

N° 1494.

SUÈDE ET URUGUAY

Convention pour le règlement pacifique des différends internationaux, signée à Montevideo, le 24 février 1923, et échange de notes y relatif, de la même date.

SWEDEN AND URUGUAY

Convention for the Pacific Settlement of International Disputes, signed at Montevideo, February 24, 1923, and Exchange of Notes relating thereto of the same Date.

N^o 1494. — CONVENTION¹ ENTRE LA SUÈDE ET LA RÉPUBLIQUE ORIENTALE DE L'URUGUAY POUR LE RÈGLEMENT PACIFIQUE DES DIFFÉRENDS INTERNATIONAUX. SIGNÉE A MONTEVIDEO, LE 24 FÉVRIER 1923.

Spanish and French official texts communicated by the Ministers for Foreign Affairs of Uruguay and Sweden. The registration of this Convention took place June 28, 1927.

SA MAJESTÉ LE ROI DE SUÈDE et SON EXCELLENCE LE PRÉSIDENT DE LA RÉPUBLIQUE ORIENTALE DE L'URUGUAY, désirant affermir les relations amicales qui unissent leurs deux pays et servir la cause de la paix générale, ont décidé de conclure une convention à ces fins et ont nommé, en conséquence, les plénipotentiaires ci-après désignés, savoir :

SA MAJESTÉ LE ROI DE SUÈDE :

Monsieur Carl F. HULTGREN, son envoyé extraordinaire et ministre plénipotentiaire près Son Excellence le Président de la République orientale de l'Uruguay, commandeur de première classe de Son Ordre de l'Étoile polaire, commandeur de deuxième classe de Son Ordre de Wasa ; et

SON EXCELLENCE LE PRÉSIDENT DE LA RÉPUBLIQUE ORIENTALE DE L'URUGUAY :

Monsieur Juan Antonio BUERO, son ministre secrétaire d'État des Relations extérieures ;

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des articles suivants :

Article premier.

Tout différend, de quelque nature qu'il soit, qui pourra s'élever entre le Gouvernement de Sa Majesté le Roi de Suède et le Gouvernement de la République orientale de l'Uruguay et qui n'aura pu être réglé par les voies diplomatiques ou n'aura pas été renvoyé, soit à la décision judiciaire de la Cour permanente de Justice internationale², soit à la procédure de l'arbitrage, sera soumis à une Commission d'enquête et de conciliation constituée de la manière prévue à l'article 3.

Toutefois, si le différend présente un caractère d'acuité qui le rende susceptible d'entraîner une rupture, l'article 15 du Pacte de la Société des Nations restera applicable.

¹ The exchange of ratifications took place at Montevideo, February 24, 1927.

² 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.

Article 2.

Dans le cas où les Hautes Parties contractantes conviendront de porter leur différend devant un tribunal d'arbitrage, elles signeront un compromis spécial déterminant la composition du tribunal, l'étendue de ses pouvoirs, l'objet du litige, les délais, le mode de répartition des frais et la procédure.

Article 3.

La Commission de conciliation prévue à l'article premier est composée de la manière suivante : Chaque Etat désignera deux membres l'un parmi ses propres nationaux, l'autre parmi les ressortissants d'un Etat tiers. Les deux Parties désignent ensemble le président de la commission parmi les ressortissants d'un Etat tiers. Subsidiairement, il sera fait application de celles des dispositions de l'article 45 de la Convention¹ de La Haye de 1907, pour le règlement pacifique des conflits internationaux, qui régissent le cas où l'accord n'a pu se faire, soit entre les Parties, soit entre les arbitres désignés par elles, sur le choix d'un surarbitre.

La commission sera constituée dans les six mois à dater de l'échange des ratifications de la présente convention.

Article 4.

Les membres de la commission sont nommés pour trois ans. Sauf convention contraire des deux gouvernements, ils sont inamovibles pendant la durée de leur mandat. En cas de décès ou de retraite d'un membre, il doit être pourvu à son remplacement pour le reste de la durée de son mandat dans les deux mois qui suivront et, en tout cas, dès qu'un différend aura été soumis à la commission.

