

N° 3423.

ESPAGNE ET FRANCE

**Traité d'arbitrage, signé à Paris, le
10 juillet 1929, et protocole « A ».**

SPAIN AND FRANCE

**Arbitration Treaty, signed at Paris,
July 10th, 1929, and Protocol "A".**

¹ TRADUCTION. — TRANSLATION.No. 3423. — TREATY² OF ARBITRATION BETWEEN SPAIN AND FRANCE. SIGNED AT PARIS, JULY 10TH, 1929.

French official text communicated by the Spanish Envoy Extraordinary and Minister Plenipotentiary at Berne. The registration of this Treaty took place May 19th, 1934.

HIS MAJESTY THE KING OF SPAIN and THE PRESIDENT OF THE FRENCH REPUBLIC, in view of the traditional friendly and neighbourly relations between France and Spain ;

Being equally desirous of affording to both countries further guarantees of that reciprocal peace which is necessary to ensure both their social progress and economic prosperity ;

Having duly considered the Arbitration Convention³ concluded between Spain and France on February 26th, 1904, and successively renewed on February 26th of the years 1909, 1914, 1919 and 1924 ;

And being desirous of substituting for the said Convention provisions capable of ensuring henceforth, in accordance with the principles embodied in the Covenant of the League of Nations, the peaceful settlement of all disputes and conflicts of any nature whatsoever which may arise between the two countries ;

Have, for this purpose, decided to conclude a Treaty of Friendship, Conciliation and Judicial or Arbitral Settlement and have appointed as their respective Plenipotentiaries :

HIS MAJESTY THE KING OF SPAIN :

His Excellency M. QUIÑONES DE LEÓN, Ambassador Extraordinary and Minister Plenipotentiary accredited to the President of the French Republic ;

THE PRESIDENT OF THE FRENCH REPUBLIC :

His Excellency M. Aristide BRIAND, Deputy, Minister for Foreign Affairs ;

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

Article 1.

The High Contracting Parties reciprocally undertake to settle in all cases by pacific means, and in accordance with the methods laid down in the present Treaty, any disputes or conflicts of any nature whatsoever which may arise between Spain and France and which it may not have been possible to settle by the normal methods of diplomacy.

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 Paris, July 27th, 1932.

³ *British and Foreign State Papers*, Vol. 98, page 1180.

PART I.

DISPUTES.

Article 2.

All disputes of every kind between the High Contracting Parties in which the Parties differ 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 an arbitral tribunal or to the Permanent Court of International Justice, as provided hereinafter. It is understood that such disputes shall include 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 resort is had to arbitral procedure 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 Convention.

Article 4.

In the case of a dispute the subject of which, according to the municipal law of one of the Parties, comes within the jurisdiction of the national courts of that Party, the dispute may only be submitted to the procedure laid down in the present Treaty not less than six months nor more than three years after final judgment has, within a reasonable time, been pronounced by the competent national judicial authority.

Article 5.

The Permanent Conciliation Commission shall be composed of five members.

Each 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 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 at the expiration of the term of office of a member of the Commission he has not been replaced, his term of office 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 the 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 nomination 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 of the candidates thus submitted shall be determined by lot.

Article 7.

The Permanent Conciliation Commission shall be informed by means of a request addressed to the President himself by the two Parties, or by one of the Parties with the consent of the other.

The request, after giving a summary account of the subject of the dispute, shall extend an invitation to the Commission to take all necessary measures with a view to arriving at an amicable settlement.

If the request is made by only one of the Parties, that Party shall notify it without delay to the other.

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 has 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 that member 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 High 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 known 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 Conciliation Commission shall lay down its own procedure, which in any case must provide for the hearing of both Parties. In regard to enquiries, the Commission shall, unless it unanimously decides otherwise, act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of the Hague Convention¹ of October 18th, 1907, for the Pacific Settlement of International Disputes.

Article 11.

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

Article 12.

The proceedings of the 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 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 vote.

Article 15.

