

N° 4169.

CHILI ET NORVÈGE

Traité de conciliation. Signé à Oslo,
le 27 janvier 1936.

CHILE AND NORWAY

Treaty of Conciliation. Signed at
Oslo, January 27th, 1936.

¹ TRADUCTION. — TRANSLATION.

No. 4169. — TREATY OF CONCILIATION BETWEEN CHILE AND NORWAY. SIGNED AT OSLO, JANUARY 27TH, 1936.

*French official text communicated by the Permanent Delegate of Norway to the League of Nations.
The registration of this Treaty took place August 23rd, 1937.*

HIS MAJESTY THE KING OF NORWAY and THE PRESIDENT OF THE REPUBLIC OF CHILE, being desirous of strengthening the friendly relations existing between the two countries and inspired by the principles of the resolution adopted by the Assembly of the League of Nations on September 26th, 1928, relating to the conclusion of bilateral conventions providing for conciliation, have resolved to conclude a Treaty for that purpose and have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF NORWAY :

Monsieur Halvdan KOHT, Norwegian Minister for Foreign Affairs ;

THE PRESIDENT OF THE REPUBLIC OF CHILE :

Monsieur H. L. WESSEL, Envoy Extraordinary and Minister Plenipotentiary of Chile to His Majesty the King of Norway ;

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

Article 1.

The High Contracting Parties undertake to submit to conciliation procedure all disputes which may arise between them and which it may not have been possible to settle, within a reasonable time, by the methods of diplomacy.

Nevertheless, this undertaking shall not apply to matters which by international law are solely within the domestic jurisdiction of one Party, or to disputes for the settlement of which a special procedure is or may hereafter be laid down in other conventions between the High Contracting Parties, or to disputes relating to the territorial status of the Parties.

Should the report drafted by the Permanent or special Conciliation Commission referred to in the present Treaty not be accepted by the two Parties, Article 15 of the Covenant of the League of Nations shall, if necessary, continue to apply.

Article 2.

In regard to questions which by the municipal law of one of the Parties are within the jurisdiction of the national judicial authorities, the defendant Party may oppose the submission

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 Oslo, February 17th, 1937.
Came into force March 19th, 1937.

of such questions to a procedure of conciliation until a judgment with final effect has been pronounced by the competent national court, except in the case of a denial of justice.

In such a case, the application for conciliation must be made within a period of one year at latest from the date of the final judgment.

Article 3.

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

Article 4.

Unless the High Contracting Parties agree otherwise, the Conciliation Commission shall be constituted as follows :

1. The Commission shall be composed of five members. The Parties shall each nominate one member, who may be chosen from among their respective nationals. The three other members shall be appointed by agreement from among the nationals of third Powers. These last three members must be of different nationalities and must not be habitually resident in the territory nor be in the service of the Parties. The Parties shall appoint the President of the Commission from among them.

2. The members shall be appointed for three years. On the expiration of the term of office of a member, his term of office shall be deemed to be renewed for a further period of three years, provided no steps are taken to replace him.

3. The members of the Commission appointed jointly may be replaced during their term of office by agreement between the Parties. Either Party may, moreover, at any time replace the member whom it has appointed. Even if replaced, members shall continue to exercise their functions until the termination of the work in hand.

4. Vacancies occurring as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner fixed for the nominations.

Article 5.

If, when a dispute arises between the High Contracting Parties, no Permanent Conciliation Commission appointed by them is in existence, a Special Commission shall be constituted for the examination of the dispute within a period of three months from the date on which a request to that effect is made by one of the Parties to the other Party. The appointments shall be made in the manner laid down in the preceding Article, unless the Parties decide otherwise by agreement.

Article 6.

If the appointment of the members of the Commission to be designated jointly is not made within the periods provided for in the preceding Articles, the President of the Permanent Court of International Justice shall be requested by the two Parties jointly, or by either Party, to make the necessary appointments. Should he be prevented from doing so, or should he be a national of one of the Parties, the Vice-President shall be requested to make these appointments. Should the latter be in the same position, the first of the other judges on the list of the Court who is not a national of either of the Parties shall be requested to make these appointments.

