

N° 3347.

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**PORTUGAL ET SUÈDE**

Convention de conciliation, de règlement judiciaire et d'arbitrage. Signée à Lisbonne, le 6 décembre 1932.

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**PORTUGAL AND SWEDEN**

Convention of Conciliation, Judicial Settlement and Arbitration. Signed at Lisbon, December 6, 1932.

<sup>1</sup> TRADUCTION. — TRANSLATION.No. 3347. — CONVENTION<sup>2</sup> OF CONCILIATION, JUDICIAL SETTLEMENT AND ARBITRATION BETWEEN PORTUGAL AND SWEDEN. SIGNED AT LISBON, DECEMBER 6, 1932.

*French official text communicated by the Swedish Minister for Foreign Affairs. The registration of this Convention took place February 10, 1934.*

HIS MAJESTY THE KING OF SWEDEN and HIS EXCELLENCY THE PRESIDENT OF THE PORTUGUESE REPUBLIC ;

Inspired by the friendly relations which happily exist between Sweden and Portugal ;

And desiring to ensure the pacific settlement of all differences and disputes of whatever nature which may arise between the two countries ;

Have resolved to conclude a Convention with that object and have appointed as their respective Plenipotentiaries :

HIS MAJESTY THE KING OF SWEDEN :

His Excellency M. Ivan DANIELSSON, Envoy Extraordinary and Minister Plenipotentiary of Sweden at Lisbon ;

HIS EXCELLENCY THE PRESIDENT OF THE PORTUGUESE REPUBLIC :

His Excellency Dr. César DE SOUSA MENDES DO AMARAL E ABRANCHES, Minister for Foreign Affairs ;

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

*Article 1.*

All disputes of whatever kind between the Government of His Majesty the King of Sweden and the Government of the Portuguese Republic which it may not have been possible to settle by the normal methods of diplomacy shall, before any resort is made to procedure before the Permanent Court of International Justice or to arbitration, 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.

Nevertheless, the disputes referred to in Article 15 of the present Convention shall not be submitted to the Conciliation Commission unless the two Governments so agree. In all other cases, the High Contracting Parties may always agree that a specific dispute shall be settled direct by arbitration without previous resort to the conciliation procedure provided for above.

<sup>1</sup> Traduit par le Secrétariat de la Société des Nations, à titre d'information.

<sup>1</sup> Translated by the Secretariat of the League of Nations, for information.

<sup>2</sup> The exchange of ratifications took place at Lisbon, December 18, 1933.

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

*Article 2.*

In the case of a dispute which, according to the municipal law of one of the Parties, falls within the competence of the national courts of that Party, including the administrative courts, the matter in dispute shall not be submitted to the procedure laid down in the present Convention 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 mentioned in Article 1 shall be composed of five members, who shall be appointed as follows : the High Contracting Parties shall each appoint a commissioner, chosen from among their respective nationals, and shall jointly nominate the other three commissioners from among the nationals of third Powers ; these three commissioners shall be of different nationalities, and the Swedish and Portuguese Governments shall nominate the President of the Commission from among them.

The Commissioners are appointed for three years and their mandate is renewable. Their appointment shall continue until they are replaced, and in any case until the completion of any work in hand at the time of the expiry of their mandate.

Vacancies which occur as a result of death or resignation or for any other cause shall be filled within the shortest possible time in the manner prescribed for appointments.

*Article 4.*

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

If the commissioners to be nominated jointly should not have been appointed within that period or, in the case of the filling of a vacancy, within three months from the time when the vacancy occurs, the President of the Swiss Confederation shall, in the absence of any other agreement, be requested to make the necessary nominations.

*Article 5.*

The Permanent Conciliation Commission shall be informed by means of a request addressed to the President by the two Parties acting in agreement or, in the absence of such agreement, by either of the Parties.

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

*Article 6.*

Within fifteen days from the date when the Swedish or the Portuguese Government shall have notified the Permanent Conciliation Commission of a dispute, either Party may, for the examination of the particular dispute, replace its 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 that case, be entitled to take similar action within fifteen days from the date when the notification reaches it.

*Article 7.*

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. After examining the case, it may propose to the Parties the terms of settlement which it considers suitable, 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 shall, unless the Parties agree otherwise, be terminated within six months from the date on which the Commission is notified of the dispute.

