

N° 1567.

BELGIQUE ET SUISSE

Traité de conciliation, de règlement
judiciaire et d'arbitrage. Signé à
Bruxelles, le 5 février 1927.

**BELGIUM
AND SWITZERLAND**

Treaty of Conciliation, Judicial Sett-
lement and Arbitration. Signed at
Brussels, February 5, 1927.

¹ TRADUCTION. — TRANSLATION.No. 1567. — TREATY ² OF CONCILIATION, JUDICIAL SETTLEMENT AND ARBITRATION BETWEEN BELGIUM AND SWITZERLAND. SIGNED AT BRUSSELS, FEBRUARY 5, 1927.

French official text communicated by the Belgian Minister for Foreign Affairs and the Swiss Federal Council. The registration of this Treaty took place November 21, 1927.

HIS MAJESTY THE KING OF THE BELGIANS and THE SWISS FEDERAL COUNCIL, being desirous of strengthening the ties of friendship existing between Belgium and Switzerland, and of settling the disputes which may arise between the two countries in accordance with the principles upon which the Covenant of the League of Nations is based, have resolved to conclude a treaty for this purpose, and have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF THE BELGIANS :

M. VANDERVELDE, His Minister for Foreign Affairs ;

THE SWISS FEDERAL COUNCIL :

M. BARBEY, Envoy Extraordinary and Minister Plenipotentiary of the Swiss Confederation in Belgium ;

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

Article 1.

All disputes relating to a right of any nature whatsoever claimed by one of the Contracting Parties and contested by the other (in particular the disputes mentioned in Article 13 of the Covenant of the League of Nations), which it may not have been possible to settle within a reasonable time by the normal methods of diplomacy, shall be submitted for decision to the Permanent Court of International Justice ³.

Article 2.

In each particular case the Contracting Parties shall draw up a special agreement specifying clearly the subject of the dispute, the particular competence that might devolve upon the Permanent Court of International Justice and any other conditions fixed between themselves.

The agreement shall be constituted by an exchange of notes between the Governments of the Contracting Parties. All points contained therein shall be interpreted by the Court of Justice.

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 Brussels, November 12, 1927.

³ Vol. VI, page 379 ; Vol. XI, page 404 ; Vol. XV, page 304 ; Vol. XXIV, page 152 ; Vol. XXXVII, page 416 ; Vol. XXXIX, page 165 ; Vol. XLV, page 96 ; Vol. L, page 159 ; and Vol. LIV, page 387, of this Series.

If the agreement is not drawn up within three months from the date on which one of the Parties was requested to submit the matter for judicial settlement, either Party may bring the question before the Court of Justice by a simple application.

Article 3.

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 4.

The Permanent Conciliation Commission shall be composed of five members. The Contracting Parties shall each appoint a commissioner of its own choosing and shall appoint by common agreement the three other commissioners and, from among the latter, the President of the Commission. These three commissioners may not be nationals of the Contracting Parties, nor may they have their domicile in the territory or be in the service of the Contracting Parties. They must all three be of different nationalities.

The commissioners shall be appointed for three years. If upon the expiry of the term of office of a member of the Commission no arrangement has been made for his replacement, his term of office shall be deemed to be renewed for a period of three years. Nevertheless, the Parties reserve the right, on the expiry of the term of three years, to transfer the functions of president to another of the members of the Commission, appointed by common agreement.

Any member whose term of office expires while proceedings are still in progress shall continue to take part in the examination of the dispute until the close of such proceedings, even if his successor has been appointed.

Vacancies which may occur as a result of the death or resignation of any member of the Conciliation Commission shall be filled for the remainder of the term of office of such member, if possible within the following three months, and in any case as soon as a dispute is submitted to the Commission.

Should one of the members of the Conciliation Commission appointed by common agreement by the Contracting Parties be temporarily prevented by illness or any other cause from taking part in the Commission's work, the Parties shall agree to appoint a substitute to take his place for the time being. If the appointment of this substitute is not made within three months from the time when the seat became temporarily vacant, the procedure laid down in Article 5 of the present Treaty shall be applicable.

Article 5.

The 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, Her Majesty the Queen of the Netherlands shall, in the absence of any other agreement, be requested to make the necessary appointment.

Article 6.

The 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, if Article 16 of the present Treaty is applicable.

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 7.

Within fifteen days from the date on which one of the Contracting Parties shall have brought a dispute before the Conciliation Commission, either Party may, for the examination of the particular dispute, replace the permanent 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 be entitled to take similar action within fifteen days from the date on which it shall have received notification.

