

denten des Ständigen Internationalen Gerichtshofes im Haag ersuchen, den dritten Schiedsrichter aus den Angehörigen dritter Länder zu ernennen. Auf Grund einer Verständigung der beiden Teile kann ihm eine Liste der dritten Staaten überreicht werden, auf die sich seine Wahl beschränken muß. Sie behalten sich vor, sich im voraus für eine bestimmte Zeit über die Person des dritten Schiedsrichters zu verständigen.

Wenn das Verfahren, das die beiden Schiedsrichter zu beobachten haben, nicht spätestens bei deren Ernennung in einer von den beiden Staaten vereinbarten besonderen Schiedsordnung geregelt ist, erfolgt seine Regelung durch die Schiedsrichter selbst.

Falls man zur Ernennung eines dritten Schiedsrichters hat schreiten müssen und nicht spätestens bei seiner Ernennung eine von den beiden Staaten festgesetzte Schiedsordnung das nach seiner Ernennung zu beobachtende Verfahren festgelegt hat, so treten der dritte Schiedsrichter und die beiden ersten Schiedsrichter zusammen, und das so gebildete Schiedsgericht entscheidet über sein Verfahren und über den sachlichen Streit. Alle Entscheidungen des Schiedsgerichts ergehen auf Grund Mehrheitsbeschlusses.

Artikel 5.

Dieser Vertrag ist in doppelter Urschrift in deutscher, persischer und französischer Sprache abgefaßt. Bei Meinungsverschiedenheiten über die Auslegung des Vertrages ist der französische Wortlaut maßgebend.

Der Vertrag soll ratifiziert und die Ratifikationsurkunden sollen sobald als möglich ausgetauscht werden. Der Vertrag tritt mit dem Austausch der Ratifikationsurkunden in Kraft.

Zu Urkund dessen haben die beiderseitigen gehörig beglaubigten Bevollmächtigten diesen Vertrag unterzeichnet und ihm ihre Siegel beigesetzt.

Teheran, den 17. Februar 1929.

(gez.) Friedrich Werner Graf von der Schulenburg.

(gez.) M. Farzine.

6. Die Frage der Bahrain-Inseln.

Am 20. Mai 1927 ist zwischen Großbritannien und dem König des Hedjaz ein Vertrag geschlossen worden ¹⁾, in dem Artikel 6 wie folgt lautet:

“His Majesty the King of the Hejaz and of Nejd and its Dependencies undertakes to maintain friendly and peaceful relations with the terri-

¹⁾ Treaty Series (Engl.) Nr. 25 (1927) Cmd. 2951.

tories of Kuwait and Bahrain, and with the Sheikhs of Qatar and the Oman Coast, who are in special treaty relations with His Britannic Majesty's Government."

Persien, das die Insel Bahrain als persischen Besitz beansprucht, protestierte gegen diesen Artikel durch Note vom 22. Dez. 1927 an die englische Regierung. Nach Wiedergabe des fraglichen Vertragsartikels fährt die Note fort:²⁾

"As Bahrain is incontestably a Persian possession and, as upon the conclusion of the special agreement between the British Government and the Sheikhs of Bahrain, the Persian Government rightly protested against that agreement, and Lord Clarendon in his reply to the Persian Minister in London, dated April 29, 1869, officially recognized the justice of that protest, your Excellency will agree that the above-mentioned article, so far as it concerns Bahrain, constitutes an infringement of the territorial integrity of Persia and is incompatible with the good relations which have always existed between two friendly neighbour States.

The Persian Government therefore protests emphatically against the part of the Treaty referred to and looks to the British Government to take steps without delay to nullify its effects.

I would add for your Excellency's information that, Persia being a member of the League of Nations, the Persian Government in virtue of article 10 of the Covenant which guarantees the territorial integrity of the States members of the League, has communicated a copy of this letter to the League in order that its protest may be brought to the latter's knowledge.

(Signed) Pakrevan, in charge of the
Ministry of Foreign Affairs."