*Article 8.*

Failing any special stipulation 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 unanimously decides to the contrary, shall act in accordance with the provisions of Chapter III (International Commission of Enquiry) of the Hague Convention<sup>1</sup> of October 18, 1907, for the Pacific Settlement of International Disputes.

*Article 9.*

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

*Article 10.*

The proceedings of the Permanent Conciliation Commission shall not be public, unless 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 further 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 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 whom it may think desirable to summon with the consent of their Governments.

*Article 12.*

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

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<sup>1</sup> *British and Foreign State Papers*, Vol. 100, page 298.

The Commission may not take decisions on the substance of the dispute unless all the members have been duly convened and the President and at least two members are present. Should only three members and the President be present, the Chairman shall have two votes.

*Article 13.*

The High Contracting Parties undertake to facilitate the work of the Permanent Conciliation Commission, and in particular 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 emoluments, the amount of which shall be fixed by agreement between the Swedish and the Portuguese Governments, each of which shall contribute an equal share.

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

*Article 15.*

Disputes regarding a right asserted by one Party and contested by the other, particularly the disputes mentioned in Article 13 of the Covenant of the League of Nations, shall, in the absence of an agreement to bring the dispute before the Permanent Conciliation Commission and, when such agreement exists, in the event of no amicable agreement being reached, be submitted by means of a special agreement to the Permanent Court of International Justice, under the conditions and according to the procedure laid down by the Statute<sup>1</sup> of that Court.

If the Parties cannot reach an understanding as to the terms of the special agreement, either of them may, after a month's notice, bring the dispute before the Permanent Court of International Justice direct by means of an application.

*Article 16.*

Disputes other than those mentioned in Article 15, paragraph 1, shall, if no amicable agreement be reached, be submitted, at the request of either Party, to an arbitral tribunal which, unless otherwise specially agreed between the Parties, shall be established in accordance with the provisions of Article 45 of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes. This tribunal shall follow the procedure provided for in Part IV, Chapter III, of the said Convention in so far as such procedure is applicable. Nevertheless, if six months after the date on which one of the Parties has made application to the other for the dispute to be submitted to arbitration, the special agreement provided for by the said Hague Convention has not been signed, it shall, on application by one of the Parties, be drawn up by the arbitral tribunal.

The tribunal shall decide *ex aequo et bono*.

The arbitral award shall if necessary lay down the details of execution and, in particular, fix a time-limit for the same.

*Article 17.*

The Swedish and Portuguese Governments respectively undertake to abstain, during the course of proceedings opened in virtue of the provisions of the present Convention, from all measures

<sup>1</sup> 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. LXXXII, 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.

likely to react prejudicially upon the execution of the decision to be given by the Permanent Court of International Justice or the arbitral tribunal, 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.

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 the arbitral tribunal, shall indicate as soon as possible the provisional measures to be adopted. Both the High Contracting Parties undertake to conform to the said measures.

*Article 18.*

Should any dispute arise between the High Contracting Parties concerning the application of the present Convention, such dispute shall be brought before the Permanent Court of International Justice direct in accordance with the procedure laid down in Article 40 of the Statute of the Court.

*Article 19.*

The present Convention shall apply only to disputes which arise after the exchange of ratifications in regard to situations or events subsequent to that date.

*Article 20.*

The present Convention shall be ratified, the ratification of His Majesty the King of Sweden being approved by the Riksdag, and the ratifications shall be exchanged at Lisbon as soon as possible.

*Article 21.*

The present Convention shall come into force as soon as the ratifications have been exchanged and shall be concluded for five years as from the date of its coming into force. If it is not denounced six months before the expiration of this period, it shall be deemed to have been renewed for a further period of five years, and similarly thereafter.

If on the expiration of the present Convention any proceedings whatever in virtue of this Convention are pending before the Permanent Conciliation Commission, the Permanent Court of International Justice, or an arbitral tribunal, they shall pursue their course until they are completed.

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

Done at Lisbon, in duplicate, on December 6, 1932.

(L. S.) Ivan DANIELSSON.

(L. S.) Cesar DE SOUSA MENDES DO AMARAL E ABRANCHES.