

General instruments

23. CONVENTION FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES (1899)

Done at The Hague on 29 July 1899

Entry into force: 4 September 1900

Basic documents of the Permanent Court of Arbitration [original: French]; The text of the Convention reproduced here is a translation of the French text adopted at the 1899 Peace Conference. The French-language version is authoritative.

His Majesty the German Emperor, King of Prussia; His Majesty the Emperor of Austria, King of Bohemia, etc. and Apostolic King of Hungary; His Majesty the King of the Belgians; His Majesty the Emperor of China; His Majesty the King of Denmark; His Majesty the King of Spain and in His Name Her Majesty the Queen Regent of the Kingdom; the President of the United States of America; the President of the United Mexican States; the President of the French Republic; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India; His Majesty the King of the Hellenes; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Royal Highness the Grand Duke of Luxembourg, Duke of Nassau; His Highness the Prince of Montenegro; Her Majesty the Queen of the Netherlands; His Imperial Majesty the Shah of Persia; His Majesty the King of Portugal and of the Algarves, etc.; His Majesty the King of Roumania; His Majesty the Emperor of all the Russias; His Majesty the King of Serbia; his Majesty the King of Siam; His Majesty the King of Sweden and Norway; the Swiss Federal Council; His Majesty the Emperor of the Ottomans and His Royal Highness the Prince of Bulgaria;

Animated by a strong desire to work for the maintenance of general peace;

Resolved to promote by their best efforts the friendly settlement of international disputes;

Recognizing the solidarity uniting the members of the society of civilized nations;

Desirous of extending the empire of law, and of strengthening the appreciation of international justice;

Convinced that the permanent institution of a tribunal of arbitration, accessible to all, in the midst of the independent Powers, will contribute effectively to this result;

Having regard to the advantages attending the general and regular organization of the procedure of arbitration;

Sharing the opinion of the august initiator of the International Peace Conference that it is expedient to record in an international agreement the principles of equity and right on which are based the security of States and the welfare of peoples;

Being desirous of concluding a Convention to this effect, have appointed as their plenipotentiaries, to wit:

(Here follow the names of plenipotentiaries.)

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

TITLE I. ON THE MAINTENANCE OF THE GENERAL PEACE

Article 1

With a view to obviating, as far as possible, recourse to force in the relations between States, the Signatory Powers agree to use their best efforts to insure the pacific settlement of international differences.

TITLE II. ON GOOD OFFICES AND MEDIATION**Article 2**

In case of serious disagreement or conflict, before an appeal to arms the Signatory Powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly Powers.

Article 3

Independently of this recourse, the Signatory Powers recommend that one or more Powers, strangers to the dispute, should, on their own initiative, and as far as circumstances may allow, offer their good offices or mediation to the States at variance.

Powers, strangers to the dispute, have the right to offer good offices or mediation, even during the course of hostilities.

The exercise of this right can never be regarded by one or the other of the parties in conflict as an unfriendly act.

Article 4

The part of the mediator consists in reconciling the opposing claims and appeasing the feelings of resentment which may have arisen between the States at variance.

Article 5

The functions of the mediator are at an end when once it is declared, either by one of the parties to the dispute, or by the mediator himself, that the means of reconciliation proposed by him are not accepted.

Article 6

Good offices and mediation, either at the request of the parties at variance, or on the initiative of Powers strangers to the dispute, have exclusively the character of advice, and never have binding force.

Article 7

The acceptance of mediation cannot, unless there be an agreement to the contrary, have the effect of interrupting, delaying, or hindering mobilization or other measures of preparation for war.

If mediation occurs after the commencement of hostilities, it causes no interruption to the military operations in progress, unless there be an agreement to the contrary.

Article 8

The Signatory Powers are agreed in recommending the application, when circumstances allow, of special mediation in the following form:

In case of a serious difference endangering the peace, the States at variance choose respectively a Power, to whom they intrust the mission of entering into direct communication with the Power chosen on the other side, with the object of preventing the rupture of pacific relations.

For the period of this mandate, the term of which, unless otherwise stipulated, cannot exceed thirty days, the States in conflict cease from all direct communication on the subject of the dispute, which is regarded as referred exclusively to the mediating Powers, who must use their best efforts to settle it.

