

N° 2944.

BELGIQUE ET ROUMANIE

Traité de règlement judiciaire, d'arbitrage et de conciliation. Signé à Bucarest, le 8 juillet 1930.

BELGIUM AND ROUMANIA

Treaty of Judicial Settlement, Arbitration and Conciliation. Signed at Bucharest, July 8, 1930.

¹ TRADUCTION. — TRANSLATION.No. 2944. — TREATY² OF JUDICIAL SETTLEMENT, ARBITRATION AND CONCILIATION BETWEEN BELGIUM AND ROUMANIA. SIGNED AT BUCHAREST, JULY 8, 1930.

French official text communicated by the Roumanian Envoy Extraordinary and Minister Plenipotentiary accredited to the League of Nations and the Belgian Minister for Foreign Affairs. The registration of this Treaty took place April 28, 1932.

HIS MAJESTY THE KING OF ROUMANIA and HIS MAJESTY THE KING OF THE BELGIANS, being desirous of strengthening the ties of friendship existing between Roumania and Belgium and of furthering the pacific settlement of any differences or disputes which may arise between the two countries, have resolved to conclude a Treaty for this purpose and have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF ROUMANIA :

His Excellency M. G. G. MIRONESCO, His Minister for Foreign Affairs, Former President of the Council of Ministers ;

HIS MAJESTY THE KING OF THE BELGIANS :

His Excellency Baron GUILLAUME, His Envoy Extraordinary and Minister Plenipotentiary;

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

Article 1.

The High Contracting Parties reciprocally undertake in no case to endeavour to settle, otherwise than by pacific means, any differences or disputes which may arise between Belgium and Roumania and which it may not have been possible to settle within a reasonable period by the normal methods of diplomacy.

Article 2.

All disputes with regard to which the Parties are in conflict as to their respective rights, and 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

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 Brussels, April 4, 1932.

tribunal, as provided hereinafter. It is understood that the disputes referred to above include in particular those mentioned in Article 36 of the Statute¹ of the Permanent Court of International Justice.

The provision of the preceding paragraph shall not apply to disputes arising out of facts prior to the present Convention or relating to the past or to disputes concerning questions which by international law are solely within the domestic jurisdiction of States.

Disputes for the solution of which a special procedure is provided for in other Conventions in force between the High Contracting Parties shall be settled in accordance with the provisions of such Conventions. Nevertheless, if no solution of the dispute is arrived at by application of such procedure, the provisions of the present Treaty shall be applied.

Article 3.

Before any recourse is made to the Permanent Court of International Justice or to any arbitral procedure, the dispute may, by agreement between the Parties, 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.

If, in the case of one of the legal disputes referred to in Article 2, the two Parties have not had recourse to the Permanent Conciliation Commission, or if that Commission has not succeeded in bringing about a settlement, the dispute shall be submitted jointly by special agreement, either to the Permanent Court of International Justice, which shall deal with the dispute subject to the conditions and in accordance with the procedure laid down in its Statute, or to an arbitral tribunal which shall deal with the dispute subject to the conditions and in accordance with the procedure laid down by the Hague Convention² of October 18, 1907, for the Pacific Settlement of International Disputes.

If the Parties fail to agree as to the choice of a Court, the terms of the special agreement or, in the case of arbitral procedure, the appointment of arbitrators, either Party shall be at liberty, after giving one month's notice, to bring the dispute, by an application, direct before the Permanent Court of International Justice.

Article 5.

All questions on which the High Contracting Parties may differ without being able to reach an amicable solution by the normal methods of diplomacy, which cannot be submitted for decision as provided in Article 2 of the present Treaty and for the settlement of which no procedure has been provided by any treaty or Convention in force between the Parties, shall be referred to the Permanent Conciliation Commission, which shall be required to propose an acceptable solution to the Parties, and in any case to submit a report to them.

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. CXL, page 402 ; Vol. CXVII, page 46 ; and Vol. CXXVI, page 430, of this Series.

² *British and Foreign State Papers*, Vol. 100, page 298.

Failing agreement between the Parties on the request to be made to the Commission, either Party shall be entitled to submit the questions direct to the said Commission on the expiry of one month's notice.

In all cases, if there is a conflict between the Parties as to whether or no the dispute is of the nature of a legal dispute within the meaning of Article 2, and as such liable to be settled by a decision, such conflict shall, before any procedure is instituted before the Permanent Conciliation Commission be submitted for a decision of the Permanent Court of International Justice by agreement between the High Contracting Parties or, in the absence of an agreement, on the request of either Party.

Article 6.

The Permanent Conciliation Commission provided for in the present Treaty shall be composed of five members, who shall be appointed as follows: the High Contracting Parties shall each nominate one member from among their respective nationals, and shall jointly appoint three other members from among the nationals of third Powers; these three members must be of different nationalities, and the High Contracting Parties 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 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, permanent or temporary, shall be filled within the shortest possible time, and in any case within three months, in the manner laid down for the nominations.

Article 7.

