed to the President in the conditions laid down by Articles 3 or 7, as the case may be.

The request, after having 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 request emanates from only one of the Parties, notification thereof shall be made without delay by that Party to the other Party.

*Article 11.*

Within fifteen days from the date on which one of the High Contracting Parties has brought a dispute before the Permanent Conciliation Commission, either Party may, for the examination of such dispute, replace the member whom it has appointed 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 on which it shall have received notification.

*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 it deems appropriate and lay down the period within which they are to make their decisions.

At the close of these proceedings, the Commission shall draw up a report stating the result, a copy of which shall be transmitted to each of the Parties.

The Parties shall not, in any case, be bound by the considerations of fact or law or other considerations adopted by the Commission.

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 date on which the dispute was brought before the Commission.

*Article 13.*

In the absence of special stipulations 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 unanimously decides otherwise, shall act in accordance with the provisions of Chapter III (International Commission of Enquiry) of the Hague Convention of October 18th, 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 a 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 proceedings of the Commission without previously consulting 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 they may request that all persons whose evidence appears to them useful shall be heard.

The Commission, on its side, shall be entitled to demand verbal 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 only be entitled to take decisions relating to the substance of the dispute if all its members have been duly convened, and if at least all the members chosen jointly are present.

*Article 18.*

The High Contracting Parties undertake to facilitate the work of the Permanent Conciliation Commission and in particular to ensure it the assistance of their competent authorities, to supply it, as far as possible, with all the relevant documents and information, and to take the necessary steps to allow it 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 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 whom 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 being committed, the Permanent Conciliation Commission, after agreement between the Parties, or the Permanent Court of International Justice acting in accordance with Article 41 of its Statute, or the Arbitral Tribunal, as the case may be, shall lay down within the shortest possible time the provisional measures to be adopted.

Each of the High Contracting Parties undertakes to abstain from all measures likely to react prejudicially upon the execution of the decision or upon the arrangements proposed by the Permanent Conciliation Commission, and in general to abstain from any sort of action whatsoever that might aggravate or extend the dispute.

*Article 21.*

The provisions of the present Treaty shall not apply to disputes affecting the interests or relating to the action of a third State.

*Article 22.*

The present Treaty shall be ratified. The ratifications 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 ten years dating from 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 that period, it shall be regarded as renewed by tacit agreement for a fresh period of five years and similarly thereafter.

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

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

Done at The Hague, in duplicate, this 19th day of December, 1933.

(L. S.) Harald SCAVENIUS.

(L. S.) José Ig. CÁRDENAS.