Each of the Parties reserves the right to appoint immediately a substitute to replace for the time being any permanent member appointed by it who may be temporarily prevented by illness or any other cause from taking part in the work of the Commission.

Article 8.

The task of the 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 agreement 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 agree otherwise, be terminated within six months from the day on which the Commission was first notified of the dispute.

If a settlement has not been effected between the Parties, the Commission may, unless the two Commissioners freely appointed by the Parties oppose this procedure, order a report to be published, setting forth the opinion of each of the members of the Commission, even before the Permanent Court of International Justice, notified of the dispute, has given a final decision.

Article 9.

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 Convention¹ of October 18, 1907, for the Pacific Settlement of International Disputes.

Article 10.

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

Article 11.

The proceedings of the 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.

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

Article 12.

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, however, 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 Government.

Article 13.

Unless otherwise provided in the present Treaty, the decisions of the Conciliation Commission shall be taken by a majority vote.

Article 14.

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 to enable it to proceed in their territory and in accordance with their law to the summoning and hearing of witnesses or experts, and to visit the localities in question.

Article 15.

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 pay an equal share of the joint expenses of the Commission, the emoluments provided for in paragraph 1 being included in these joint expenses.

Article 16.

All disputes other than those referred to in Article 1 which may arise between the Contracting Parties and which it may not be possible to settle within a reasonable time by the normal methods of diplomacy shall be submitted to the Permanent Conciliation Commission. The procedure laid down in Articles 7 to 15 of the present Treaty shall be applicable.

Article 17.

In the event of no agreement being reached between the Parties, the dispute shall, at the request of either Party, be submitted for decision to an arbitral tribunal consisting, in the absence of any other agreement between the Parties, of five members appointed for each individual case, according to the method laid down in Articles 4 and 5 of the present Treaty for the constitution of the Conciliation Commission.

Article 18.

Should recourse be had to arbitration, the Contracting Parties undertake to conclude within three months from the day on which one of the Parties shall have addressed to the other a 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 time stipulated, the procedure laid down in Chapter IV of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes shall be obligatory and shall in this case govern the recourse to arbitration.

Article 19.

In the case of a dispute which, according to the municipal law of one of the Parties, falls within the competence of the courts, including the administrative tribunals, the defendant Party may require that the dispute shall not be submitted to the procedure of conciliation, judicial settlement or arbitration as laid down in the present Treaty until a judgment with final effect has been pronounced within a reasonable time by the competent judicial authority.

Article 20.

Should the Permanent Court of International Justice or the Arbitral Tribunal find that a decision of a court of law or any other authority of either 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 partially permits the consequences of the decision in question to be annulled by administrative action, the judicial decision or arbitral award should indicate the nature and extent of the compensation to be granted to the injured Party.

Article 21.

During the course of proceedings of conciliation, judicial settlement or arbitration the Contracting Parties shall abstain from all measures likely to exert any influence on the acceptance of the proposals of the Conciliation Commission, or the execution of the judgment of the Permanent Court of International Justice, or the award of the Arbitral Tribunal. For this purpose, the Conciliation Commission, the Court of Justice and the Arbitral Tribunal shall, if necessary, lay down the provisional measures to be adopted.

Article 22.

Any disputes arising as to the interpretation or execution of the present Treaty shall, in the absence of any agreement to the contrary, be submitted direct to the Permanent Court of International Justice by a simple application.

Article 23.

The present Treaty shall apply only to disputes arising after the exchange of the ratifications of this Treaty in connection with situations or events subsequent to that date.

Disputes for the settlement of which a special procedure is laid down in other agreements in force between the Contracting Parties shall be settled in conformity with the provisions of those agreements.

Article 24.

The present Treaty shall be ratified and the instruments of ratification exchanged at Brussels as soon as possible.

The present Treaty shall come into force as soon as the ratifications are exchanged and shall remain in force for ten years from that date. Unless denounced six months before the expiration of this period, it shall be regarded as renewed for a period of five years, and similarly thereafter for successive periods of five years.

If, at the time of the expiration of the present Treaty, proceedings of conciliation, judicial settlement or arbitration are pending, they shall pursue their course until their completion in accordance with the stipulations of the present Treaty.

The present Treaty abrogates the Treaty of Arbitration¹ concluded between the Contracting Parties on November 15, 1904.

In faith whereof the above-named Plenipotentiaries have signed the present Treaty

Done in duplicate at Brussels on February 5, 1927.

(L. S.) (Signed) Frederic BARBEY.

(L. S.) (Signed) E. VANDERVELDE

¹ *British and Foreign State Papers*, Vol. 97, page 571.