

N° 3882.

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**NORVÈGE ET VENEZUELA**

Traité d'arbitrage, de règlement judiciaire et de conciliation. Signé à La Haye, le 13 mai 1935.

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**NORWAY AND VENEZUELA**

Treaty of Arbitration, Judicial Settlement and Conciliation. Signed at The Hague, May 13th, 1935.

TEXTE ESPAGNOL. — SPANISH TEXT.

Nº 3882. — TRATADO<sup>1</sup> DE ARBITRAJE, ARREGLO JUDICIAL Y CONCILIACIÓN ENTRE EL REINO DE NORUEGA Y LOS ESTADOS UNIDOS DE VENEZUELA. FIRMADO EN LA HAYA, EL 13 DE MAYO DE 1935.

*Norwegian, Spanish and French official texts communicated by the Permanent Delegate of Norway to the League of Nations. The registration of this Treaty took place April 22nd, 1936.*

SU MAJESTAD EL REY DE NORUEGA Y EL PRESIDENTE DE LOS ESTADOS UNIDOS DE VENEZUELA, animados del deseo de estrechar los vínculos de amistad que une al Reino de Noruega y los Estados Unidos de Venezuela y promover el arreglo pacífico de las divergencias que puedan llegar a dividir a los dos Estados, han resuelto celebrar un Tratado a este efecto y nombrado sus respectivos Plenipotenciarios, a saber :

SU MAJESTAD EL REY DE NORUEGA :

al Señor Johan Georg Jacob RÆDER, Encargado de Negocios de Noruega en La Haya ;

EL PRESIDENTE DE LOS ESTADOS UNIDOS DE VENEZUELA :

al Señor Doctor José Ignacio CÁRDENAS, Enviado Extraordinario y Ministro Plenipotenciario de los Estados Unidos de Venezuela cerca de Su Majestad el Rey de Noruega ;

quienes después de haberse comunicado sus respectivos Plenos Poderes y encontrarlos en buena y debida forma, han convenido en las siguientes estipulaciones :

*Artículo 1.*

Las Altas Partes contratantes se obligan recíprocamente a arreglar de modo amistoso los conflictos y divergencias que llegaren a suscitarse entre Noruega y los Estados Unidos de Venezuela y que no hubieren podido ser resueltos, en un plazo razonable, por los procedimientos diplomáticos ordinarios.

*Artículo 2.*

Todos los litigios de naturaleza jurídica que no hayan podido arreglarse amistosamente por los procedimientos diplomáticos ordinarios, incluso los relativos a la interpretación del presente Tratado, se someterán ya sea a un Tribunal arbitral, ya sea a la Corte Permanente de Justicia Internacional, de conformidad con las disposiciones que siguen.

Lo dispuesto en el párrafo que antecede no se aplicará a las controversias nacidas de hechos anteriores al presente Tratado y que pertenezcan a lo pasado, como tampoco a las que versen sobre asuntos que el Derecho Internacional deja a la exclusiva competencia de los Estados.

<sup>1</sup> Came into force March 23rd, 1936.

<sup>1</sup> TRADUCTION. — TRANSLATION.

No. 3882. — TREATY OF ARBITRATION, JUDICIAL SETTLEMENT AND CONCILIATION BETWEEN NORWAY AND THE UNITED STATES OF VENEZUELA. SIGNED AT THE HAGUE, MAY 13TH, 1935.

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HIS MAJESTY THE KING OF NORWAY and THE PRESIDENT OF THE UNITED STATES OF VENEZUELA,

Being desirous of strengthening the ties of friendship which unite Norway and the United States of Venezuela and of promoting the peaceful settlement of disputes which may arise between the two States,

Have decided to conclude a Treaty for that purpose and have appointed as their respective Plenipotentiaries :

HIS MAJESTY THE KING OF NORWAY :

Monsieur Johan Georg Jacob RÆDER, Chargé d'Affaires of Norway at The Hague ;

THE PRESIDENT OF THE UNITED STATES OF VENEZUELA :

Monsieur José Ignacio CÁRDENAS, Envoy Extraordinary and Minister Plenipotentiary of the United States of Venezuela accredited to His Majesty the King of Norway ;

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

*Article 1.*

The High Contracting Parties reciprocally undertake to settle in an amicable manner any conflicts and disputes which may arise between Norway and the United States of Venezuela and which it has not been possible to settle within a reasonable period by the normal methods of diplomacy.

*Article 2.*

All disputes of a juridical character which it has not been possible to settle amicably by the normal methods of diplomacy, including disputes relating to the interpretation of the present Treaty, shall be referred either to an Arbitral Tribunal or to the Permanent Court of International Justice, in accordance with the provisions laid down hereinafter.