Am 18. Januar 1928 antwortete Sir Austen Chamberlain, daß die britische Regierung die Souveränität Persiens über die Bahrain-Inseln nicht anerkennen könne, seit 1783 habe Persien niemals wirksame Herrschaft ('effective control') über diese Inseln ausgeübt; ferner habe Großbritannien (entgegen den persischen Behauptungen) niemals die persische Souveränität über die Bahrain-Inseln anerkannt, aber auch wenn dies der Fall gewesen wäre, würde Persien keine Souveränitätsrechte daraus herleiten können; weiter bestünden seit mehr als einem Jahrhundert Vertragsbeziehungen zwischen Großbritannien und dem Herrscher von Bahrain, ungeachtet der persischen Proteste gegen dessen Selbständigkeit.

Chamberlains Note lautet:³⁾

"Sir,

I have the honour to acknowledge the receipt of your note of the 26th November, containing the formal protest which the Persian Gov-

²⁾ Eur. Ec. and Pol. Sur. Bd. III Nr. 8 S. 247.

³⁾ Eur. Ec. and Pol. Sur. Bd. III Nr. 14 S. 480.

ernment have seen fit to make against the terms of article 6 of the Treaty of Jeddah, concluded on the 20th May, 1927, between His Britannic Majesty and His Majesty the King of the Hejaz and Nejd and its dependencies, on the ground that the reference in that article to the Islands of Bahrain is contrary to the territorial integrity of Persia.

2. In reply, I shall be grateful if you will inform your Government that His Majesty's Government are not aware of any valid grounds upon which the claim of the Persian Government to sovereignty over these islands is or can be based. Geographically, the islands are not a part of Persia, nor are the inhabitants of Persian race. His Majesty's Government are aware that during part of the 17th century and for some years during the latter part of the 18th century Bahrain was overrun and occupied by Persian troops, or by the followers of certain chiefs from the eastern shores of the Persian Gulf; but it appears to be established that in or about the year 1783 the Government of the Shah were dispossessed of the islands by an invasion of Arab tribes under the leadership of the direct lineal ancestor of the present sheikh, and that since that date the islands have never at any time been under the effective control of Persia.

3. The Persian Government have on various occasions alleged that their claim to sovereignty over Bahrain has been recognised by His Majesty's Government. While it is not evident that, even if this assertion were justified, it would confer on Persia the right of ownership which on other grounds appears so difficult to establish, His Majesty's Government feel that they must once and for all declare this statement to be entirely inadmissible.

4. The special treaty relations between His Majesty's Government and the successive Sheikhs of Bahrain, to which reference is made in the Treaty of Jeddah, have now been in existence for more than a century, the first in the series of undertakings by which these relations are regulated having been signed in the year 1820. The agreements have throughout been concluded on the basis that the Sheikh of Bahrain is an independent ruler. His Majesty's Government do not deny that the claim to independence of the Sheikh is one which has from time to time been contested by the Government of the Shah, and in particular in the discussions which took place in 1869, to which reference is made in your note. I desire, however, to point out that your Government are under a complete misunderstanding in inferring from the terms of the communication made by the late Earl of Clarendon to the Persian Minister on the 29th April, 1869, that any recognition of the validity of the Persian claims to sovereignty in Bahrain was at that time intended. In that note it was stated that Her Majesty's Government had given due consideration to the protest of the Persian Government 'against the Persian right of sovereignty over Bahrain being ignored by the British authorities', but in no way admitted any such right. On the contrary, the whole tenor of the note should have made it clear that

Her Majesty's Government maintained their right to enter into direct treaty relations with the Sheikhs of Bahrain as independent rulers; and while at the same time it indicated that Her Majesty's Government would gladly transfer to Persia, if she were able and willing to perform them, certain duties in the Persian Gulf towards the performance of which the treaty relations in question contributed, and offered, in view of the friendly feeling entertained by Her Majesty's Government towards Persia, to cause the Persian Government to be informed beforehand, when practicable, of any measure of coercion which the conduct of the Sheikhs might have rendered necessary, it is evident that no recognition of the validity of the Persian protest, or of the Persian claim to suzerainty, was thereby intended or implied. The note, in fact as the Persian Legation at Constantinople was reminded in December 1871 by Sir Henry Elliot, then Her Majesty's Ambassador in Turkey, contains nothing more than an acknowledgment that the Persian claims to suzerainty had previously been made. The numerous supplementary agreements entered into between the British Government and the rulers of Bahrain between 1869 and the present day have equally proceeded on the assumption that a claim to sovereignty in Bahrain on the part either of the Government of the Shah or of the Turkish Government could not possibly be admitted by His Majesty's Government.