The High Contracting Parties undertake to facilitate the work of the 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 16.

During the proceedings of the Conciliation Commission, each Commissioner shall receive remuneration the amount of which shall be fixed by agreement between the High 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 I being included in these joint expenses.

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

Article 17.

Failing agreement to submit the dispute to the Permanent Conciliation Commission, or if agreement on this point has been reached but the Permanent Conciliation Commission has been unable to secure an amicable settlement, the dispute shall, by special agreement, be submitted either to the Permanent Court of International Justice under the conditions and according to the procedure laid down in the Court's Statute¹, or to an arbitral tribunal under the conditions and according to the procedure laid down in the Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes.

If the special agreement has not been drawn up 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.

PART II.

DISPUTES.

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 to the Parties an acceptable settlement and, in any case, to submit a report.

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

If the Parties cannot agree on the request to be made to the Commission, either Party shall nevertheless 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.

Article 19.

If it has been found impossible to conciliate the Parties the dispute shall, by means of a special agreement, be submitted for decision to an arbitral tribunal having power to decide *ex aequo et bono*.

Unless otherwise agreed, the tribunal shall be composed of five members appointed in the manner laid down in Articles 5 and 6 of the present Treaty, for the appointment of the Conciliation Commission, and shall proceed in conformity with the provisions of the Hague Convention of October 18th, 1907, for the settlement of international disputes. The tribunal must be set up within the six months following the request for arbitration.

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

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; Vol. CXXXIV, page 392; and Vol. CXLVII, page 318, of this Series.

Article 20.

If, within the three months following the proceedings of the Permanent Conciliation Commission, the Parties have not agreed to submit the dispute to an arbitral award in conformity with the provisions of Article 19, the matter may, by simple request from either Party (who in such case should immediately notify the other Party), be brought before the Council of the League of Nations, which shall decide in accordance with the Covenant of the League of Nations.

GENERAL PROVISIONS.

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 commission, the Conciliation Commission or, if the latter has not been notified thereof, the arbitral tribunal or the Permanent Court of International Justice acting in accordance with Article 41 of its Statute, shall lay down within the shortest possible time the provisional measures to be adopted. It shall similarly be the duty of the Council of the League of Nations, if the question is brought before it, to ensure that suitable provisional measures be taken. Each of the High Contracting Parties undertakes to accept such measures, to abstain from all measures likely to have a repercussion prejudicial to the execution of the decision or to the arrangements proposed by the Conciliation Commission, and, in general, to abstain from any action whatsoever which may 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 High 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 in question to be annulled by administrative action, the judicial decision or arbitral award should indicate the nature and extent of the compensation to be granted to the injured Party.

Article 23.

The present Convention remains applicable as between the High Contracting Parties even when other Powers are also interested in the dispute.

Article 24.

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

Article 25.

Any dispute 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 application by either Party.

Article 26.

The present Treaty shall be ratified. The ratifications shall be exchanged at Paris as soon as possible.

Article 27.

The present Treaty shall come into force on the date of the exchange of ratifications and shall remain in force for a period of five years from the date of its coming into force. Unless denounced six months before the expiration of that period, it shall be deemed to be renewed by tacit consent for a further period of five years and similarly thereafter.

If at the time of the expiration of the present Treaty proceedings of any nature whatsoever in virtue of the said Treaty are pending before the Permanent Conciliation Commission or before the Permanent Court of International Justice or before an arbitral tribunal or before the Council of the League of Nations, such proceedings shall be continued until completed.

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

Done at Paris, in duplicate, on July 10th, 1929.

(L. S.) (*Signed*) QUIÑONES DE LEÓN.

(L. S.) (*Signed*) A. BRIAND.

PROTOCOL A.

The High Contracting Parties agree to recognise that the provisions of Article 1 of the Treaty of Arbitration signed on this day may not justify the presentation or renewal of claims connected with former events which belong to the past and are not at present the subject of any dispute between the two Governments and have not been the subject of any claim made formally and in writing during the last twenty years.