The provision of the preceding paragraph shall not apply to disputes arising out of events prior to the present Treaty and belonging to the past, or to disputes bearing upon questions which international law reserves for the exclusive competence of States.

Disputes for the settlement of which a special procedure is provided by other treaties in force between the High Contracting Parties shall be settled in conformity with the provisions of such treaties.

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<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.

*Article 3.*

Prior to any procedure before the Permanent Court of International Justice or the Arbitral Tribunal, a dispute may by common consent of the Parties be submitted with a view to amicable settlement to a Permanent or Special Conciliation Commission, constituted in accordance with the present Treaty.

*Article 4.*

If, in the case of a dispute of the nature described in Article 2, the two Parties have not had recourse to the Conciliation Commission, or if that Commission has not succeeded in bringing the Parties to an amicable agreement, the dispute shall be referred by common consent, by means of a special agreement, either to an Arbitral Tribunal, which shall decide under the conditions and in accordance with the procedure laid down by the Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes, or to the Permanent Court of International Justice which shall decide under the conditions and in accordance with the procedure laid down in its Statute.

Should the Parties fail to agree upon the choice of the jurisdiction, the terms of the special agreement or, if they have chosen arbitral procedure, the choice of arbitrators, either Party shall be entitled, one month after notice thereof has reached the other Party, to submit the dispute direct to the Permanent Court of International Justice by means of an application.

*Article 5.*

In the case of a dispute arising out of a claim brought by a national of one of the two Contracting States against the other State, the subject of which according to the municipal law of the latter Party falls within the competence of the national courts of such Party, the provisions of the present Treaty shall apply only in the case of :

- (a) Denial of justice, including unconscionable delay on the part of the courts ;
- (b) A judicial decision against which no appeal lies and which is incompatible with the obligations arising from a treaty or with other international obligations of the State, or which is manifestly unjust.

The question whether any of the above cases arises may be settled by arbitration or by judicial decision, in accordance with the provisions of Article 4.

Disputes shall not be submitted to the procedure provided for in the present Treaty until the legal remedies open to foreigners under the laws of the State against which the claim is brought have been exhausted.

*Article 6.*

Should the Arbitral Tribunal or the Permanent Court of International Justice declare that a decision taken or a measure ordered by a judicial or other authority of one of the Parties to the dispute is entirely or partly at variance with international law, and should the constitutional law of the said Party preclude the annulment or allow of only partial annulment of the consequences of the said decision or measure, the High Contracting Parties agree that equitable compensation shall be accorded to the injured party in the arbitral or judicial award.

*Article 7.*

All questions on which the High Contracting Parties differ without being able to reach an amicable settlement by means of the normal methods of diplomacy and the settlement of which cannot be attained 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 other treaty or convention in force between the Parties, shall be referred to the Permanent or Special Conciliation Commission

provided for in the present Treaty, whose duty it shall be to propose to the Parties an acceptable solution and in any case to submit a report to them.

If the Parties cannot agree as to the application to be made to the Commission, either Party shall be entitled, one month after notice thereof has reached the other Party, to refer the question direct to the said Commission.

If the Parties differ as to whether or not the dispute is a dispute of the nature referred to in Article 2 and therefore capable of settlement by a judicial decision, such difference shall, prior to any procedure before the Conciliation Commission, be submitted for decision to the Permanent Court of International Justice by agreement between the Parties or, failing an agreement, on the application of either Party.

*Article 8.*

On a request being made by one of the High Contracting Parties to the other, a Permanent Conciliation Commission shall be set up within a period of six months.

*Article 9.*

Unless otherwise agreed between the Parties, the Conciliation Commission shall be constituted as follows :

(1) The Commission shall consist of five members. The Parties shall each nominate a commissioner chosen from among their respective nationals. The other three commissioners shall be chosen by common agreement from among the nationals of third Powers. These latter commissioners shall be of different nationalities and shall not be habitually resident in the territory of the Parties nor be in their service. The Parties shall appoint the President of the Commission from among them.

(2) The commissioners shall be appointed for three years ; their mandate shall be renewable. They shall remain in office until their replacement, and in any case until the termination of any work in hand at the time of the expiry of their mandate.

(3) Vacancies which may occur as the result of death, resignation, or any other cause shall be filled as quickly as possible in the manner fixed for appointments.

*Article 10.*

If, when a dispute arises, there is in existence no Permanent Conciliation Commission appointed by the Parties, a Special Commission shall be set up to examine the dispute within a period of three months from the date on which an application to this effect made by one of the Parties to the other has reached the latter. Appointments shall, unless the Parties decide otherwise, be made in accordance with the provisions of the preceding Article.

