

N° 3087.

NORVÈGE ET PORTUGAL

Traité de conciliation, de règlement
judiciaire et d'arbitrage. Signé à
Lisbonne, le 26 juillet 1930.

NORWAY AND PORTUGAL

Treaty of Conciliation, Judicial Sett-
lement and Arbitration. Signed
at Lisbon, July 26, 1930.

¹ TRADUCTION. — TRANSLATION.

N^o 3087. — TREATY² OF CONCILIATION, JUDICIAL SETTLEMENT AND ARBITRATION BETWEEN THE KINGDOM OF NORWAY AND THE PORTUGUESE REPUBLIC. SIGNED AT LISBON, JULY 26, 1930.

French official text communicated by the Head of the Portuguese Office accredited to the League of Nations. The registration of this Treaty took place November 2, 1932.

HIS EXCELLENCY THE PRESIDENT OF THE PORTUGUESE REPUBLIC and HIS MAJESTY THE KING OF NORWAY, in view of the happy relations of friendship existing between Portugal and Norway, And being also desirous of providing in all cases, in accordance with the principles laid down in the Covenant of the League of Nations, for the peaceful settlement of all differences and disputes of whatsoever nature which may arise between the two countries :

Have decided to conclude a Treaty for that purpose and have appointed as their respective Plenipotentiaries :

HIS EXCELLENCY THE PRESIDENT OF THE PORTUGUESE REPUBLIC :

Commander Fernando Augusto BRANCO, Minister for Foreign Affairs ;

HIS MAJESTY THE KING OF NORWAY :

Monsieur Finn KOREN, Norwegian Chargé d'Affaires at Lisbon ;

Who, having communicated to each other their full powers, found in good and due form, have agreed on the following provisions :

Article I.

Any differences of whatsoever nature between the Government of His Majesty the King of Norway and the Government of the Portuguese Republic, which it has not been possible to settle through the ordinary diplomatic channel, shall before any proceedings are taken before the Permanent Court of International Justice or before any resort to arbitration, be submitted for conciliation to a Permanent International Commission to be known as the Permanent Conciliation Commission constituted in accordance with the present Treaty.

Nevertheless the High Contracting Parties may always agree that any given dispute shall be settled direct by the Permanent Court of International Justice or by arbitration without previously resorting to the preliminary conciliation provided for above.

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 Lisbon, November 24, 1931.

Article 2.

In the case of a dispute which under the municipal law of one of the Parties falls within the competence of the national courts, including administrative tribunals, of such Party, 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 a reasonable time by the competent national judicial authority.

Article 3.

The Permanent Conciliation Commission provided for in Article 1 shall consist of five members. The High Contracting Parties shall each nominate a Commissioner chosen from among their respective nationals and shall by common agreement appoint the three other members and among the latter the President of the Commission. The said three Commissioners may not be nationals of the Contracting Parties or be domiciled in their territory or be in their service. They must all three be of different nationalities.

The Commissioners shall be appointed for three years. If at the end of the term of office of a member of the Commission no provision has been made for replacing him, his term of office shall be held to be renewed for a period of three years.

A member whose term of office expires during the hearing of a case shall continue to take part in the examination of the dispute until the proceedings are terminated, even though his successor has been appointed.

In case of the death or resignation of one of the members of the Conciliation Commission, provision for replacing him during the remainder of his term of office shall be made if possible during the next three months, and in any case as soon as a dispute comes before the Commission.

Article 4.

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

If the nomination of the Commissioners who have to be appointed by common agreement should have taken place within the aforesaid period or in the case of the filling of a vacancy within three months from the date when the seat falls vacant, the appointment shall be made in accordance with the provisions of Article 45 of the Hague Convention¹ for the Pacific Settlement of International Disputes dated October 18, 1907.

Article 5.

Disputes shall be referred to the Permanent Conciliation Commission 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 shall give a summary account of the dispute and shall invite the Commission to take all necessary measures with a view to arriving at an amicable settlement.

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

The President shall convene the Commission as soon as possible.

Article 6.

Within fifteen days from the date on which the Norwegian Government or the Portuguese Government shall have brought a dispute before the Permanent Conciliation Commission, either Party may replace, for the examination of the particular dispute, its own Commissioner by a person possessing special competence in the matter.

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

The Party availing itself of this right shall at once notify 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 7.

