

N° 3032.

COLOMBIE ET SUÈDE

Traité de conciliation. Signé à Londres, le 13 septembre 1927.

COLOMBIA AND SWEDEN

Treaty of Conciliation. Signed at London, September 13, 1927.

¹ TRADUCTION. — TRANSLATION.No. 3032. — TREATY OF CONCILIATION² BETWEEN COLOMBIA AND SWEDEN. SIGNED AT LONDON, SEPTEMBER 13, 1927.

French official text communicated by the Swedish Minister for Foreign Affairs. The registration of this Treaty took place September 6, 1932.

HIS MAJESTY THE KING OF SWEDEN and HIS EXCELLENCY THE PRESIDENT OF THE REPUBLIC OF COLOMBIA,

Being desirous of developing the friendly relations existing between the two countries,

Being determined to give a wider application, in their reciprocal relations, to the principles on which the League of Nations is based,

Have decided to conclude a Conciliation Treaty and for this purpose have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF SWEDEN :

His Excellency Baron Erik KULE PALMSTIERNA, His Envoy Extraordinary and Minister Plenipotentiary in London ;

HIS EXCELLENCY THE PRESIDENT OF THE REPUBLIC OF COLOMBIA :

His Excellency Señor Dr. Don Luis CUERVO MÁRQUEZ, Envoy Extraordinary and Minister Plenipotentiary of the Republic in London ;

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

Article 1.

The Contracting Parties undertake to submit to a permanent Conciliation Commission, set up as provided for hereinafter, all disputes of whatsoever nature which it has not been possible to settle through the diplomatic channel and which have not, either under the Statute³ of the Permanent Court of International Justice or under any other agreement concluded between the Parties, to be referred to the said Court or to an arbitral tribunal.

Each of the Parties shall be free to decide on the moment at which the procedure of conciliation may be substituted for diplomatic negotiations.

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 London, July 5, 1932.

³ 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 ; and Vol. CXXX, page 440, of this Series.

Article 2.

Should a dispute which has been submitted to the Commission by one of the Parties be brought by the other Party, in accordance with the provisions referred to in Article 1, before the Permanent Court or an arbitral tribunal, the Commission shall suspend the examination of the dispute until the Court or the tribunal has given a decision on the question of competence.

Article 3.

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, that Party may require that the dispute shall not be submitted to the procedure laid down in the present Treaty until a judgment with final effect has been pronounced, within the time laid down by the respective municipal laws, by the competent national judicial authority.

Article 4.

The Commission shall consist of five members, who shall be appointed as follows : the Swedish Government and the Colombian Government shall each appoint a commissioner chosen from among their respective nationals and shall appoint, by common agreement, the other three commissioners from among nationals of third Powers, these three commissioners must be of different nationalities and the Swedish and Colombian Governments shall appoint the President of the Commission from among them.

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 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 cause, shall be filled within the shortest possible time in the manner fixed for the appointments.

Article 5.

The Commission shall be constituted within six months from the entry into force of the present Treaty.

If the nomination of the commissioners to be appointed jointly 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 or, should he be a national of one of the contracting States, the Vice-President of the Court, shall, in the absence of agreement to the contrary, be requested to make the necessary appointments.

Article 6.

The 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 agreement, by one or other of the Parties.

The request, after giving a summary account of the subject of the dispute, shall contain the invitation to the Commission to open the procedure of conciliation.

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 7.

Within thirty days from the date on which the Swedish Government or the Colombian Government shall have brought a dispute before the 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 thirty days from the date on which the notification reaches it.

Article 8.

The task of the 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 shall draw up a report on every dispute which has been submitted to it. The report shall contain a proposal for the settlement of the dispute if the circumstances make this possible and if at least three members of the Commission agree on such a proposal.

The opinion of the members who are in a minority, accompanied by a statement of the reasons on which that opinion is based, shall be set forth in the report.

The report shall not have the character of an arbitral award as regards either the statement of facts or the legal considerations.

The report shall be signed by the President and brought to the notice of the Parties immediately; the Commission may lay down a period within which the latter are to make their decision.

The proceedings of the Commission shall, unless the Parties otherwise agree, be terminated within six months of the date on which the Commission shall have been notified of the dispute.

Article 9.

Failing any special provisions to the contrary, the 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 Convention¹ of October 18, 1907, for the Pacific Settlement of International Disputes.

Article 10.

In the absence of agreement to the contrary between the Parties, the Commission shall meet at the seat of the League of Nations.

Article 11.

The proceedings of the 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 12.

The Parties shall be represented before the 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 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 respective Governments.

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

Article 13.

Unless otherwise provided in the present Treaty, the decisions of the Commission shall be taken by a majority vote. Each member shall have one vote ; if the votes are equally divided the President shall have a casting vote.

The Commission may not take any decisions on the substance of the dispute unless all the members have been duly summoned and the President and at least two members are present.

Article 14.

The Swedish and Colombian Governments undertake to facilitate the work of the 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 allow it to proceed in their territory and in accordance with their laws to summon and hear witnesses and experts, and to visit the localities in question.

Article 15.

During the proceedings of the Commission each commissioner shall receive emoluments, the amount of which shall be fixed by agreement between the Swedish and Colombian Governments.

Each Government shall bear its own cost and an equal share of the common costs of the Commission, these common costs to include the commissioners' emoluments.

Article 16.

During the course of proceedings instituted in accordance with the provisions of the present Treaty, the Swedish and Colombian Governments undertake to abstain from all measures likely to have consequences prejudicial to the arrangements proposed by the Commission and, in general, to abstain from any sort of action whatsoever which might aggravate or extend the dispute.

Article 17.

Any disputes relating to the interpretation of the present Treaty shall be submitted to the Permanent Court of International Justice.

Article 18.

The present Treaty shall be ratified and the ratifications exchanged in London as soon as possible.

The Treaty shall be concluded for a period of ten years as from the date of exchange of ratifications. If it is not denounced six months before the expirations of this period, it shall remain in force for a further period of five years and similarly thereafter for successive periods of five years.

In faith whereof the Plenipotentiaries have signed the present Treaty.

Done in London, in duplicate, on September 13, 1927.

(L. S.) Erik PALMSTIERNA.

(L. S.) Luis CUERVO MÁRQUEZ.