

N° 1541.

DANEMARK
ET TCHÉCOSLOVAQUIE

Traité d'arbitrage. Signé à Prague,
le 30 novembre 1926.

DENMARK
AND CZECHOSLOVAKIA

Arbitration Treaty. Signed at Pra-
gue, November 30, 1926.

¹ TRADUCTION. — TRANSLATION.No. 1541. — ARBITRATION TREATY² BETWEEN DENMARK AND CZECHOSLOVAKIA. SIGNED AT PRAGUE, NOVEMBER 30, 1926.

French official text communicated by the Danish Minister at Berne and the Permanent Delegate of the Czechoslovak Republic accredited to the League of Nations. The registration of this Treaty took place October 3, 1927.

HIS MAJESTY THE KING OF DENMARK AND ICELAND and THE PRESIDENT OF THE REPUBLIC OF CZECHOSLOVAKIA, inspired by the friendly relations existing between Denmark and Czechoslovakia, and being desirous of ensuring henceforward, in conformity with the principles laid down in the Covenant of the League of Nations, the pacific settlement of all differences and disputes of whatever nature which may arise between Denmark and Czechoslovakia, have resolved to conclude an Arbitration Treaty and have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF DENMARK AND ICELAND :

M. Niels Johan Wulfsberg HøST, His Envoy Extraordinary and Minister Plenipotentiary at Prague ;

THE PRESIDENT OF THE REPUBLIC OF CZECHOSLOVAKIA :

Dr. Václav GIRSA, Envoy Extraordinary and Minister Plenipotentiary ;

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

Article 1.

The High Contracting Parties reciprocally undertake in every case to settle, by pacific means and in accordance with the procedure laid down in the present Treaty, all disputes or conflicts of whatever nature which may arise between Denmark and Czechoslovakia, and which it may not have been possible to settle by the normal methods of diplomacy.

Article 2.

All disputes of every kind between the High Contracting Parties which it may not have been possible to settle amicably by the normal methods of diplomacy shall be submitted for decision either to the Permanent Court of International Justice or to an arbitral tribunal as hereinafter laid down.

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

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 Copenhagen, September 23, 1927.

Article 3.

Before any resort is made to arbitral procedure or to procedure before the Permanent Court of International Justice, the dispute shall 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.

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 5.

The Permanent Conciliation Commission provided for in Article 3 shall be composed of five members, who shall be appointed as follows: the Contracting Parties shall each nominate two members, one from among their own nationals and the other from the nationals of a third State. The latter members must not be resident within the territory of the Party appointing them nor be employed in the service of such Party. The two Parties shall jointly appoint the President of the Commission, who must be of a nationality different from that of the other members of the Commission.

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 6.

The Permanent Conciliation Commission shall be constituted within three months from the entry into force of the present Convention.

If the nomination of the President, 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 falls vacant, the President of the Permanent Court of International Justice, or — if the latter is a national of one of the High Contracting Parties — the Vice-President or the senior member of the Court not a national of either of the High Contracting Parties, shall, in the absence of other agreement, be requested to make the necessary appointment.

Article 7.

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 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 8.

Within fifteen days from the date on which the Permanent Conciliation Commission has been informed of the dispute, either Party may, for the examination of such dispute, replace one of the members whom it has appointed by a person possessing special competence in the matter, subject, however, to compliance with the rules laid down in paragraph 1 of Article 5.

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 9.

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 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 otherwise agree, be terminated within six months from the date on which the Commission was notified of the dispute.

Article 10.

Failing any special provision to the contrary in the present Treaty, 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 11.

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 12.

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 13.

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.

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.

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

Article 14.

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

Article 15.

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 16.

During the proceedings 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 whom shall contribute an equal share. The costs connected with the work of the Commission shall also be equally shared.

Article 17.

In the event of no amicable agreement being reached before the Permanent Conciliation Commission, the dispute shall be submitted by means of a special agreement either to the Permanent Court of International Justice, under the conditions and according to the procedure laid down by its Statute¹, 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.

GENERAL PROVISIONS.

Article 18.

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 Conciliation Commission, or if the latter is no longer competent, the arbitral tribunal or the Permanent Court of International Justice acting in accordance with Article 41 of its Statute, shall if necessary lay down within the shortest possible time the provisional measures to be adopted. The High Contracting Parties undertake respectively to accept such measures, to abstain from all measures likely to have a repercussion prejudicial to the execution of the decision or to 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.

Article 19.

The judicial decision or arbitration award shall be binding and must be carried out in good faith by the Parties.

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 159; and Vol. LIV, page 387, of this Series.

If, however, the judicial decision or arbitration award states that a decision or measure of a court of law or other authority of either of the two States is wholly or partly at variance with international law, and if the constitutional law of the said State does not permit, or only partially permits, the consequences of the decision or measure in question to be annulled, the Parties agree that the judicial decision or arbitration award shall give the injured Party equitable satisfaction of another kind.

Article 20.

The present Treaty shall continue to be applicable as between the High Contracting Parties even when other Powers are also interested in the dispute.

Article 21.

The present Treaty shall be communicated for registration to the League of Nations in accordance with Article 18 of the Covenant.

Article 22.

The present Treaty shall be ratified and the ratifications shall be exchanged at Copenhagen. It 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, an arbitration Court, or the Permanent Court of International Justice, it shall pursue its course until its final completion.

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

Done at Prague, in two copies, November 30, 1926.

(L. S.) L. N. HØST.

(L. S.) DR. V. GIRSA.