In case of a definite rupture of pacific relations, these Powers are charged with the joint task of taking advantage of any opportunity to restore peace.

TITLE III. ON INTERNATIONAL COMMISSIONS OF INQUIRY

Article 9

In differences of an international nature involving neither honour nor vital interests, and arising from a difference of opinion on points of fact, the Signatory Powers recommend that the parties, who have not been able to come to an agreement by means of diplomacy, should, as far as circumstances allow, institute an International Commission of Inquiry, to facilitate a solution of these differences by elucidating the facts by means of an impartial and conscientious investigation.

Article 10

The International Commissions of Inquiry are constituted by special agreement between the parties in conflict.

The Convention for an inquiry defines the facts to be examined and the extent of the Commissioners' powers.

It settles the procedure.

On the inquiry both sides must be heard.

The form and the periods to be observed, if not stated in the Inquiry Convention, are decided by the Commission itself.

Article 11

The International Commissions of Inquiry are formed, unless otherwise stipulated, in the manner fixed by Article 32 of the present Convention.

Article 12

The Powers in dispute engage to supply the International Commission of Inquiry, as fully as they may think possible, with all means and facilities necessary to enable it to be completely acquainted with and to accurately understand the facts in question.

Article 13

The International Commission of Inquiry communicates its Report to the conflicting Powers, signed by all the members of the Commission.

Article 14

The Report of the International Commission of Inquiry is limited to a statement of facts, and has in no way the character of an Arbitral Award. It leaves the conflicting Powers entire freedom as to the effect to be given to this statement.

TITLE IV. ON INTERNATIONAL ARBITRATION

CHAPTER I. ON THE SYSTEM OF ARBITRATION

Article 15

International arbitration has for its object the settlement of differences between States by judges of their own choice, and on the basis of respect for law.

Article 16

In questions of a legal nature, and especially in the interpretation or application of International Conventions, arbitration is recognized by the Signatory Powers as the most effective, and at the same time the most equitable, means of settling disputes which diplomacy has failed to settle.

Article 17

The Arbitration Convention is concluded for questions already existing or for questions which may arise eventually.

It may embrace any dispute or only disputes of a certain category.

Article 18

The Arbitration Convention implies the engagement to submit loyally to the Award.

Article 19

Independently of general or private Treaties expressly stipulating recourse to arbitration as obligatory on the Signatory Powers, these Powers reserve to themselves the right of concluding, either before the ratification of the present Act or later, new Agreements, general or private, with a view to extending obligatory arbitration to all cases which they may consider it possible to submit to it.

CHAPTER II. ON THE PERMANENT COURT OF ARBITRATION**Article 20**

With the object of facilitating an immediate recourse to arbitration for international differences, which it has not been possible to settle by diplomacy, the Signatory Powers undertake to organize a Permanent Court of Arbitration, accessible at all times and operating, unless otherwise stipulated by the parties, in accordance with the Rules of Procedure inserted in the present Convention.

Article 21

The Permanent Court shall be competent for all arbitration cases, unless the parties agree to institute a special Tribunal.

Article 22

An International Bureau, established at The Hague, serves as record office for the Court.

This Bureau is the channel for communications relative to the meetings of the Court.

It has the custody of the archives and conducts all the administrative business.

The Signatory Powers undertake to communicate to the International Bureau at The Hague a duly certified copy of any conditions of arbitration arrived at between them, and of any award concerning them delivered by special Tribunals.

They undertake also to communicate to the Bureau the Laws, Regulations, and documents eventually showing the execution of the Awards given by the Court.

Article 23

Within the three months following its ratification of the present Act, each Signatory Power shall select four persons at the most, of known competency in questions of international law, of the highest moral reputation, and disposed to accept the duties of Arbitrators.

The persons thus selected shall be inscribed, as Members of the Court, in a list which shall be notified by the Bureau to all the Signatory Powers.

Any alteration in the list of Arbitrators is brought by the Bureau to the knowledge of the Signatory Powers.

Two or more Powers may agree on the selection in common of one or more Members.

The same person can be selected by different Powers.