Article 5.

Si à l'expiration du mandat d'un membre de la commission, il n'est pas pourvu à son remplacement, son mandat sera censé renouvelé pour une période de trois ans.

Un membre dont le mandat expire au cours de la procédure relative à un litige, restera en fonctions, nonobstant le fait que son remplaçant aurait été désigné, jusqu'à l'achèvement de la procédure.

Sur la demande de l'une des Hautes Parties contractantes, les fonctions du président de la commission prendront fin à l'expiration de son mandat, non pas toutefois au cours d'une procédure.

Article 6.

Les différends qui relèvent de la compétence de la commission de conciliation seront déférés à son examen par la notification qui en sera faite par l'une des Parties contractantes au président de la commission et à la Partie adverse. Cette notification sera portée à la connaissance du Secrétaire général de la Société des Nations. Le président devra dans le plus bref délai possible convoquer la commission.

Article 7.

La commission se réunit au siège de la Société des Nations, à moins que les Parties ne lui aient assigné, pour un cas particulier, un autre lieu de réunion. Elle pourra, si elle le juge nécessaire, se réunir dans un autre endroit.

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

¹ TRADUCTION. — TRANSLATION.

MINISTÈRE
DES AFFAIRES ÉTRANGÈRES.

Section diplomatique.

312/915 (720).

MONTEVIDEO, 24 février 1923.

MONSIEUR LE MINISTRE,

J'ai l'honneur de vous accuser réception de votre note du 24 février, par laquelle, vous référant à la signature de la Convention conclue entre l'Uruguay et la Suède en vue de soumettre leurs différends à une commission d'enquête et de conciliation, vous déclarez officiellement que le Gouvernement suédois est d'accord avec le Gouvernement de la République orientale de l'Uruguay pour considérer que ladite convention, ne devant, aux termes de l'article premier, être applicable aux différends juridiques que dans les cas où les Hautes Parties contractantes en ont convenu spécialement, elle ne sera pas davantage applicable aux différends qui viendraient à s'élever entre un particulier ou une compagnie de la nationalité de l'une des Parties contractantes et le gouvernement de l'autre Partie, et qui, conformément aux lois en vigueur dans chaque Etat, seraient soumis aux tribunaux ordinaires.

En réponse à votre communication, je suis heureux de vous faire connaître que le Gouvernement uruguayen accepte l'interprétation donnée de l'article 5 dans les termes employés par vous, à savoir que dans le cas où des différends viendraient à s'élever entre un particulier ou une compagnie de l'une des Parties contractantes et le Gouvernement de l'autre Partie, et que, conformément aux lois de cette dernière, la question serait du ressort de ses tribunaux, la disposition de l'article premier ne serait pas applicable.

Cette exception, conforme à l'esprit d'une clause analogue figurant dans les conventions d'arbitrage conclues par l'Uruguay, a pour objet de sauvegarder la juridiction locale, étant donné que toutes les personnes domiciliées dans l'Uruguay, quelle que soit leur nationalité, sont sujettes à la loi nationale et ressortissent aux tribunaux nationaux.

Veuillez agréer, etc.

(Signé) Juan Antonio BUERO.

A Son Excellence M. Carl Hultgren,
Envoyé extraordinaire
et Ministre plénipotentiaire de Suède.

¹ Traduit par le Secrétariat de la Société des Nations.

¹ Translated by the Secretariat of the League of Nations.

¹ TRADUCTION. — TRANSLATION.

No. 1494. — CONVENTION BETWEEN SWEDEN AND THE ORIENTAL REPUBLIC OF URUGUAY FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES. SIGNED AT MONTEVIDEO, FEBRUARY 24, 1923.

