

N° 338o.

NORVÈGE ET PAYS-BAS

Traité de règlement judiciaire, d'arbitrage et de conciliation. Signé à La Haye, le 23 mars 1933.

**NORWAY
AND THE NETHERLANDS**

Treaty of Judicial Settlement, Arbitration and Conciliation. Signed at The Hague, March 23rd, 1933.

¹ TRADUCTION. — TRANSLATION.No. 3380. — TREATY² OF JUDICIAL SETTLEMENT, ARBITRATION AND CONCILIATION BETWEEN NORWAY AND THE NETHERLANDS. SIGNED AT THE HAGUE, MARCH 23RD, 1933.

French official text communicated by the Netherlands Envoy Extraordinary and Minister Plenipotentiary at Berne. The registration of this Treaty took place March 3rd, 1934.

HER MAJESTY THE QUEEN OF THE NETHERLANDS
and

HIS MAJESTY THE KING OF NORWAY,

Being desirous of strengthening the ties of friendship which unite the Netherlands and Norway and of promoting the peaceful settlement, in all cases, of disputes and conflicts of any kind which may arise between the two countries,

Have decided to conclude a Treaty for this 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 ;

HIS MAJESTY THE KING OF NORWAY :

Monsieur Jens STEENBERG BULL, Chargé d'Affaires of Norway at The Hague ;

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 in no case to seek the settlement, by other than pacific means, of disputes or conflicts of any kind which may arise between the Netherlands and Norway and which it may not have been possible to settle within a reasonable period by the normal methods of diplomacy.

Article 2.

All disputes of every kind which concern a right claimed by one of the High Contracting Parties and opposed by the other Party, 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 or to an arbitral tribunal as hereinafter laid down. It is understood that the disputes referred to above include, in particular, those mentioned in Article 13, paragraph 2, of the Covenant of the League of Nations.

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 Oslo, January 8th, 1934.

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

Article 3.

Before any resort is had to procedure before the Permanent Court of International Justice or to arbitral procedure, the 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 this Commission has not succeeded in bringing the Parties to an amicable agreement, the dispute shall be submitted by common consent, by means of a special agreement, either to the Permanent Court of International Justice, which shall decide under the conditions and in accordance with the procedure laid down in its Statute¹, or to an arbitral tribunal, which shall decide under the conditions and in accordance with the procedure laid down in the Hague Convention² of October 18th, 1907, for the Pacific Settlement of International Disputes.

In the absence of agreement between the Parties regarding the choice of the jurisdiction, the terms of the special agreement or, in the case of arbitral procedure, the appointment of the arbitrators, either Party shall, after giving one month's notice, be entitled to submit the dispute direct to the Permanent Court of International Justice by means of an application.

Article 5.

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, 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 6.

If, in a judicial sentence or arbitral award, it is declared that a judgment or a measure enjoined 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 the judgment or measure in question to be annulled, the Parties agree that the judicial sentence or arbitral award shall grant the injured Party equitable satisfaction.

Article 7.

All questions on which the High Contracting Parties shall differ without being able to reach an amicable solution by the normal methods of diplomacy, the settlement of which cannot be sought by means of a judicial decision as provided in Article 2 of the present Treaty, and for the settlement of which no procedure has been laid down in any other Treaty or Convention in force

¹ 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; and Vol. CXXXIV, page 392, of this Series.

² *British and Foreign State Papers*, Vol. 100, page 298.

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 to them.

If the Parties cannot agree upon the application to be presented to the Commission, either Party shall be entitled after one month's notice to submit the question direct to the said Commission.

In all cases, if the Parties differ as to whether or not the dispute is 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 by agreement between the High Contracting Parties or, failing an agreement, by an application of one of the Parties.

Article 8.

The Permanent Conciliation Commission mentioned 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 by common agreement the other three commissioners from among the nationals of third Powers ; these three commissioners must be of different nationalities and must not be in the service of either of the High Contracting Parties. The two Parties shall appoint the President of the Commission from among them.

The commissioners shall be appointed for three years ; 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 the result of death, resignation or any other permanent or temporary cause shall be filled as quickly as possible and within a period which shall not exceed three months, in the manner fixed for appointments.

Article 9.

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

If the nomination of the members of the Commission who are 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 shall be requested by both Parties jointly, or by either of them, 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 appointments. Should the Vice-President be prevented from doing so or should he be a national of one of the Parties, the judge next in order on the roll of the Court who is not a national of either Party shall be requested to make the appointments.

Article 10.

The Permanent Conciliation Commission shall be informed by means of an application addressed to the President in the manner prescribed in Articles 3 and 7 as the case may be.

The application, after giving 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 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 shall have brought a dispute before the Permanent Conciliation Commission, either Party may, for the examination of the particular dispute, replace its commissioner 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 the notification reaches it.

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 seem suitable to it and, if necessary, lay down a period within which they 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 shall be submitted to each of the Parties. The report shall not specify whether the decisions of the Commission were adopted unanimously or by a majority vote.

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

Subject to the provisions of Article 7, paragraph 3, the proceedings of the Commission must, unless the Parties otherwise agree or the Commission considers it essential to extend the period, be terminated within six months from the date of the submission of the dispute to the Commission. Should the Commission consider it essential to continue its proceedings beyond the period of six months, it shall notify both Parties of its reasons.

Article 13.

Failing any 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 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 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 the place selected by its President.

Article 15.

The proceedings of the Permanent Conciliation Commission shall not be public, except where 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 labours without previous consultation with 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 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 17.

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

The Commission may not take any decision regarding the substance of the dispute unless all the members have been duly summoned and at least all those chosen by common agreement are present.

Article 18.

The High Contracting Parties undertake to facilitate the work of the Permanent Conciliation Commission and, in particular, to secure for it the assistance of their competent authorities, to supply it to the greatest possible extent with all relevant documents and information and to take the necessary measures to enable the Commission to proceed in their territory to the summoning and hearing of witnesses or experts, and to visit the localities concerned.

Article 19.

During the labours 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.

The miscellaneous expenses entailed by the proceedings of the Commission shall be similarly divided.

Article 20.

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, or, if the case demands, the arbitral tribunal, shall lay down within the shortest possible time the provisional measures to be adopted ; the Permanent Conciliation Commission may, if necessary, proceed in the same way, if the Parties so agree.

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

Article 21.

The present Treaty shall remain applicable as between the High Contracting Parties even though other Powers are also interested in the dispute.

Article 22.

Any dispute arising between the High Contracting Parties as to the interpretation of the present Treaty shall be submitted to the Permanent Court of International Justice in accordance with the procedure laid down in Article 4, paragraph 2.

Article 23.

The present Treaty shall be ratified. The ratifications shall be exchanged at Oslo as soon as possible.

Article 24.

The present Treaty shall enter into force immediately on the exchange of ratifications and shall continue to be valid for a period of ten years from the date of its entry into force. Unless denounced six months before the expiry of that period, it shall be deemed to be renewed by tacit agreement for further successive periods of five years.

If, at the time when the present Treaty expires, proceedings in virtue thereof are pending before the Permanent Conciliation Commission, the Permanent Court of International Justice or the arbitral tribunal, these proceedings shall be duly completed.

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

Done in duplicate at The Hague, March 23rd, 1933.

(L. S.) BEELAERTS VAN BLOKLAND.

(L. S.) Jens BULL.