

N° 3153.

ESPAGNE ET PAYS-BAS

Traité de conciliation, de règlement
judiciaire et d'arbitrage. Signé à
La Haye, le 30 mars 1931.

**SPAIN
AND THE NETHERLANDS**

Treaty of Conciliation, Judicial Sett-
lement and Arbitration. Signed at
The Hague, March 30, 1931.

¹ TRADUCTION. — TRANSLATION.

No. 3153. — TREATY² OF CONCILIATION, JUDICIAL SETTLEMENT AND ARBITRATION BETWEEN SPAIN AND THE NETHERLANDS. SIGNED AT THE HAGUE, MARCH 30, 1931.

French official text communicated by the Spanish and the Netherlands Envoys Extraordinary and Ministers Plenipotentiary at Berne. The registration of this Treaty took place February 25, 1933.

HIS MAJESTY THE KING OF SPAIN and HER MAJESTY THE QUEEN OF THE NETHERLANDS ;
Mindful of the traditional friendly relations existing between Spain and the Netherlands ;
Actuated by a common desire to afford both countries new guarantees of mutual peace, necessary alike to their social progress and economic prosperity ;

And being desirous of henceforward promoting, in conformity with the principles laid down in the Covenant of the League of Nations, the pacific settlement of all differences and disputes of whatever kind which may arise between the two countries,

Have, to this end, resolved to conclude a treaty of conciliation, judicial settlement and arbitration and have appointed as their respective Plenipotentiaries :

HIS MAJESTY THE KING OF SPAIN :

Count DE PRADÈRE, His Envoy Extraordinary and Minister Plenipotentiary accredited to Her Majesty the Queen of the Netherlands ;

HER MAJESTY THE QUEEN OF THE NETHERLANDS :

Jonkheer Frans BEELAERTS VAN BLOKLAND, Her 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 Spain and the Netherlands and which it has 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

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 The Hague, January 27, 1933.

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 mentioned in Article 13 of the Covenant of the League of Nations.

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 any recourse is had to arbitration or to procedure before the Permanent Court of International Justice, 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.

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 at least six months, and not more than three years, after a final judgment has been pronounced, within a reasonable time, by the competent national judicial authority.

Article 5.

The Permanent Conciliation Commission shall be composed of five members.

Each High Contracting Party shall nominate one commissioner of its own choosing, the other three, one of whom shall be President of the Commission, being appointed jointly by the Parties. These three commissioners may not be nationals of the High Contracting Parties, nor may they have their domicile in the territory or be employed in the service of the Contracting Parties. All three must be of different nationalities.

The commissioners shall be appointed for three years. If a member of the Commission has not been replaced on the expiration of his term of office, the latter shall be deemed to be renewed for a period of three years; the Parties reserve the right, however, upon the expiration of the term of three years, to transfer the functions of President to another of the members of the Commission appointed by agreement.

Any member whose term of office expires while proceedings are still in progress shall continue to take part in the examination of the dispute until the close of such proceedings, even if his successor has been appointed.

A vacancy occurring as the result of the death or retirement of a member of the Conciliation Commission shall be filled for the remainder of the term of office of such member, if possible within the following three months, and in any case as soon as a dispute is submitted to the Commission.

Article 6.

The Permanent Conciliation Commission shall be constituted within six months after the ratifications of the present Treaty have been exchanged.

If the nomination of the members to be appointed jointly has not been made within this period or, in the case of the filling of a vacancy, within three months after the vacancy occurs, such nomination shall be entrusted to a third Power designated by the Parties by common agreement. If an agreement is not arrived at on this subject, each Party shall designate a different Power, and the nominations shall be made jointly by the Powers thus designated. If, within two months, these two Powers have not found it possible to agree, they shall each submit as many candidates as there are members to be appointed; the choice among the candidates thus submitted shall be determined by lot.

Article 7.

Disputes shall be brought before the Permanent Conciliation Commission by means of a request addressed to the President by both Parties or by one of them acting with the assent of the other.

The request, after giving a summary 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.

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

Article 8.

Within fifteen days from the date on which the Commission has been informed of the dispute, either Party may, for the examination of such dispute, replace the permanent member whom it has appointed by a person possessing special competence in the matter.

The Party desiring to make use of this right shall immediately inform the other Party. The latter shall be entitled to make use of the same right within fifteen days from the date on which it shall have received notification.

Each of the Parties reserves the right to appoint immediately a substitute to replace for the time being the permanent member appointed by it if he is temporarily prevented by illness or any other cause from taking part in the work of the Commission.

Should any member of the Conciliation Commission jointly appointed by the Contracting Parties be temporarily unable to take part in the Commission's work through illness or for any other reason, the Parties shall jointly appoint a substitute who will sit temporarily in his place. If such substitute is not appointed within one month from the date on which the temporary vacancy occurs, the provisions of Article 6 of the present Treaty shall apply.

Article 9.

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 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, as the case may be, either that the Parties have come to an agreement, and, if necessary, the terms of the 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 day on which the Commission was notified of the dispute.

Article 10.

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 shall, unless it unanimously decides otherwise, act in accordance with the provisions of Chapter III (International Commission of Enquiry) of the Hague Convention¹ of October 18, 1907, for the Pacific Settlement of International Disputes.

