

N° 4245.

**DANEMARK
ET YOUGOSLAVIE**

Traité de conciliation, d'arbitrage et
de règlement judiciaire. Signé à
Beograd, le 14 décembre 1935.

**DENMARK
AND YUGOSLAVIA**

Treaty of Conciliation, Arbitration
and Judicial Settlement. Signed
at Belgrade, December 14th, 1935.

¹ TRADUCTION. — TRANSLATION.

No. 4245. — TREATY ² OF CONCILIATION, ARBITRATION AND JUDICIAL SETTLEMENT BETWEEN THE KINGDOM OF DENMARK AND THE KINGDOM OF YUGOSLAVIA. SIGNED AT BELGRADE, DECEMBER 14TH, 1935.

French official text communicated by the Permanent Delegate of Denmark to the League of Nations and by the Chargé d'Affaires of the Permanent Delegation of the Kingdom of Yugoslavia to the League of Nations. The registration of this Treaty took place January 4th, 1938.

HIS MAJESTY THE KING OF DENMARK AND ICELAND and HIS MAJESTY THE KING OF YUGOSLAVIA, inspired by the friendly relations existing between their respective nations ;

Sincerely desirous of bringing about, by peaceful methods, the settlement of any differences that may arise between their countries ;

Observing that it is obligatory upon international tribunals to respect rights established by treaty or resulting from international law ;

Recognising that the rights of each State cannot be modified except with its own consent ;

Considering that the faithful observance, under the auspices of the League of Nations, of methods of pacific settlement renders possible the settlement of all international disputes ;

Highly appreciating the recommendation of the Assembly of the League of Nations in its resolution dated September 26th, 1928, that all States should conclude conventions for the pacific settlement of international disputes ;

Have decided to embody their common intention in a Treaty and have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF DENMARK AND ICELAND :

His Excellency Monsieur Erik Andreas Mathias BIERING, Envoy Extraordinary and Minister Plenipotentiary ;

HIS MAJESTY THE KING OF YUGOSLAVIA :

His Excellency Monsieur Milan STOYADINOVITCH, President of the Council of Ministers, Minister for Foreign Affairs ;

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

CHAPTER I.

PACIFIC SETTLEMENT IN GENERAL.

Article I.

Disputes of any kind which may arise between Denmark and Yugoslavia and which it may not have been possible to settle by diplomacy shall be submitted, under the conditions laid down in

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 Bucharest, December 10th, 1937.

the present Treaty, to judicial settlement or arbitration, preceded, according to circumstances, as a compulsory or optional measure, by recourse to the procedure of conciliation.

Article 2.

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 such conventions.

Article 3.

1. In the case of a dispute the occasion of which, according to the municipal law of one of the High Contracting Parties, falls within the competence of its judicial or administrative authorities, the Party in question may object to the matter in dispute being submitted for settlement by the different methods laid down in the present Treaty until a decision with final effect has been pronounced within a reasonable time by the competent authority.

2. In such a case, the Party which desires to resort to the procedures laid down in the present Treaty must notify the other Party of its intention within a period of one year from the date of the aforementioned decision.

CHAPTER II.

JUDICIAL SETTLEMENT.

Article 4.

All disputes with regard to which the Parties are in conflict as to their respective rights shall be submitted for decision to the Permanent Court of International Justice, unless the Parties agree, in the manner hereinafter provided, to have recourse to an arbitral tribunal.

It is understood that the disputes referred to above include in particular those mentioned in Article 36 of the Statute¹ of the Permanent Court of International Justice.

Article 5.

If the Parties agree to submit the disputes mentioned in the preceding Article to an arbitral tribunal, they shall draw up a special agreement in which they shall specify the subject of the dispute, the arbitrators selected and the procedure to be followed. In the absence of adequate indications or particulars in the special agreement, the provisions of the Hague Convention² of October 18th, 1907, for the Pacific Settlement of International Disputes shall apply so far as is necessary. If nothing is laid down in the special agreement as to the rules regarding the substance of the dispute to be applied by the arbitrators, the tribunal shall apply the substantive rules enumerated in Article 38 of the Statute of the Permanent Court of International Justice.

Article 6.

If the Parties fail to agree concerning the special agreement referred to in the preceding Article or fail to appoint arbitrators, either Party shall be at liberty, after having given three months' notice,

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; Vol. CXXXIV, page 392; Vol. CXLVII, page 318; Vol. CLII, page 282; Vol. CLVI, page 176; Vol. CLX, page 325; Vol. CLXIV, page 352; Vol. CLXVIII, page 228; Vol. CLXXII, page 388; Vol. CLXXVII, page 382; and Vol. CLXXXI, page 346, of this Series.

