

N° 3311.

PAYS-BAS ET TURQUIE

Traité de règlement judiciaire, d'arbitrage et de conciliation. Signé à Genève, le 16 avril 1932.

**THE NETHERLANDS
AND TURKEY**

Treaty of Judicial Settlement, Arbitration and Conciliation. Signed at Geneva, April 16, 1932.

¹ TRADUCTION. — TRANSLATION.

No. 33II. — TREATY² OF JUDICIAL SETTLEMENT, ARBITRATION AND CONCILIATION, BETWEEN THE NETHERLANDS AND TURKEY. SIGNED AT GENEVA, APRIL 16, 1932.

French official text communicated by the Netherlands Envoy Extraordinary and Minister Plenipotentiary at Berne. The registration of this Treaty took place December 28, 1933.

HER MAJESTY THE QUEEN OF THE NETHERLANDS,
and

HIS EXCELLENCY THE PRESIDENT OF THE TURKISH REPUBLIC,

Being desirous of strengthening the ties of friendship between the Netherlands and Turkey and of promoting in all cases the pacific settlement of disputes or conflicts of whatever nature that may arise between the two countries,

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

HER MAJESTY THE QUEEN OF THE NETHERLANDS :

His Excellency Jonkheer Frans BEELAERTS VAN BLOKLAND, Her Minister for Foreign Affairs ;

HIS EXCELLENCY THE PRESIDENT OF THE TURKISH REPUBLIC :

His Excellency Dr. Tevfik RÜSTÜ Bey, Minister for Foreign Affairs ;

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 that in no case will they seek, otherwise than by pacific means, the settlement of disputes or conflicts, of whatever nature they may be, which may arise between Turkey and the Netherlands and which it may have been impossible to settle in a reasonable time by the normal methods of diplomacy.

Article 2.

All disputes of every kind relating to a right asserted by one of the High Contracting Parties and contested by the other, which it has not 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 laid down hereinafter. It is agreed that the disputes referred to above shall include in particular those relating to the interpretation of a treaty, to any point of

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 Ankara, November 4, 1933.

international law or to the existence of any fact which, if established, would constitute a breach of an international undertaking, or to the extent or nature of the reparation due for such breach.

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

Article 3.

Before recourse is had to procedure before the Permanent Court of International Justice or to arbitration, the dispute may, by agreement between the Parties, be submitted for purposes of conciliation 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 disputes referred to in Article 2, the two Parties have not had recourse to the Permanent Conciliation Commission or if the latter has failed to bring the Parties to an agreement, the dispute shall by common consent be submitted, by means of a special agreement, either to the Permanent Court of International Justice, which shall decide under the conditions and in accordance with the procedure laid down in its Statute¹, or to an Arbitral Tribunal, which shall decide under the conditions and in accordance with the procedure laid down in the Hague Convention² of October 18, 1907, for the Pacific Settlement of International Disputes.

Failing agreement between the Parties as to the choice of jurisdiction, the terms of the special agreement or, in the case of arbitration procedure, the choice of the arbitrators, either Party shall, after giving one month's notice, be entitled to lay the dispute, by means of an application, directly before the Permanent Court of International Justice.

Article 5.

In the case of a dispute the subject of which, according to the municipal law of one of the Parties, falls within the competence of the national courts of such Party, the dispute may not be submitted to the procedure laid down in the present Treaty until a final judgment has been pronounced, within a reasonable time, by the competent national judicial authority.

Article 6.

If in a judicial decision or arbitral award it is declared that a decision given or a measure enjoined by a judicial authority or any 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 decision or measure in question to be annulled, the Parties agree that the judicial decision or arbitral award shall grant the injured Party equitable satisfaction.

Article 7.

All questions on which the High Contracting Parties shall differ without being able to reach an amicable solution by the normal methods of diplomacy, questions the settlement of which

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; and Vol. CXXXIV, page 392, of this Series.

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

cannot be sought by a judicial decision as provided in Article 2 of the present Treaty, and for the settlement of which no procedure has been laid down in any treaty or convention in force between the Parties, shall be submitted to the Permanent Conciliation Commission, whose duty it shall be to propose to the Parties an acceptable solution, and in any case to present a report to them.

Failing agreement between the Parties as to the application to be made to the Commission, either Party shall, on giving one month's notice, be entitled to submit the question direct to the said Commission.

In all cases, if there is disagreement between the Parties as to whether a dispute is or is not a dispute of the character referred to in Article 2 and therefore capable of being settled by a judicial decision or award, such disagreement shall, prior to any procedure before the Permanent Conciliation Commission, be submitted for decision to the Permanent Court of International Justice, by agreement between the High Contracting Parties, or failing agreement, on the application of either Party.