Article 11.

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

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

Article 12.

The proceedings of the Permanent Conciliation 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 13.

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 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 Government.

Article 14.

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

Article 15.

The High Contracting Parties undertake to facilitate the work 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 them to proceed in their territory and in accordance with their law to the summoning and hearing of witness or experts, and to visit the localities in question.

Article 16.

During the proceedings of the Conciliation Commission each Commissioner shall receive remuneration, the amount of which shall be fixed by agreement between the Contracting Parties.

Each Government shall pay its own expenses and shall contribute an equal share to the joint expenses of the Commission, the remuneration provided for in paragraph 1 being included in these joint expenses.

Article 17.

In the absence of the agreement referred to in Article 3 to bring the dispute before the Permanent Conciliation Commission and, in the case of such agreement, should no amicable settlement be reached before the Permanent Conciliation Commission, the dispute shall be submitted, by a special agreement, either to the Permanent Court of International Justice under the conditions and according to the procedure laid down in its Statute¹, or to an arbitral tribunal under the conditions and according to the procedure laid down in the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

If the special agreement has not been concluded within five months from the day on which one of the Parties was notified of the request for judicial settlement, either Party may, on the expiry of one month's notice, bring the dispute direct before the Permanent Court of International Justice by means of an application.

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. LXXXVIII, 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.

Article 18.

All questions on which the Governments of the two High Contracting Parties differ without being able to reach an amicable solution by the normal methods of diplomacy and the settlement of which cannot be sought by a decision as provided in Article 2 of the present Treaty, and for the settlement of which a procedure has not already been laid down in a treaty or convention in force between the Parties, shall be submitted to the Permanent Conciliation Commission, which shall be instructed to propose an acceptable solution to the Parties and in any case to submit a report.

The procedure laid down in Articles 7 to 16 of the present Treaty shall be applied.

If the Parties cannot agree on the request to be made to the Commission, either Party shall be entitled, on the expiry of one month's notice, to submit the question direct to the Permanent Conciliation Commission.

If the request emanates from one of the Parties only, that Party shall notify the request forthwith to the other Party.

Should the Parties be unable to agree as to whether a dispute has the character of a dispute within the meaning of Article 2 and as such is subject to settlement by the decision of a court, the matter shall in all cases be submitted by agreement between the High Contracting Parties or, failing agreement, at the request of one or the other of them for decision by the Permanent Court of International Justice prior to any proceedings before the Permanent Conciliation Commission.

Article 19.

If in the case of a dispute coming under the preceding Article it has not been possible to bring the Parties to an agreement, they shall consult together as to the desirability of submitting the question to arbitration. Should they reach agreement to this effect, the dispute shall be submitted, by means of a special agreement, to an arbitral tribunal empowered to decide *ex aequo et bono*, in so far as the questions at issue are not governed by a treaty in force between the two Parties or by international law.

Failing agreement to the contrary, the tribunal shall consist of five members designated in the manner prescribed in Articles 5 and 6 of the present Treaty for the constitution of the Conciliation Commission and shall proceed in conformity with the provisions of the Hague Convention of October 18, 1907, on the settlement of international disputes. The tribunal shall be set up within six months from the request for arbitration.

The decision of the tribunal shall be binding upon the Parties.

Article 20.

If within three months after the proceedings of the Permanent Conciliation Commission the Parties have not agreed to submit the dispute to arbitration in accordance with the provisions of Article 19, the matter may at the request of either of the Parties, which in that case shall immediately notify the other, be brought before the Council of the League of Nations; the Council shall proceed in conformity with the Covenant of the League of Nations.

Article 21.

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 settlement proposed by the Permanent Conciliation

Commission and, in general, to refrain from any act whatsoever which might aggravate or extend the dispute.

Article 22.

Should the Permanent Court of International Justice or the arbitral tribunal find that a decision of a Court of law or of any other authority of either Contracting Party 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 to be annulled by administrative action, the judicial decision or arbitral award should indicate the nature and extent of the satisfaction to be granted to the injured Party.

Article 23.

The present Treaty shall be communicated to the League of Nations for registration under Article 18 of the Covenant.

Article 24.

Any disputes which may arise as to the interpretation or the execution of the present Treaty shall, in the absence of agreement to the contrary, be submitted direct to the Permanent Court of International Justice by means of a simple request from one or other Party.

Article 25.

The present Treaty shall be ratified. The ratifications shall be exchanged at The Hague at the earliest possible date.

Article 26.

The present Treaty shall come into force immediately on the exchange of ratifications and shall remain in force for ten years as from that date. Unless denounced six months before the expiration of that period, it shall be deemed to be tacitly renewed for a period of five years, and similarly thereafter.

If at the time of the expiration of the present Treaty any proceedings thereunder are pending before the Permanent Conciliation Commission, the Permanent Court of International Justice, an arbitral tribunal or the Council of the League of Nations, they shall pursue their course until their completion.

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

Done at The Hague, in duplicate, March 30, 1931.

(L. S.) El Conde DE PRADÈRE.

(L. S.) BEELAERTS VAN BLOKLAND.