

N° 1542.

BELGIQUE ET DANEMARK

Traité de conciliation, de règlement judiciaire et d'arbitrage, avec protocole de signature. Signé à Bruxelles, le 3 mars 1927.

BELGIUM AND DENMARK

Treaty of Conciliation, Judicial Settlement and Arbitration, with Protocol of Signature. Signed at Brussels, March 3, 1927.

¹ TRADUCTION. — TRANSLATION.No. 1542. — TREATY² OF CONCILIATION, JUDICIAL SETTLEMENT AND ARBITRATION BETWEEN BELGIUM AND DENMARK. SIGNED AT BRUSSELS, MARCH 3, 1927.

French official text communicated by the Danish Minister at Berne and the Belgian Minister for Foreign Affairs. The registration of this Treaty took place October 4, 1927.

HIS MAJESTY THE KING OF DENMARK AND ICELAND and HIS MAJESTY THE KING OF THE BELGIANS,

Being desirous of developing the friendly relations which unite the two countries, and Having decided that their relations with one another shall be governed in the largest possible measure by the principles upon which the League of Nations is based,

Have resolved to conclude a Treaty of Conciliation, Judicial Settlement and Arbitration, and for this purpose have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF DENMARK AND ICELAND :

His Excellency M. Otto KRAG, His Envoy Extraordinary and Minister Plenipotentiary in Belgium ;

HIS MAJESTY THE KING OF THE BELGIANS :

M. E. VANDERVELDE, His Minister for Foreign Affairs ;

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

PART I.

Article I.

All disputes of every kind between Denmark and Belgium 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 to the Permanent Court of International Justice as hereinafter laid down.

Disputes for the settlement of which a special procedure is laid down in other Conventions in force between Denmark and Belgium shall be settled in conformity with the provisions of those conventions.

¹ Traduit par le Secrétariat de la Société des Nations.

¹ Translated by the Secretariat of the League of Nations.

² The exchange of ratifications took place at Copenhagen, September 30, 1927.

Article 2.

Before any resort is made to procedure before the Permanent Court of International Justice, 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 3.

The Permanent Conciliation Commission mentioned in Article 2 shall be composed of five members, who shall be appointed as follows : the Danish Government and the Belgian Government shall each nominate a commissioner chosen from among their respective nationals, and shall appoint, by common agreement, the three other commissioners from among the nationals of third Powers. These three commissioners must be of different nationalities, and the Danish and the Belgian Governments 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 cause shall be filled within the shortest possible time in the manner laid down for the nominations.

Article 4.

The Permanent Conciliation Commission shall be constituted within six months from the entry into force of the present Treaty.

If the nomination of the commissioners 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 Permanent Court of International Justice, or, if the latter is a national of one of the Contracting Parties, the Vice-President or the senior member of the Court who is not a national of either Party shall, in the absence of other agreement, be requested to make the necessary appointments.

Article 5.

The Permanent Conciliation Commission shall be informed by means of a request addressed to the President by the two Parties acting in agreement or, in the absence of such agreement, by one or other of the Parties.

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

Article 6.

Within fifteen days from the date on which the Danish Government or the Belgian Government shall have brought a dispute before the Permanent Conciliation Commission, either Party may, for the examination of the particular 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 7.

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 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 agreement, 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 from the day on which the Commission was first notified of the dispute.

Article 8.

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 unanimously decides otherwise, shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of the Hague Convention¹ of October 18, 1907, for the Pacific Settlement of International Disputes.

Article 9.

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 10.

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

Article 11.

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 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 respective Governments.

Article 12.

Unless otherwise provided in the present Treaty, the decisions of the Permanent Conciliation Commission shall be taken by a majority vote. Each member shall have one vote. If the votes are equal, the President shall have a casting vote.

The Commission shall not have power to take any decision relative to the substance of the dispute unless all the members are present.

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

Article 13.

The Danish and Belgium Governments undertake to facilitate the work of the Permanent 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 to enable it to proceed, in their territory and in accordance with their laws, to summon and hear witnesses or experts, and to visit the localities in question.

Article 14.

During the proceedings of the Permanent Conciliation Commission each commissioner shall receive emoluments, the amount of which shall be fixed by agreement between the Danish and Belgian Governments.

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

Article 15.