*Article 11.*

Should the commissioners to be chosen by mutual agreement not have been appointed within the periods laid down in Articles 8 and 10, the President of the Permanent Court of International Justice shall be requested by both Parties jointly, or by either of them, to make the necessary appointments. Should the President be prevented from doing so or should he be a national of one of the Parties, the Vice-President shall be requested to make the said appointments. Should the latter be in the same position, the judge next in seniority on the roll of the Court who is a national of neither Party shall be requested to make the said appointments.

*Article 12.*

The Conciliation Commission shall be informed by means of an application addressed to the President under the conditions mentioned in Article 3 or Article 7 as the case may be.

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

*Article 13.*

Within fifteen days from the date on which one of the High Contracting Parties shall have brought a dispute before the Conciliation Commission, either Party may, for the examination of that dispute, replace its commissioner by a person possessing special competence in the matter.

The Party availing itself of this right shall immediately inform the other Party thereof ; the latter shall, in that case, be entitled to take similar action within fifteen days from the date on which the notification reaches it.

*Article 14.*

The task of the Conciliation Commission shall be to elucidate the 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, propose to the Parties the terms of settlement which seem to it suitable and, if necessary, lay down a period within which they are to make their decision.

At the close of its work, the Commission shall draw up a report stating the result thereof, a copy of which shall be transmitted to each of the Parties.

The Parties shall in no case be bound by any statements of fact or legal or other considerations upon which the Commission may have agreed.

Subject to the provisions of Article 7, paragraph 3, the proceedings of the Commission must, unless the Parties otherwise agree or the Commission considers it essential to extend the period, be terminated within six months from the date of the submission of the dispute to the Commission. Should the Commission consider it essential to continue its proceedings beyond the period of six months, it shall inform both Parties of its reasons.

*Article 15.*

Failing any special provisions to the contrary, the Conciliation Commission shall determine its own procedure, which must in any case provide for the hearing of both Parties. In regard to enquiries, the Commission, unless it decides unanimously to the contrary, shall act in accordance with the provisions of Chapter III (International Commissions of Enquiry) of the Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes.

*Article 16.*

The Conciliation Commission shall, unless the Parties agree to the contrary, meet at the place selected by its President.

*Article 17.*

The proceedings of the Conciliation Commission shall not be public, unless the Commission, with the assent of the Parties, so decides.

The High Contracting Parties undertake not to publish the results of the Commission's proceedings without having previously consulted one another.

*Article 18.*

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 relevant should be heard.

The Commission for its part 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 useful to summon to appear, subject to the consent of their Government.

*Article 19.*

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

The Commission may not take any decision bearing on the substance of the dispute unless all the members have been duly summoned and unless at least all those jointly appointed are present.

*Article 20.*

The High Contracting Parties undertake to facilitate the work of the Conciliation Commission and, in particular, to secure for it the assistance of their competent authorities, to supply it as far as possible with all relevant documents and information and to take the necessary measures to enable the Commission to summon and hear witnesses or experts in their territory, and to visit the localities concerned.

*Article 21.*

During the proceedings of the 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.

The miscellaneous expenses entailed by the proceedings of the Commission shall be similarly divided.

*Article 22.*

In all cases 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, if the Parties so agree, or the Permanent Court of International Justice, acting in accordance with Article 41 of its Statute, or the Arbitral Tribunal, according to circumstances, may lay down within the shortest possible time the provisional measures to be adopted.

Each of the High Contracting Parties undertakes to abstain from all measures which might have a prejudicial effect on the execution of the decision or on any arrangements proposed by the Conciliation Commission and, in general, to abstain from any action whatsoever which might aggravate or extend the dispute.

*Article 23.*

The provisions of the present Treaty shall not apply to disputes which affect the interests or are connected with the acts of a third State.

*Article 24.*

The present Treaty shall be ratified. The ratifications shall be exchanged at Oslo or The Hague as soon as possible.

*Article 25.*

The present Treaty shall come into force immediately on the exchange of ratifications and shall remain in force for a period of ten years from the date of its entry into force. It shall be communicated to the League of Nations for registration in accordance with Article 18 of the Covenant. Unless denounced six months before the expiry of the above-mentioned period, it shall be deemed to be renewed by tacit agreement for further successive periods of five years.

If, at the time when the present Treaty expires, any proceedings in virtue thereof are pending before the Conciliation Commission, the Permanent Court of International Justice or the Arbitral Tribunal, such proceedings shall be duly completed.

In faith whereof the above-mentioned Plenipotentiaries have signed the present Treaty, drawn up in Norwegian, French and Spanish, the French text to be authoritative in case of divergence, and have thereto affixed their seals.

Done in duplicate at The Hague, the 13th day of May, 1935.

J. RÆDER.

José Ig. CÁRDENAS.