The Members of the Court are appointed for a term of six years. Their appointments can be renewed.

In case of the death or retirement of a Member of the Court, his place shall be filled in accordance with the method of his appointment.

Article 24

When the Signatory Powers desire to have recourse to the Permanent Court for the settlement of a difference that has arisen between them, the Arbitrators called upon to form the competent Tribunal to decide this difference, must be chosen from the general list of Members of the Court.

Failing the direct agreement of the parties on the composition of the Arbitration Tribunal, the following course shall be pursued:

Each party appoints two Arbitrators, and these together choose an Umpire.

If the votes are equal, the choice of the Umpire is intrusted to a third Power, selected by the parties by common accord.

If an agreement is not arrived at on this subject, each party selects a different Power, and the choice of the Umpire is made in concert by the Powers thus selected.

The Tribunal being thus composed, the parties notify to the Bureau their determination to have recourse to the Court and the names of the Arbitrators.

The Tribunal of Arbitration assembles on the date fixed by the parties.

The Members of the Court, in the discharge of their duties and out of their own country, enjoy diplomatic privileges and immunities.

Article 25

The Tribunal of Arbitration has its ordinary seat at The Hague.

Except in cases of necessity, the place of session can only be altered by the Tribunal with the assent of the parties.

Article 26

The International Bureau at The Hague is authorized to place its premises and its staff at the disposal of the Signatory Powers for the operations of any special Board of Arbitration.

The jurisdiction of the Permanent Court may, within the conditions laid down in the Regulations, be extended to disputes between non-Signatory Powers, or between Signatory Powers and non-Signatory Powers, if the parties are agreed on recourse to this Tribunal.

Article 27

The Signatory Powers consider it their duty, if a serious dispute threatens to break out between two or more of them, to remind these latter that the Permanent Court is open to them.

Consequently, they declare that the fact of reminding the conflicting parties of the provisions of the present Convention, and the advice given to them, in the highest interests of peace, to have recourse to the Permanent Court, can only be regarded as friendly actions.

Article 28

A Permanent Administrative Council composed of the Diplomatic Representatives of the Signatory Powers accredited to The Hague and of the Netherlands Minister for Foreign Affairs, who will act as President, shall be instituted in this town as soon as possible after the ratification of the present Act by at least nine Powers.

This Council will be charged with the establishment and organization of the International Bureau, which will be under its direction and control.

It will notify to the Powers the constitution of the Court and will provide for its installation.

It will settle its Rules of Procedure and all other necessary Regulations.

It will decide all questions of administration which may arise with regard to the operations of the Court.

It will have entire control over the appointment, suspension or dismissal of the officials and employees of the Bureau.

It will fix the payments and salaries, and control the general expenditure.

At meetings duly summoned the presence of five members is sufficient to render valid the discussions of the Council. The decisions are taken by a majority of votes.

The Council communicates to the Signatory Powers without delay the Regulations adopted by it. It furnished them with an annual Report on the labours of the Court, the working of the administration, and the expenses.

Article 29

The expenses of the Bureau shall be borne by the Signatory Powers in the proportion fixed for the International Bureau of the Universal Postal Union.

CHAPTER III. ON ARBITRAL PROCEDURE

Article 30

With a view to encourage the development of arbitration, the Signatory Powers have agreed on the following Rules which shall be applicable to arbitral procedure, unless other Rules have been agreed on by the parties.

Article 31

The Powers who have recourse to arbitration sign a special Act ('Compromis'), in which the subject of the difference is clearly defined, as well as the extent of the Arbitrators' powers. This Act implies the undertaking of the parties to submit loyally to the Award.

Article 32

The duties of Arbitrator may be conferred on one Arbitrator alone or on several Arbitrators selected by the parties as they please, or chosen by them from the Members of the Permanent Court of Arbitration established by the present Act.

Failing the constitution of the Tribunal by direct agreement between the parties, the following course shall be pursued:

Each party appoints two Arbitrators, and these latter together choose an Umpire.

In case of equal voting, the choice of the Umpire is intrusted to a third Power, selected by the parties by common accord.

If no agreement is arrived at on this subject, each party selects a different Power, and the choice of the Umpire is made in concert by the Powers thus selected.