The Permanent Conciliation Commission shall be constituted within six months from the exchange of ratifications of the present Treaty.

If the nomination of the members 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 fell vacant, the President of the Swiss Confederation shall, in the absence of other agreement, be requested to make the necessary appointments.

Article 8.

The Permanent Conciliation Commission shall be informed by means of a request addressed to the President in the conditions laid down by Articles 3 or 5 as the case may be.

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 9.

Within fifteen days from the date on which a dispute has been brought by one of the Parties before the Permanent Conciliation Commission, either Party may for the examination of such dispute replace the member whom it has appointed 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 fifteen days from the date on which it shall have received notification.

Article 10.

The task of the 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 it deems appropriate, and lay down a period within which they are to make their decision.

At the close of the proceedings, the Commission shall draw up a *procès-verbal* stating the result, a copy of which shall be transmitted to each of the Parties.

The Parties shall in no case be bound by the considerations of fact or law or other considerations adopted by the Commission.

Subject to the provisions of Article 5, paragraph 3, the proceedings of the Commission must, unless the Parties otherwise agree, be terminated within six months from the date on which the dispute was brought before the Commission.

Article 11.

In the absence of special stipulations 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 Part III (International Commission of Enquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

Article 12.

In the absence of Agreement to the contrary between the Parties, the Permanent Conciliation Commission shall meet at the place selected by its President.

Article 13.

The proceedings of the Permanent Conciliation Commission shall not be published unless a decision to that effect is taken by the Commission with the consent of the Parties.

The High Contracting Parties undertake not to publish the result of the proceedings of the Commission without previously consulting one another.

Article 14.

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 may request that all persons whose evidence appears to them desirable shall be heard.

The Commission, for its part, shall be entitled to request oral explanations from the agents, counsel and experts of both Parties, as well as from all persons it may think desirable to summon with the consent of their Governments.

Article 15.

Subject to any provisions to the contrary in the present Treaty, the decisions of the Permanent Conciliation Commission shall be taken by a majority vote.

The Commission may only take decisions on the substance of the dispute if all its members have been duly convened and if at least all the members chosen jointly are present.

Article 16.

The High Contracting Parties undertake to facilitate the work of the Permanent Conciliation Commission, and particularly to ensure it the assistance of their competent authorities, supply it to the greatest possible extent with all the relevant documents and information, and take the necessary steps to allow it to proceed in their territory to the summoning and hearing of witnesses or experts and to visit the localities in question.

Article 17.

During the proceedings of the Permanent Conciliation Commission, each of the Commissioners shall receive emoluments the amount of which shall be fixed by agreement between the High Contracting Parties, each of which shall contribute an equal share. The general expenses arising out of the working of the Commission shall be divided in the same manner.

Article 18.

In all cases and particularly if the question on which the Parties differ arises out of acts already committed or on the point of being committed, the Permanent Court of International Justice, acting in accordance with Article 41 of its Statute, or the arbitral tribunal, as the case may be, shall lay down within the shortest possible time the provisional measures to be adopted. The Permanent Conciliation Commission may also if necessary adopt this course after agreement between the Parties.

Each of the High Contracting Parties undertakes to abstain from all measures likely to react prejudicially upon the execution of the decision or upon the arrangements proposed by the Permanent Conciliation Commission, and, in general, to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

Article 19.

If, in a judicial sentence or arbitral award, it is declared that a judgment or a measure enjoined by a Court of law or other authority of one of the Parties to the dispute is wholly or in part contrary to international law, and if the constitutional law of that Party does not permit or only partially permits the consequences of the judgment or measure in question to be annulled, the High Contracting Parties agree that the judicial sentence or arbitral award shall grant the injured Party equitable satisfaction.

Article 20.

The present Treaty shall remain applicable as between the High Contracting Parties, even if other Powers also have an interest in the dispute.

Article 21.

If any dispute arises between the High Contracting Parties relating to the interpretation of the present Treaty, such dispute shall be submitted to the Permanent Court of International Justice in accordance with the procedure laid down under Article 4, paragraph 2.

Article 22.

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

Article 23.

The present Treaty shall come into force immediately upon the exchange of ratifications and shall remain in force for ten years dating from its entry into force, Unless denounced six months before the expiration of that period, it shall be regarded as renewed by tacit agreement for a fresh period of five years and similarly thereafter.

If, at the time of the expiration of the present Treaty, any proceedings are pending under the terms of the present Treaty before the Permanent Conciliation Commission, or the Permanent Court of International Justice, or the Arbitral Tribunal, such proceedings shall pursue their course until their completion.

The present Treaty entails the cancellation of the Treaty¹ of Compulsory Arbitration of May 27, 1905.

In faith whereof, the above-mentioned Plenipotentiaries have signed the present Treaty and have affixed their seals thereto.

Done at Bucharest, in duplicate, July 8, 1930.

(L. S.) (Signed) G. G. MIRONESCU.

(L. S.) (Signed) Baron GUILLAUME.

¹ *British and Foreign State Papers*, Vol. 98, page 409.