

N° 2168.

FRANCE ET SUÈDE

Traité de conciliation, de règlement
judiciaire et d'arbitrage. Signé à
Paris, le 3 mars 1928.

FRANCE AND SWEDEN

Treaty of Conciliation, Judicial
Settlement and Arbitration. Signed
at Paris, March 3, 1928.

¹ TRADUCTION. — TRANSLATION.No. 2168. — TREATY² OF CONCILIATION, JUDICIAL SETTLEMENT AND ARBITRATION BETWEEN FRANCE AND SWEDEN. SIGNED AT PARIS, MARCH 3, 1928.

French official text communicated by the Swedish Minister for Foreign Affairs. The registration of this Treaty took place October 7, 1929.

HIS MAJESTY THE KING OF SWEDEN and THE PRESIDENT OF THE FRENCH REPUBLIC,
Inspired by the traditional friendly relations existing between their respective nations,
Considering the Arbitration Convention³ concluded between Sweden and France on July 9, 1904, and extended by the arrangement⁴ of October 27, 1909,

And equally desirous of substituting therefor provisions calculated to ensure henceforward, in conformity with modern international law, the pacific settlement of all differences and disputes of whatever nature 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 SWEDEN :

Count EHRENSVÄRD, His Envoy Extraordinary and Minister Plenipotentiary to the President of the French Republic ;

THE PRESIDENT OF THE FRENCH REPUBLIC :

M. Aristide BRIAND, Deputy and Minister for Foreign Affairs of the French Republic ;

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

Article I.

All disputes of every kind whatsoever between the Government of His Majesty the King of Sweden and the Government of the French Republic which it may not have been possible to settle by the normal methods of diplomacy shall, before any resort is made to procedure before the Permanent Court of International Justice or to arbitral procedure 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.

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 Paris, September 3, 1929.

³ *British and Foreign State Papers*, Vol. 97, page 971.

⁴ *British and Foreign State Papers*. Vol. 102, page 449.

Nevertheless, the disputes mentioned in Article 15 of the present Treaty shall not be submitted to the Conciliation Commission unless the two Governments so agree. In all other cases, the High Contracting Parties shall be entitled to agree that any given dispute shall be settled direct without previous recourse to the above-mentioned Conciliation Commission.

Disputes for the settlement of which a special procedure is provided in other conventions in force between Sweden and France shall be settled in conformity with the provisions of these conventions.

Article 2.

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, the matter in 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 3.

The Permanent Conciliation Commission provided for in Article 1 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 Swedish and French Governments shall appoint the President of the Commission from among them.

The commissioners shall be appointed for three years and their mandate shall be renewable. Their appointment shall continue until their replacement, and in any case, until the completion 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 date on which the seat fell vacant, the President of the Swiss Confederation 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 an 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 by that Party to the other Party.

Article 6.

Within fifteen days from the date on which the Swedish Government or the French Government 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 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 it deems appropriate and lay down a period within which they are to make their decision.

At the close of these 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 date on which the dispute was brought before the Commission.

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 decision to that effect 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 the Parties 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.

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

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 12.

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

The Commission shall only be entitled to take decisions relating to the substance of the dispute, if all the members have been duly convened and the President and at least two members are present. Should only three members and the President be present, the latter shall have a casting vote.

Article 13.

The High Contracting Parties 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 the summoning and hearing of 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 Swedish and French Governments, each of whom shall contribute an equal share.

Each Government shall pay its own expenses and an equal share of the joint costs of the Commission.

Article 15.

Disputes relating to a right alleged by one of the Parties and contested by the other and, in particular, the disputes mentioned in Article 13 of the Covenant of the League of Nations, shall, in the absence of an agreement to bring the dispute before the Permanent Conciliation Commission or, when such an agreement exists, in the event of no amicable agreement being reached, be submitted under a special agreement either to the Permanent Court of International Justice, under the conditions and according to the procedure laid down by its Statute, or to an arbitral tribunal, under the conditions and according to the procedure laid down by the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

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

Article 16.

Disputes other than those mentioned in Article 15, first paragraph, shall, in the event of no amicable agreement being reached, be submitted to a tribunal having authority to decide *ex aequo et bono*.

Unless otherwise agreed, this tribunal shall be composed of five members appointed in accordance with the method laid down in Articles 3 and 4 for the constitution of the Conciliation Commission. The tribunal must be set up within three months of the submission of the demand for arbitration.

If the Parties cannot agree on the terms of the special agreement for submitting the dispute to the tribunal, one or other of them may, after a month's notice, bring the dispute direct before the tribunal.

Article 17.

The Swedish and French Governments undertake respectively to abstain, for the duration of any proceedings opened in virtue of the provisions of the present Treaty, from all measures likely to have a prejudicial effect on the execution of the decision by the Permanent Court of International Justice or by the arbitral tribunal, or on the arrangements proposed by the 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 about to be committed, the Permanent Conciliation Commission, or if the latter is no longer competent, the Permanent Court of International Justice acting in accordance with Article 41 of its Statute, or the arbitral tribunal, shall lay down within the shortest possible time the provisional measures to be adopted. The High Contracting Parties undertake respectively to accept such measures.

Article 18.

In the event of any dispute arising between the High Contracting Parties as to the application of the present Treaty, such dispute shall be submitted direct to the Permanent Court of International Justice under the conditions laid down in Article 40 of the Statute¹ of the Court.

Article 19.

The present Treaty shall be ratified, the ratification by His Majesty the King of Sweden having the approval of the Swedish Riksdag, and the ratifications shall be exchanged at Paris as soon as possible.

Article 20.

The present Treaty, which replaces the Arbitration Convention of July 9, 1904, shall come into force as soon as the instruments of ratification have been exchanged, and shall remain in force for ten years from that date. Unless it is denounced six months before the expiration of this period, it shall be regarded as renewed for a period of five years, and it shall similarly be renewable thereafter for successive periods of five years.

If, upon the expiration of the present Treaty, any procedure in virtue of this Treaty is pending before the Permanent Conciliation Commission, the Permanent Court of International Justice, or an arbitration court, it shall pursue its course until its final completion.

In faith whereof, the above-mentioned Plenipotentiaries have signed the present Treaty.

Done at Paris, in two copies, March 3, 1928.

(L. S.) Albert EHRENSVÄRD.

(L. S.) Aristide BRIAND.

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 150 ; Vol. LIV, page 387 ; Vol. LXIX, page 70 ; Vol. LXXII, page 452 ; Vol. LXXVIII, page 435 ; Vol. LXXXVIII, page 272 ; and Vol. XCII, page 362, of this Series.