

¹ TRADUCTION. — TRANSLATION.No. 1437. — TREATY² OF CONCILIATION AND ARBITRATION BETWEEN DENMARK AND POLAND. SIGNED AT COPENHAGEN, APRIL 23, 1926.

French official text communicated by the Danish Minister at Berne. The registration of this Treaty took place April 8, 1927.

HIS MAJESTY THE KING OF DENMARK AND ICELAND and THE PRESIDENT OF THE POLISH REPUBLIC ; being desirous of developing the friendly relations which unite Denmark and Poland, and having resolved to embody in their reciprocal relations the principles of the League of Nations, have decided to conclude a Treaty of Conciliation and Arbitration and have appointed for that purpose as their Plenipotentiaries :

HIS MAJESTY THE KING OF DENMARK AND ICELAND :

M. Carl Poul Oscar Count MOLTKE, Minister for Foreign Affairs ; and

THE PRESIDENT OF THE POLISH REPUBLIC :

M. Constantin Jordan ROZWADOWSKI, Polish Envoy Extraordinary and Minister Plenipotentiary in Denmark, and

M. Juljan MAKOWSKI, Doctor of Laws, Head of Department in the Ministry of Foreign Affairs:

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

PART I.

Article 1.

1. The High Contracting Parties undertake to submit to the procedure of conciliation or of arbitration all disputes arising between Denmark and Poland which it has not been found possible to settle by diplomacy within a reasonable time.

2. Disputes for the solution of which a special procedure is provided in other Conventions in force between the Contracting Parties shall be settled in accordance with the provisions of those Conventions.

Article 2.

1. 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 admi-

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 Warsaw, April 4, 1927.

nistrative courts, the matter in dispute shall not be submitted to any of the procedures laid down in the present Treaty until a judgment with final effect has been pronounced by the competent national judicial authority.

2. The request for conciliation must in the above case be put forward within one year at latest from the date of the final judgment.

Article 3.

1. Any dispute capable of being settled in the manner set forth above shall be submitted to the procedure of conciliation, unless the Parties agree to submit immediately to arbitration.

2. Should the report drawn up by the Permanent Conciliation Commission not be accepted by both Parties, the dispute shall be submitted to arbitration, if either of the Parties so requests.

Article 4.

1. In the six months following the exchange of ratifications of the present Treaty, the Contracting Parties shall set up a Permanent Conciliation Commission consisting of five members.

2. Each Party shall appoint two members, one of whom may be a national of its own State. The fifth, who shall be President, must be a national of a State other than those to which the other members of the Commission belong and must neither be domiciled in the territory of the Contracting Parties nor be in their service.

3. If a President has not been appointed within the said period of six months, or, in the event of his replacement, within three months from the date when the office fell vacant, the President of the Swiss Confederation shall, failing any other agreement, be requested to make the necessary appointment.

Article 5.

1. The Commissioners are appointed for three years and their mandate is renewable. If, when a member's term of office expires, no arrangement has been made for replacing him his appointment shall be deemed to be renewed for a period of three years; if either of the Parties so requests, however, the President shall cease to exercise his duties as soon as his term of office expires. The members of the Commission shall remain in office until they are replaced, and in any case until they have completed the work on which they are engaged at the time when their term of office expires.

2. 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 6.

1. The Permanent Conciliation Commission shall be informed by means of a request addressed to its President by the two Parties acting in agreement, or, in the absence of such agreement, by one or other of the Parties.

2. The request, after having given an account of the subject of the dispute, shall contain the invitation to the Commission to take all necessary measures with a view to arriving at an amicable settlement.

3. If the request emanates from only one of the Parties, notification thereof shall be made without delay to the other Party.

Article 7.

1. Within fifteen days from the date on which a dispute shall have been brought before the Permanent Conciliation Commission, either Party may, for the examination of the particular dispute, replace one of the members nominated by it by a person possessing special competence in the matter.

2. 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 received notification.

Article 8.

1. The task of the Permanent Conciliation Commission shall be to elucidate questions in dispute, to collect with that object all necessary information and endeavour to bring the Parties to an agreement. It may, after the case has been examined, inform the Parties of the terms of such settlement which it may deem suitable to it, and lay down a period within which they are to make their decision.

2. At the close of its labours 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 arises, the terms of the agreement, or that it has been impossible to effect a settlement. The opinion of any minority, accompanied by a statement of reasons, shall be included in this report.

3. The Commission shall finish its work within six months from the date of its first meeting. The Parties may, by mutual agreement, lengthen or shorten this period.