In the event of no amicable agreement being reached before the Permanent Conciliation Commission, the dispute shall be submitted by means of a special agreement to the Permanent Court of International Justice under the conditions and according to the procedure laid down by its Statute¹.

If the Parties cannot agree on the terms of the special agreement either of them may, after a month's notice, bring the dispute direct before the Permanent Court of International Justice by means of an application.

PART II.

Article 16.

All questions other than those mentioned in Article 1, on which the Danish Government and the Belgian Government may differ without being able to reach an amicable solution by means of the normal methods of diplomacy, and for the settlement of which no procedure has been laid down by any other treaty 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.

The procedure laid down in Articles 5 to 14 of the present Treaty shall be applicable.

Article 17.

If the two Parties have not reached an agreement within one month of the termination of the proceedings of the Permanent Conciliation Commission, the question shall, at the request of either Party, be submitted for decision to an arbitral tribunal, constituted, in the absence of any special agreement between the Parties, in accordance with the provisions of Article 45 of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes. This tribunal shall observe the procedure laid down in Part IV, Chapter III, of the said Convention so far as it is applicable. If, however, the special agreement (*compromis*) stipulated in the aforesaid Hague

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; and Vol. LIV, page 387, of this Series.

Convention has not been concluded within six months from the date on which one of the Parties shall have addressed to the other a request for arbitration, this agreement shall, at the request of one of the Parties, be drawn up by the arbitral tribunal.

The tribunal shall decide the matter *ex aequo et bono*.

If necessary, the arbitral award shall specify the manner in which it is to be carried out, especially as regards the time-limits to be observed.

GENERAL PROVISIONS.

Article 18.

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, including the administrative tribunals, that Party may require that the 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 19.

During the course of proceedings instituted in accordance with the provisions of the present Treaty, the Danish and Belgian Governments undertake to abstain from all measures likely to have consequences prejudicial either to the execution of the decision of the Permanent Court of International Justice or of the arbitral award or to 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.

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, shall lay down within the shortest possible time the provisional measures to be adopted. It shall similarly be the duty of the arbitral tribunal to which a dispute is submitted under the provisions of Article 17 of the present Treaty, to lay down suitable provisional measures. The High Contracting Parties undertake to accept the provisional measures laid down by the Court or arbitral tribunal.

Article 20.

If the judicial decision or arbitral award specifies that a decision or measure of a court of law or other authority of either of the two States is wholly or in part contrary to international law, and if the constitutional law of the said State does not permit, or only partially permits, the consequences of the decision or measure in question to be annulled, the Parties agree that the judicial decision or arbitral award shall give the injured Party equitable satisfaction of another kind.

Article 21.

Any dispute arising as to the interpretation and application of this Treaty shall be submitted to the Permanent Court of International Justice.

Article 22.

The present Treaty shall be ratified, and the exchange of ratifications shall take place at Copenhagen as soon as possible.

It shall take the place of the Arbitration Convention¹ of April 26, 1905, between Denmark and Belgium.

The present Treaty is concluded for ten years from the date of the exchange of ratifications. Unless it shall have been denounced six months before the expiration of this term, it shall remain in force for a further period of five years, and so on for successive periods of five years.

In faith whereof the Plenipotentiaries have signed the present Treaty.

Done at Brussels, March 3, 1927.

(L. S.) (Signed) E. VANDERVELDE, (L. S.) (Signed) O. KRAG.

PROTOCOL OF SIGNATURE.

At the moment of signing the present Treaty, the Danish and Belgian Governments desire to place on record that the engagements stipulated in this Treaty apply only to disputes arising after its ratifications, out of situations or events subsequent thereto.

No exception shall moreover be made in the case of disputes as to the interpretation of any previous treaty that is still applicable and which either of the Parties may, after the ratification of the present Treaty of Conciliation, Judicial Settlement and Arbitration, apply in a manner which the other Party shall consider not to be consonant with its rights. This shall also apply if the disputed application has been begun before the entry into force of the present Treaty of Conciliation, Judicial Settlement and Arbitration and continued thereafter, it being understood that the conciliators, judges and arbitrators shall only be called upon to examine events subsequent to the entry into force of the said Treaty.

In faith whereof, the Plenipotentiaries have signed the present Protocol.

Done at Brussels, March 3, 1927.

(L. S.) (Signed) E. VANDERVELDE, (L. S.) (Signed) O. KRAG.

¹ *British and Foreign State Papers*, Vol. 98, page 685.