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

to bring the dispute direct before the Permanent Court of International Justice by means of an application.

Article 7.

1. In the case of the disputes provided for in Article 4, prior to any procedure before the Permanent Court of International Justice or any arbitral procedure, the Parties may agree to have recourse to the conciliation procedure provided for in the present Treaty.

2. In the event of recourse to and failure of conciliation, neither Party may bring the dispute before the Permanent Court of International Justice or call for the constitution of the arbitral tribunal referred to in Article 5, before the expiration of one month from the termination of the proceedings of the Conciliation Commission.

CHAPTER III.

CONCILIATION.

Article 8.

All disputes between the Parties, other than the disputes mentioned in Article 4, shall be submitted obligatorily to a procedure of conciliation before they can form the subject of a settlement by arbitration.

Article 9.

The disputes referred to in the preceding Article shall be brought before a permanent or special Conciliation Commission constituted by the Parties.

Article 10.

On a request to that effect being made by one of the High Contracting Parties to the other Party, a permanent Conciliation Commission shall be constituted within a period of six months.

Article 11.

Unless the Parties agree otherwise, the Conciliation Commission shall be constituted as follows :

(1) The Commission shall be composed of five members. The High Contracting Parties shall each nominate one commissioner, who may be chosen from among their respective nationals. The other three commissioners shall be appointed by joint agreement from among the nationals of third Powers. These latter must be of different nationalities and must not be habitually resident in the territory or be in the service of the Parties. The High Contracting Parties shall appoint one of them to be President of the Commission.

(2) The commissioners shall be appointed for three years. They shall be re-eligible. The commissioners appointed jointly may be replaced during their term of office by agreement between the Parties. Either of the High Contracting Parties may, however, at any time replace the commissioner whom it has appointed. Even if replaced, the commissioners shall remain in office until the termination of the proceedings in course.

(3) 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 prescribed for the appointments.

Article 12.

If, when a dispute arises, no permanent Conciliation Commission appointed by the Parties is in existence, a special Commission shall be constituted for the examination of the dispute within a period of three months from the date at which a request to that effect is made by one of the Parties to the other Party. The necessary appointments shall be made in the manner laid down in the preceding Article, unless the Parties decide otherwise.

Article 13.

If the appointment of the commissioners to be designated jointly is not made within the periods provided for in Articles 10 and 12, the necessary nominations shall be made by the President in Office of the Council of the League of Nations.

Article 14.

1. Disputes shall be brought before the Conciliation Commission by means of an application addressed to the President by the two Parties acting in agreement or, in default thereof, by either Party.

2. The application, after giving a summary account of the subject of the dispute, shall contain a request to the Commission to take all necessary measures with a view to arriving at an amicable solution.

3. If the application emanates from only one of the Parties, the other Party shall without delay be notified of it by that Party.

Article 15.

1. Within fifteen days from the date on which a dispute has been brought by one of the Parties before a permanent Conciliation Commission, either Party may replace its own commissioner, for the examination of the particular dispute, by a person possessing special competence in the matter.

2. The Party making use of this right shall immediately notify the other Party; the latter shall in such case be entitled to take similar action within fifteen days from the date on which it received the notification.

Article 16.

1. In the absence of agreement to the contrary between the Parties, the Conciliation Commission shall meet at the seat of the League of Nations or at some other place selected by its President.

2. The Commission may in all circumstances request the Secretary-General of the League of Nations to afford it his assistance in its work.

Article 17.

The proceedings of the Conciliation Commission shall not be public, unless a decision to that effect is taken by the Commission with the consent of the Parties.

Article 18.

1. In the absence of agreement to the contrary between the Parties, 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 decides unanimously to the contrary, shall act in accordance with the provisions of Part III of the Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes.

2. The Parties shall be represented before the 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 may request that all persons whose evidence appears to them desirable shall be heard.

3. The Commission for its part shall be entitled to request oral explanations from the agents, counsel and experts of either Party, or from any persons whom it may think desirable to summon with the consent of their Government.

Article 19.

In the absence of agreement to the contrary between the Parties, the decisions of the Conciliation Commission shall be taken by a majority vote, and the Commission may not take decisions on the substance of the dispute unless all its members are present.

Article 20.

The 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, and also 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 21.

1. During the proceedings of the Commission, each of the commissioners shall receive emoluments the amount of which shall be fixed by agreement between the Parties, each of which shall contribute an equal share.

2. The general expenses arising out of the working of the Commission shall be divided in the same manner.

Article 22.

1. The task of the Conciliation Commission shall be to elucidate the 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 that seem to it suitable, and lay down the period within which they are to make their decision.