The task of the Permanent Conciliation Commission shall be to elucidate questions in dispute, to collect for this purpose all necessary information by means of enquiry or otherwise and to make every effort 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 its proceedings, the Commission shall draw up a report stating either that the Parties have come to an arrangement and, if need arises, the terms of such 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 shall have been notified of the dispute.

Article 8.

Failing any special provision to the contrary, 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 decides unanimously to the contrary, shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

Article 9.

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 10.

The proceedings of the Permanent Conciliation Commission are not public, except when a decision to that effect has been taken by the Commission with the consent of the Parties.

Article 11.

The Parties shall be represented before the Permanent Conciliation 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 be useful should be heard by the Commission.

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.

Article 12.

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

The Commission shall not have power to take any decision relative to the substance of the dispute unless all the members shall have been duly convened and unless at least the President and two members are present. Should only three members and the President be present, the President's vote shall count as two votes.

Article 13.

The High Contracting Parties undertake to facilitate the labours 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 allow 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 14.

During the proceedings of the Permanent Conciliation Commission each Commissioner shall receive remuneration, the amount of which shall be fixed by joint agreement between the Norwegian and Portuguese Governments, each of which shall pay an equal share.

Each Government shall pay its own expenses and shall contribute an equal share to the joint expenses of the Commission.

Article 15.

In the event of no amicable agreement being reached before the Permanent Conciliation Commission, disputes in respect of a right claimed by one Party and contested by the other, particularly the disputes mentioned in Article 13 of the Covenant of the League of Nations, 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 provided for 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.

Failing agreement between the Parties as to the terms of the special agreement and after one month's notice has been given, either Party shall have the right to bring the dispute before the Permanent Court of International Justice by means of an application.

Article 16.

Disputes other than those provided for in paragraph 1 of Article 15 shall, failing an amicable settlement, be submitted to an Arbitral Tribunal having the power to decide *ex aequo et bono*.

Unless otherwise agreed, the said Tribunal shall be composed of five members appointed according to the methods laid down in Articles 3 and 4 for the composition of the Conciliation Commission.

Should the Parties not agree on the terms of the agreement to submit the dispute to the Tribunal, either Party shall have the right after giving one month's notice to submit the dispute direct to the Tribunal.

Article 17.

The two High Contracting Parties undertake, during the course of proceedings commenced in virtue of the provisions of the present Treaty, to abstain from all measures which might prejudicially affect either the execution of the decision of the Permanent Court of International Justice or of the Arbitral Tribunal or the arrangements proposed by the Permanent Conciliation Commission and in general not to commit any act of any kind which might aggravate or extend the dispute.

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, of this Series; and page 392 of this Volume.

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 Conciliation Commission or, if the matter has not been brought before it, the Permanent Court of International Justice acting under Article 41 of its Statute or the Arbitral Tribunal shall indicate as soon as possible the provisional measures to be adopted. The High Contracting Parties respectively undertake to accept the said measures.

Article 18.

Should the Permanent Court of International Justice or the Arbitral Tribunal lay down that the decision of some judicial or other authority of one of the High Contracting Parties is wholly or partly at variance with international law and if the constitutional law of the said Party precludes the annulment or only allows of a partial annulment through administrative channels of the effects of such a decision, the judicial or arbitral award shall determine the nature and amount of the compensation to be granted to the injured party.

Article 19.

Should any dispute arise between the High Contracting Parties in respect of the application of the present Treaty, the said dispute shall be brought direct before the Permanent Court of International Justice under the conditions laid down in Article 40 of the Statute of the said Court.

Article 20.

The present Treaty shall only apply to disputes which may arise after the exchange of ratifications, in respect of situations or facts subsequent to that date.

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

Article 21.

The present Treaty shall be ratified and the ratifications shall be exchanged at Lisbon as soon as possible.

Article 22.

The present Treaty, which replaces the Arbitration Convention¹ of December 8, 1908, shall come into force as soon as ratifications have been exchanged and shall remain in force for five years from the date of its coming into force. Should it not be denounced six months before the expiry of the said period it shall be regarded as renewed for a period of five years and so on.

If at the moment of the expiry of the present Treaty any proceedings under the said Treaty are pending before the Permanent Court of International Justice or before the Arbitral Tribunal, the said proceedings shall be carried out to their completion.

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

Done at Lisbon, the twenty-sixth day of July, one thousand nine hundred and thirty.

Fernando Augusto BRANCO.
Finn KOREN.

¹ *British and Foreign State Papers*, Vol. 102, page 728.