HIS EXCELLENCY THE PRESIDENT OF THE ORIENTAL REPUBLIC OF URUGUAY and HIS MAJESTY THE KING OF SWEDEN, being desirous of strengthening the ties of friendship which unite the two countries and of furthering the cause of universal peace, have decided to conclude a Convention for this purpose and have accordingly appointed the Plenipotentiaries named hereunder, that is to say :

HIS EXCELLENCY THE PRESIDENT OF THE ORIENTAL REPUBLIC OF URUGUAY :

Dr. Juan Antonio BUERO, His Secretary of State for Foreign Affairs :

HIS MAJESTY THE KING OF SWEDEN :

M. Carl F. HULTGREN, His Envoy Extraordinary and Minister Plenipotentiary to His Excellency the President of the Republic of Uruguay, Knight Commander of His Order of the Polar Star, first class, Knight Commander of His Order of Vasa, second class ;

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

Article 1.

Any dispute whatsoever which may arise between the Government of the Republic of Uruguay and the Government of His Majesty the King of Sweden and which it may not have been possible to settle by diplomacy or which may not have been referred either to the Permanent Court of International Justice for judicial settlement or to arbitration, shall be submitted to a Commission of investigation and conciliation, constituted in the manner specified in Article 3. If, however, the dispute is of so acute a nature as to involve the danger of a rupture, Article 15 of the Covenant of the League of Nations shall be applicable.

Article 2.

Should the High Contracting Parties agree to refer the dispute to an arbitral tribunal, they shall sign a special agreement determining the composition of such tribunal, the extent of its powers, the subject of the dispute, the time-limits allowed, the allocation of costs, and the procedure to be followed.

Article 3.

The Conciliation Commission referred to in Article 1 shall be formed in the following manner : Each State shall appoint two members, one from among its own nationals and the other from among

¹ Traduit par le Secrétariat de la Société des Nations.

¹ Translated by the Secretariat of the League of Nations.

the nationals of a third State. The two Parties shall jointly appoint the President of the Commission from among the nationals of a third State. The provisions of Article 45 of the Hague Convention of 1907 for the Pacific Settlement of International Disputes, which provide for the case where neither the Parties nor the arbitrators appointed by them have found it possible to reach an agreement regarding the choice of a third arbitrator, shall be applied if necessary.

The Commission shall be set up within six months after the ratifications of the present Convention have been exchanged.

Article 4.

The members of the Commission shall be appointed for three years. They shall be irremovable during their term of office unless the two Governments agree otherwise. In the event of the death or resignation of a member, the vacancy must be filled for the remainder of his term of office within the next two months, and in any case this must be done as soon as a dispute is referred to the Commission.

Article 5.

If, on the expiry of his term of office, a member of the Commission has not been replaced, his term of office shall be deemed to be renewed for three years.

A member whose term of office expires in the course of proceedings relating to a dispute shall remain in office, even if his successor has been appointed, until the close of the proceedings.

On the request of one of the High Contracting Parties, the President of the Commission shall cease to hold office on the expiry of his appointed term, but not in the course of any proceedings.

Article 6.

Disputes which come within the competence of the Conciliation Commission shall be referred to it for examination by notification given by one of the Contracting Parties to the President of the Commission and to the other Party. The Secretary-General of the League of Nations shall be informed of this notification. The President shall convene the Commission at the earliest possible date.

Article 7.

The Commission shall meet at the seat of the League of Nations unless the Parties, for a particular case, decide upon some other meeting-place. It may, if it thinks fit, meet elsewhere.

Article 8.

The High Contracting Parties undertake to furnish the Commission with all information which may be of use in the enquiry and the drawing up of its report, and in all respects to facilitate its task.

The Commission may apply to the Secretary-General of the League of Nations for assistance in its work.

Article 9.

The Commission shall complete its labours within six months from the day of its first meeting, unless the Parties and the Commission itself agree to an extension of this period.

Article 10.

The Parties shall be entitled to appoint agents to act as their representatives before the Commission.

The Commission's meetings shall not be public unless the Commission so decides and the Parties agree in each case.

Article 11.

In proceedings before the Commission both Parties shall be heard.

The regulations laid down in Chapter III of the Hague Convention of 1907, for the Pacific Settlement of International Disputes, shall be applied as regards the hearing of witnesses, expert enquiries, *commissions rogatoires*, and investigations on the spot.

The Commission shall settle all details of procedure not provided for above, and shall observe all the formalities necessary for the production of evidence.

Article 12.

The Commission shall take its decisions by a majority vote of its members, the President having a casting vote.