2. At the close of its proceedings, the Commission shall draw up a procès-verbal stating, as the case may be, either that the Parties have come to an agreement, and, if necessary, the terms of the agreement, or that it has been impossible to effect a settlement. The procès-verbal shall not mention whether the Commission's decisions were taken unanimously or by a majority vote.

3. The proceedings of the Commission must, unless the Parties agree otherwise, be terminated within six months from the date on which the dispute shall have been referred to the Commission.

Article 23.

The Commission's procès-verbal shall be communicated without delay to the Parties. The Parties shall decide whether it shall be published.

CHAPTER IV.

SETTLEMENT BY ARBITRATION.

Article 24.

If the Parties have not reached an agreement within a month from the termination of the proceedings of the Conciliation Commission mentioned in the previous Articles, the question shall be brought before an arbitral tribunal, which, unless the Parties agree otherwise, shall be constituted in the manner indicated below.

Article 25.

The Arbitral Tribunal shall consist of five members. The Parties shall each nominate one member, who may be chosen from among their respective nationals. The other two members and the umpire shall be chosen by common agreement from among the nationals of third Powers. They

must be of different nationalities and must not be habitually resident in the territory or be in the service of the Parties.

Article 26.

If, within a period of three months, the Parties have been unable to reach agreement as to the choice of the members of the Arbitral Tribunal to be appointed jointly, the necessary nominations shall be made by the President of the Permanent Court of International Justice. If the President is unable to act or is a national of one of the Parties, the nominations shall be made by the Vice-President. If the latter is unable to act or is a national of one of the Parties, the nominations shall be made by the oldest member of the Court who is not a national of either Party.

Article 27.

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 fixed for the nominations.

Article 28.

The Parties shall draw up a special agreement determining the subject of the dispute and the procedure to be followed.

Article 29.

In the absence of adequate indications or particulars in the special agreement, with regard to the points mentioned in the preceding Article, the procedure followed shall, as far as necessary, be that laid down in the provisions of the Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes.

Article 30.

Failing the conclusion of a special agreement within a period of three months from the date on which the Tribunal was constituted, the dispute may be brought before the Tribunal on the application of either Party.

Article 31.

If nothing is laid down in the special agreement or if no special agreement has been made, the Tribunal shall apply the rules in regard to the substance of the dispute embodied in Article 38 of the Statute of the Permanent Court of International Justice. If there are no such rules applicable to the dispute, the Tribunal shall, if the two Parties agree, decide *ex aequo et bono*.

CHAPTER V.

GENERAL PROVISIONS.

Article 32.

1. In all cases where a dispute forms the subject of arbitration or judicial proceedings, 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 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 Parties shall be bound to accept such measures.

2. If the dispute is brought before the Conciliation Commission, the latter may recommend the Parties to adopt such provisional measures as it considers suitable.

3. The Parties undertake to refrain from any measure likely to react prejudicially upon the execution of the judicial decision or arbitral award or upon the arrangements proposed by the Conciliation Commission, and, in general, to refrain from action of any kind whatsoever which may aggravate or extend the dispute.

Article 33.

If, in a judicial sentence or arbitral award, it is declared that a judgment delivered or a measure enjoined by a judicial or any 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, the High Contracting Parties agree that the judicial sentence or arbitral award shall grant the injured party equitable satisfaction.

Article 34.

1. The present Treaty shall be applicable as between the High Contracting Parties, even though a third Power has an interest in the dispute.

2. The Parties may, by mutual agreement, invite a third Power to intervene in conciliation proceedings.

Article 35.

Disputes relating to the interpretation or application of the present Treaty, including those concerning the classification of disputes, shall be submitted to the Permanent Court of International Justice.

Article 36.

The present Treaty, which is in conformity with the Covenant of the League of Nations, shall not be interpreted as restricting the duty of the League to take, at any time, whatever action may be deemed wise and effectual to safeguard the peace of the world.

Article 37.

1. The present Treaty shall be ratified and the exchange of ratifications shall take place at Bucharest.

It shall be registered at the Secretariat of the League of Nations.

2. The Treaty shall be concluded for a period of five years, dating from the exchange of ratifications.

3. If it has not been denounced at least six months before the expiration of this period, it shall remain in force for further successive periods of five years.

Notwithstanding denunciation by one of the Contracting Parties, the proceedings pending at the expiration of the current period of the Treaty shall be duly completed.

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

Done in duplicate at Belgrade, this 14th day of December, one thousand nine hundred and thirty-five.

(L. S.) E. BIERING, *m. p.*

(L. S.) M. STOYADINOVITCH, *m. p.*