Article 8.

The Permanent Conciliation Commission provided for in the present Treaty shall be composed of five members, who shall be appointed as follows, that is to say: the High Contracting Parties shall each appoint a Commissioner, chosen from among their respective nationals, and shall by joint agreement appoint the other three Commissioners from among the nationals of third Powers; those three Commissioners must be of different nationalities, and the High Contracting Parties shall appoint the President of the Commission from among them.

The Commissioners are appointed for three years and their term of office is renewable. They shall remain in office until their replacement, and in any case until the termination of the work in hand at the moment of the expiry of their term of office.

Vacancies occurring as a result of death, resignation or any other permanent or temporary cause, shall be filled within the shortest possible time, and in any case within three months, in the manner fixed for the appointments.

Article 9.

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

If the appointment of the members to be designated by joint agreement should not have been made within the said period, or, in the case of the filling of vacancies, within three months from the time when the seat falls vacant, the President of the Swiss Confederation shall, in the absence of any other agreement, be requested to make the necessary appointments.

Article 10.

Disputes shall be brought before the Permanent Conciliation Commission by means of an application addressed to the President under the conditions laid down, as the case may be, in Articles 3 and 7.

The application, after giving 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 application emanates from one only of the Parties, notification thereof shall be given without delay by that Party to the other Party.

Article 11.

Within fifteen days from the date on which one of the High Contracting Parties shall have brought a dispute before the Permanent Conciliation Commission, either Party may, for the

examination of the particular dispute, replace its own 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 such case be entitled to take similar action within fifteen days from the date on which the notification reaches it.

Article 12.

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, if necessary, 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 the result thereof, and a copy of this report shall be delivered to each Party.

The Parties shall never be bound by the considerations of fact or law or any other considerations accepted by the Commission.

Subject to the provisions of Article 7, paragraph 3, the proceedings of the Commission must, unless the Parties otherwise agree, be terminated within six months from the day on which the dispute shall have been laid before the Commission.

Article 13.

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 Part III (International Commissions of Enquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

Article 14.

The Permanent Conciliation Commission shall meet, in the absence of any agreement between the Parties to the contrary, at the place selected by its President.

Article 15.

The proceedings of the Permanent Conciliation Commission shall be private, unless the Commission, with the consent of the Parties, decides otherwise.

The High Contracting Parties undertake not to publish the results of the Commission's work without previously consulting one other.

Article 16.

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 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 desirable to summon with the consent of their Government.

Article 17.

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

The Commission may not take any decision relating to the substance of the dispute unless all the members have been duly convened and at least all the members appointed jointly are present.

Article 18.

The High Contracting Parties undertake to facilitate the work of the Permanent Conciliation Commission and, in particular, to ensure it the assistance of their competent authorities, to supply it, to the fullest possible extent, with all relevant documents and information, and to take the necessary steps to allow the Commission to proceed in their territories to the summoning and hearing of witnesses or experts and to visit localities in order to carry out enquiries on the spot.

Article 19.

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 which shall contribute an equal share.

Article 20.

In any case, 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, according to the circumstances, the Arbitral Tribunal, shall lay down within the shortest possible time the provisional measures to be adopted; the Permanent Conciliation Commission may, if necessary, act in the same way after agreement between the Parties.

Each of the High Contracting Parties undertakes to refrain from all measures likely to affect prejudicially the execution of the decision or the arrangements proposed by the Permanent Conciliation Commission and, in general, to refrain from any act whatsoever that might aggravate or extend the dispute.

Article 21.

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

Article 22.

Should any dispute arise between the High Contracting Parties concerning the interpretation of the present Treaty, such dispute shall be brought before the Permanent Court of International Justice in accordance with the procedure laid down in Article 4, paragraph 2.

Article 23.

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

Article 24.

The present Treaty shall enter into force as soon as the ratifications have been exchanged and shall remain in force for a period of ten years as from its entry into force. If it has not been denounced six months before the expiry of this period, it shall be deemed to be renewed by tacit agreement for a further period of five years, and similarly thereafter.

If, on the expiry of the present Treaty, any proceedings whatsoever in virtue of this Treaty are pending before the Permanent Conciliation Commission, the Permanent Court of International Justice or the Arbitral Tribunal, such proceedings shall be continued until they are duly completed.

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

Done at Geneva, in duplicate, on April 16, 1932.

(L. S.) BEELAERTS VAN BLOKLAND.

(L. S.) Dr. T. RÜSTÜ.