4. The Commission's report shall not be in the nature of an arbitral award either as regards the statement of the facts or as regards the legal considerations.

Article 9.

1. The procedure before the Permanent Conciliation Commission shall provide for both Parties being heard.

2. The Commission shall itself determine its procedure, being guided, unless it unanimously decides to the contrary, by the provisions of Chapter III of The Hague Convention¹ of October 18th, 1907, for the Pacific Settlement of International Disputes.

3. The discussions of the Commission shall take place in private unless the Commission, with the consent of the Parties, shall decide otherwise.

Article 10.

1. The decisions of the Permanent Conciliation Commission shall not be valid unless all the members were duly convened.

2. Unless otherwise provided under the present Treaty, the decisions of the Commission shall be taken by majority vote. Each member shall have one vote, the President having a casting vote.

Article 11.

1. The Permanent Conciliation Commission shall meet, in the absence of agreement by the Parties to the contrary, at a place selected by its President ; this place must be situated outside the territory of either Party.

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

Article 12.

The proceedings of the Permanent Conciliation Commission shall only be made public by unanimous decision of the Commission and with the consent of the Parties.

Article 13.

1. The Parties shall be represented before the Permanent Conciliation Commission by agents acting as intermediaries between the Parties and the Commission ; the Parties may further be assisted by advisers and by experts appointed by them for that purpose.

2. The Commission shall for its part have the right to demand verbal statements from the agents, advisers and experts of the two Parties and to request the respective Governments to communicate any person's evidence which it may consider to be pertinent to the proceedings.

Article 14.

The Contracting Parties shall supply the Permanent Conciliation Commission with all necessary information and shall facilitate its work as far as possible and in every respect.

PART II.

Article 15.

1. When a dispute is submitted to arbitration in accordance with the provisions of Article 1 or 3 of the present Treaty, the Court of Arbitration shall be set up by agreement between the two Parties.

2. If the Court of Arbitration is not set up by agreement between the Parties within a period of three months from the date on which one of the Parties has addressed the request for arbitration to the other Party, the following procedure shall be adopted :

Each Party shall appoint two arbitrators, one of whom must be on the list of members of the Permanent Court of Arbitration but must not be a national of the Party appointing him. The arbitrators thus appointed shall themselves choose the President of the Court. If the votes for the Presidency are equally divided, the President of the Swiss Confederation shall be requested to make the necessary appointment.

Article 16.

1. Whenever a question has to be decided by arbitration, the Contracting Parties undertake to conclude, within three months reckoned from the day on which either Party has addressed a request for arbitration to the other Party, a special agreement regarding the subject of the dispute and the methods of procedure.

2. If this agreement cannot be concluded within the period fixed, the Parties shall be bound to substitute for it the procedure laid down in Chapter IV of The Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes, which shall in this case govern the recourse to arbitration.

3. In the circumstances referred to in Article 15, paragraph 2, the periods provided for above shall be reckoned only from the date on which the Court was constituted.

Article 17.

1. The arbitral award shall be binding and shall be carried out by the Parties in good faith.

2. If, however, the award establishes the fact that a decision of a judicial or other authority of one of the Contracting Parties is wholly or partially at variance with International Law, and if

the municipal law of that Party precludes the annulment or only allows of the partial annulment, through administrative channels, of the effects of such a decision, the injured Party shall be accorded equitable satisfaction in some other manner.

GENERAL PROVISIONS.

Article 18.

1. While conciliation or arbitration proceedings are actually in progress, the member of the Permanent Conciliation Commission nominated by common agreement and the members of the Court of Arbitration shall receive allowances on a scale to be fixed by the Contracting Parties.

2. Each Party shall bear its own expenses and an equal share of the common expenses of the Commission or of the Court.

Article 19.

While conciliation or arbitration proceedings are in progress, the Contracting Parties shall refrain from any act which may tend to hinder the acceptance of the proposals of the Permanent Conciliation Commission or the execution of the arbitral award.

Article 20.

Any disputes which may arise regarding the interpretation or execution of the present Treaty shall be submitted directly, by simple application, to the Permanent Court of International Justice¹.

Article 21.

1. The present Treaty shall be ratified. The instruments of ratification shall be exchanged at Warsaw as soon as possible.

2. The Treaty shall come into force on the thirtieth day after the exchange of ratifications, and shall remain in force for three years. If it is not denounced six months before this period expires, it shall remain in force for a further period of three years, and so on.

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

Done at Copenhagen, April 23, 1926.

(L. S.) C. MOLTKE.

(L. S.) K. Jordan ROZWADOWSKI.

(L. S.) Dr Juljan MAKOWSKI.

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.