Article 13.

The Commission shall prepare a report on each dispute submitted to it. The report shall, if necessary, include a proposal for the settlement of the dispute. The reasoned opinion of the members who form the minority shall be recorded in the report.

The President of the Commission shall immediately communicate the report to the Parties and to the Secretary-General of the League of Nations.

Article 14.

Until the settlement of a dispute, the Commission's report may not be published by one of the Parties without the consent of the other Party.

The Commission may, by a unanimous vote, order the immediate publication of its report.

Article 15.

The High Contracting Parties reserve full liberty of action with respect to the dispute submitted to the Commission once its report has been submitted, subject, nevertheless, to the provisions of the Covenant of the League of Nations.

Article 16.

Each Party shall pay an allowance to the members of the Commission whom it has appointed, and shall provide half the President's allowance.

Each Party shall bear its own costs and half of those which the Commission may declare to be joint costs.

Article 17.

The present Convention shall be ratified, and the ratifications shall be exchanged at Montevideo as soon as possible. It shall come into force immediately after the exchange of ratifications, and

shall remain in force for five years from that date. Unless denounced at least six months before the expiry of this period, it shall remain in force for a further period of five years and shall thereafter be deemed to be renewed for successive periods of five years unless denounced at least six months before the expiry of the preceding period of five years.

In faith whereof the respective Plenipotentiaries have signed the present Convention and have affixed their seals thereto.

Done in duplicate at Montevideo, February the twenty-fourth, One thousand nine hundred and twenty-three.

(L. S.) (*Signed*) Juan Antonio BUERO.

(L. S.) (*Signed*) Carl F. HULTGREN.

I

SWEDISH LEGATION.

MONTVIDEO, *February 24, 1923.*

YOUR EXCELLENCY,

On the occasion of the signing of the Convention between Sweden and Uruguay relating to the submission of disputes to a Commission of Investigation and Conciliation, I have the honour hereby to state officially that the Swedish Government agrees with the Government of the Republic of Uruguay that inasmuch as the said Convention is not, under the terms of its first Article, to be applicable to disputes of a judicial nature unless the High Contracting Parties specially agree thereto, it shall likewise not be applicable to disputes which may arise between an individual or a company having the nationality of one of the Contracting Parties and the Government of the other Party and that, in conformity with the laws in force in each State, such disputes shall be referred to the ordinary courts.

I have the honour to be, etc.,

(*Signed*) Carl HULTGREN.

His Excellency,

M. Buero,

Minister for Foreign Affairs, etc. etc.

II.

MINISTRY OF FOREIGN AFFAIRS.

Diplomatic Section,

312/915 (720)

MONTVIDEO, *February 24, 1923.*

SIR,

I have the honour to acknowledge the receipt of your letter dated February 24, 1923, in which referring to the signing of the Convention between Uruguay and Sweden relating to the submission of disputes to a Commission of Investigation and Conciliation, you declare officially that the Swedish Government agrees with the Government of the Republic of Uruguay that inasmuch as the said Convention is not, under the terms of its first Article, to be applicable to disputes of a judicial nature unless the High Contracting Parties specially agree thereto, it shall likewise not be applicable to disputes which may arise between an individual or a company having the nationality of one of

the Contracting Parties and the Government of the other Party, and that, in conformity with the laws in force in each State, such disputes shall be referred to the ordinary courts.

In reply, I have pleasure in informing you that my Government accepts your explanation of Article 5, namely that when any differences arise between an individual or company having the nationality of one of the Contracting Parties and the Government of the other Party, and when in conformity with the laws of the latter Party, the matter falls within the jurisdiction of its Courts, the provisions of Article 1 shall not be applicable.

The object of this exception, which is conceived in the same spirit as a like clause included in arbitration treaties signed by Uruguay, is to safeguard local jurisdiction, inasmuch as all residents in Uruguay, whatever their nationality are subject to the national law and amenable to the jurisdiction of the national Court.

I have the honour to be, etc.,

(Signed) Juan Antonio BUERO.

His Excellency M. Carl Hultgren,
Swedish Envoy Extraordinary and
Minister Plenipotentiary.