Article 33

When a Sovereign or the Chief of a State is chosen as Arbitrator, the arbitral procedure is settled by him.

Article 34

The Umpire is by right President of the Tribunal.

When the Tribunal does not include an Umpire, it appoints its own President.

Article 35

In case of the death, retirement, or disability from any cause of one of the Arbitrators, his place shall be filled in accordance with the method of his appointment.

Article 36

The Tribunal's place of session is selected by the parties. Failing this selection the Tribunal sits at The Hague.

The place thus fixed cannot, except in case of necessity, be changed by the Tribunal without the assent of the parties.

Article 37

The parties have the right to appoint delegates or special agents to attend the Tribunal, for the purpose of serving as intermediaries between them and the Tribunal.

They are further authorized to retain, for the defence of their rights and interests before the Tribunal, counsel or advocates appointed by them for this purpose.

Article 38

The Tribunal decides on the choice of languages to be used by itself, and to be authorized for use before it.

Article 39

As a general rule the arbitral procedure comprises two distinct phases; preliminary examination and discussion.

Preliminary examination consists in the communication by the respective agents to the members of the Tribunal and to the opposite party of all printed or written Acts and of all documents containing the arguments invoked in the case. This communication shall be made in the form and within the periods fixed by the Tribunal in accordance with Article 49.

Discussion consists in the oral development before the Tribunal of the arguments of the parties.

Article 40

Every document produced by one party must be communicated to the other party.

Article 41

The discussions are under the direction of the President.

They are only public if it be so decided by the Tribunal, with the assent of the parties.

They are recorded in the *procès-verbaux* drawn up by the Secretaries appointed by the President. These *procès-verbaux* alone have an authentic character.

Article 42

When the preliminary examination is concluded, the Tribunal has the right to refuse discussion of all fresh Acts or documents which one party may desire to submit to it without the consent of the other party.

Article 43

The Tribunal is free to take into consideration fresh Acts or documents to which its attention may be drawn by the agents or counsel of the parties.

In this case, the Tribunal has the right to require the production of these Acts or documents, but is obliged to make them known to the opposite party.

Article 44

The Tribunal can, besides, require from the agents of the parties the production of all Acts, and can demand all necessary explanations. In case of refusal, the Tribunal takes note of it.

Article 45

The agents and counsel of the parties are authorized to present orally to the Tribunal all the arguments they may think expedient in defence of their case.

Article 46

They have the right to raise objections and points.

The decisions of the Tribunal on those points are final, and cannot form the subject of any subsequent discussion.

Article 47

The members of the Tribunal have the right to put questions to the agents and counsel of the parties, and to demand explanations from them on doubtful points.

Neither the questions put nor the remarks made by members of the Tribunal during the discussions can be regarded as an expression of opinion by the Tribunal in general, or by its members in particular.

Article 48

The Tribunal is authorized to declare its competence in interpreting the 'Compromis' as well as the other Treaties which may be invoked in the case, and in applying the principles of international law.

Article 49

The Tribunal has the right to issue Rules of Procedure for the conduct of the case, to decide the forms and periods within which each party must conclude its arguments, and to arrange all the formalities required for dealing with the evidence.

Article 50

When the agents and counsel of the parties have submitted all explanations and evidence in support of their case, the President pronounces the discussion closed.

Article 51

The deliberations of the Tribunal take place in private.

Every decision is taken by a majority of members of the Tribunal.

The refusal of a member to vote must be recorded in the *procès-verbal*.

Article 52

The Award, given by a majority of votes, is accompanied by a statement of reasons. It is drawn up in writing and signed by each member of the Tribunal.

Those members who are in the minority may record their dissent when signing.

Article 53

The Award is read out at a public meeting of the Tribunal, the agents and counsel of the parties being present, or duly summoned to attend.

Article 54

The Award, duly pronounced and notified to the agents of the parties at variance, puts an end to the dispute definitively and without appeal.

Article 55

The parties can reserve in the 'Compromis' the right to demand the revision of the Award.

In this case, and unless there be an agreement to the contrary, the demand must be addressed to the Tribunal which pronounced the Award. It can only be made on the ground of the discovery of some new fact calculated to exercise a decisive influence on the Award, and which, at the time the discussion was closed, was unknown to the Tribunal and to the party demanding the revision.