5. The attitude of His Majesty's Government towards this question was still more clearly defined when in the year 1906 His Majesty's Minister at Teheran, on my predecessor's instructions, addressed to the Persian Government a note stating that 'His Majesty's Government have never admitted the ownership or sovereignty of Persia over Bahrain, and such a claim is, in their view, entirely inadmissible. His Majesty's Government consider the Island of Bahrain and its inhabitants to be under British protection, and must decline to entertain any further representations on the subject.' The note added that this reply had invariably been made to the Ottoman Government, which had on several occasions advanced a claim to Bahrein. In reply to this note a formal protest was received from the Persian Government, in which their claim to sovereignty over Bahrain was based on an agreement, dated the 30th August, 1822, between Captain William Bruce, 'the special commissioner of the British Government', and the Prince Governor of Shiraz. This agreement, however, as was pointed out in a reply from His Majesty's Minister on the 2nd January, 1907, and again on the 23rd February, 1907, was promptly disavowed at the time by the proper representatives of His Britannic Majesty, as having been entered into without authority, and His Majesty Fath Ali Shah also refused to recognise its stipulations, and expressed his displeasure that the Prince of Shiraz should have entered into any engagements with the British Government without his knowledge or instructions. In these circumstances, having regard to international law and custom, the agreement cannot be regarded as ever having possessed any binding force.

6. From the foregoing remarks you will observe that the Persian

Government are not justified in supposing that His Majesty's Government, either in 1869 or at any other time, intended to recognise that Bahrain was a part of Persia, and that, while they have, indeed, admitted that a claim on the subject has from time to time been put forward by the Persian Government, they have never admitted the validity of the claims which either the Turkish or Persian Governments have frequently put forward in the past. Their consistent endeavour in the matter of Bahrain has been to secure that the peaceful development of the islands and the welfare of the Arab inhabitants shall not be disturbed by unjustified attempts on the part of their neighbours to subject them to a foreign domination. They are not prepared to contemplate any departure from this policy.

I have, etc.

Austen Chamberlain."

Am 2. August 1928 antwortete die persische Regierung auf diese Note, und am 5. Januar 1929 erhob sie Protest gegen einen Befehl der britischen Regierung, demzufolge Perser, die in Bahrain landen, Pässe vorweisen müßten, »als ob Bahrain außerhalb Persiens läge«; eine Abschrift dieses Protestbriefes ist dem Völkerbund zugegangen.⁴⁾ Am 18. Februar 1929 antwortete Sir Austen Chamberlain auf die persische Note vom August 1928. In dieser zweiten Note betont Chamberlain, daß die intermittierende und 1787 durch Gewaltakt des Sheiks von Bahrain beendete persische Okkupation von Bahrain keinen Souveränitätstitel darstelle; daß die persische Behauptung unrichtig sei, wonach Souveränitätsrechte auf einen anderen Staat nur durch offizielle Handlung (hier Vertrag) oder Zustimmung des alten Souveräns übertragen werden könnten. Auch frühere erzwungene Tributzahlungen der Sheikhs von Bahrain an Persien bewiesen nichts für die Fortgeltung der persischen Herrschaft. Was die angebliche frühere Anerkennung der persischen Herrschaft durch Großbritannien anlange, so bestreitet Chamberlain abermals, daß sie stattgefunden habe. Vollkommen ungerechtfertigt sei die persische Behauptung, daß die augenblickliche Unabhängigkeit der Bahrain-Herrscher auf eine »durch einen fremden Staat hervorgerufene Rebellion« zurückzuführen sei.

Zum Schluß drückt Chamberlain das Befremden der britischen Regierung darüber aus, daß die persische Regierung sich auf Artikel 10 des Völkerbunds Pakts berufe, indem sie anzunehmen scheine, daß Mitglieder des Völkerbunds durch ihn verpflichtet seien, persische Ansprüche auf eine Insel zu unterstützen, die von Persien durch die ganze Breite des Golfs von Persien getrennt sei und über die Persien seit 145 Jahren keine Herrschaftsrechte ausgeübt habe.⁵⁾

4) S. d. N. Jour. off. mars 1929, p. 351.

5) Nach dem Bericht der »Times«, 2. 3. 1929.