Article 7.

Disputes shall be brought before the Conciliation Commission by means of an application addressed to the President by the two Parties acting in agreement, or, in default thereof, by one or other of the Parties.

If the application emanates from only one of the Parties, the other Party shall without delay be notified by it.

Article 8.

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

The Party making use of this right shall immediately notify 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 9.

The task of the Conciliation Commission shall be to facilitate the settlement of the dispute by elucidating, through an impartial and conscientious enquiry, the questions of fact, and by making proposals with a view to the settlement of the dispute in accordance with Article 14 of the present Treaty.

Article 10.

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

Article 11.

In the absence of agreement to the contrary between the Parties, the 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 of the Hague Convention¹ of October 18th, 1907, for the Pacific Settlement of International Disputes.

The Commission's proceedings shall be conducted in private unless, in agreement with the Parties, the Commission decides otherwise.

The Parties shall be represented before the 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 the purpose and may request that all persons whose evidence appears to them desirable shall be heard.

The Commission, for its part, shall be entitled to request oral explanations from the agents, counsel and experts of both Parties, as well as from any persons it may think desirable to summon with the consent of their Governments.

Article 12.

In the absence of any provisions to the contrary in the present Treaty, the decisions of the Conciliation Commission shall be taken by a majority vote. Each member shall have one vote. If all the members are not present, and if the number of votes cast is equally divided, the President shall have a casting vote.

The Commission may take decisions relating to the substance of the dispute only if all its members have been duly convened and if at least those members appointed jointly are present.

Article 13.

The High Contracting Parties undertake to facilitate the work of the Conciliation Commission, and particularly to secure for it the assistance of their competent authorities, to supply it to the greatest possible extent with all relevant documents and information and to take the necessary steps to allow the Commission to proceed in their territory to the summoning and hearing of witnesses or experts and to visit the localities in question.

Article 14.

The Conciliation Commission shall submit its report within six months from the date of its first meeting, unless the Parties decide otherwise or the Commission considers it indispensable to extend such period.

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

The report shall, if necessary, contain a proposal for a settlement adopted unanimously or by a majority. It shall also contain, if necessary, the opinion of the minority, accompanied by a statement of the reasons on which the opinion is based.

A copy of the report, signed by the President, shall be transmitted to each of the Parties.

The Commission's report shall not be in the nature of an arbitral award or judicial decision, either as regards the statement of the facts or as regards the legal considerations.

Article 15.

The Parties shall inform the President of the Conciliation Commission, within a reasonable period, which shall not exceed three months, whether they accept the conclusions of the report and the proposals for a settlement contained therein.

The Parties shall jointly decide whether the Commission's report shall be published.

Article 16.

In all cases, particularly where the question on which the Parties differ arises out of acts already committed or on the point of being committed, the Conciliation Commission before which the dispute is brought may recommend to the two Parties the adoption of such provisional measures as it deems necessary.

The Parties undertake to abstain from all measures likely to act prejudicially upon the arrangements proposed by the Conciliation Commission and, in general, to abstain from any action whatsoever which may aggravate or extend the dispute.

Article 17.

During the conciliation proceedings, the members of the Conciliation Commission, including the President, shall receive emoluments, the amount of which shall be fixed by agreement between the High Contracting Parties.

Each Party shall bear its own costs and an equal share of the costs of the Commission, including the emoluments provided for in the preceding paragraph.

Article 18.

The present Treaty shall be ratified as soon as possible and the instruments of ratification thereof shall be exchanged at Oslo.

It shall come into force on the thirtieth day after the exchange of ratifications and shall remain in force for ten years.

If it has not been denounced six months before the end of this period, it shall be deemed to be renewed for a further period of five years, and similarly thereafter.

If on the expiration of the present Treaty conciliation proceedings are pending before the Conciliation Commission, such proceedings shall be pursued until they are completed.

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

Done at Oslo, in duplicate, this 27th day of January, 1936.

Halvdan KOHT.

H. L. WESSEL.