Proceedings for revision can only be instituted by a decision of the Tribunal expressly recording the existence of the new fact, recognizing in it the character described in the foregoing paragraph, and declaring the demand admissible on this ground.

The 'Compromis' fixes the period within which the demand for revision must be made.

Article 56

The Award is only binding on the parties who concluded the 'Compromis'.

When there is a question of interpreting a Convention to which Powers other than those concerned in the dispute are parties, the latter notify to the former the 'Compromis' they have concluded. Each of these Powers has the right to intervene in the case. If one or more of them avail themselves of this right, the interpretation contained in the Award is equally binding on them.

Article 57

Each party pays its own expenses and an equal share of those of the Tribunal.

GENERAL PROVISIONS

Article 58

The present Convention shall be ratified as speedily as possible.

The ratifications shall be deposited at The Hague.

A *procès-verbal* shall be drawn up recording the receipt of each ratification, and a copy duly certified shall be sent, through the diplomatic channel, to all the Powers who were represented at the International Peace Conference at The Hague.

Article 59

The non-Signatory Powers who were represented at the International Peace Conference can adhere to the present Convention. For this purpose they must make known their adhesion to the Contracting Powers by a written notification addressed to the Netherlands Government, and communicated by it to all the other Contracting Powers.

Article 60

The conditions on which the Powers who were not represented at the International Peace Conference can adhere to the present Convention shall form the subject of a subsequent Agreement among the Contracting Powers.

Article 61

In the event of one of the High Contracting Parties denouncing the present Convention, this denunciation would not take effect until a year after its notification made in writing to the Netherlands Government, and by it communicated at once to all the other Contracting Powers.

This denunciation shall only affect the notifying Power.

In faith of which the Plenipotentiaries have signed the present Convention and affixed their seals to it.

Done at The Hague, the 29th July, 1899, in a single copy, which shall remain in the archives of the Netherlands Government, and copies of it, duly certified, be sent through the diplomatic channel to the Contracting Powers.

24. CONVENTION FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES (1907)

Done at The Hague on 18 October 1907

Entry into force: 26 January 1910

Basic documents of the Permanent Court of Arbitration [original: French]. The text of the Convention reproduced here is a translation of the French text adopted at the 1907 Peace Conference. The French-language version is authoritative.

His Majesty the German Emperor, King of Prussia; the President of the United States of America; the President of the Argentine Republic; His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary; His Majesty the King of the Belgians; the President of the Republic of Bolivia; the President of the Republic of the United States of Brazil; His Royal Highness the Prince of Bulgaria; the President of the Republic of Chile; His Majesty the Emperor of China; the President of the Republic of Colombia; the Provisional Governor of the Republic of Cuba; His Majesty the King of Denmark; the President of the Dominican Republic; the President of the Republic of Ecuador; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of the Hellenes; the President of the Republic of Guatemala; the President of the Republic of Haiti; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Royal Highness the Grand Duke of Luxembourg, Duke of Nassau; the President of the United States of Mexico; His Royal Highness the Prince of Montenegro; the President of the Republic of Nicaragua; His Majesty the King of Norway; the President of the Republic of Panama; the President of the Republic of Paraguay; Her Majesty the Queen of the Netherlands; the President of the Republic of Peru; His Imperial Majesty the Shah of Persia; His Majesty the King of Roumania; His Majesty the Emperor of All the Russias; the President of the Republic of Salvador; His Majesty the King of Servia; His Majesty the King of Siam; His Majesty the King of Sweden; the Swiss Federal Council; His Majesty the Emperor of the Ottomans; the President of the Oriental Republic of Uruguay; the President of the United States of Venezuela;

Animated by the sincere desire to work for the maintenance of general peace;

Resolved to promote by all the efforts in their power the friendly settlement of international disputes;

Recognizing the solidarity uniting the members of the society of civilized nations;

Desirous of extending the empire of law and of strengthening the appreciation of international justice;

Convinced that the permanent institution of a Tribunal of Arbitration accessible to all, in the midst of independent Powers, will contribute effectively to this result;