

played by the large number of treaties on arbitration and conciliation recently made.<sup>1</sup> All of these treaties provide that in matters within the jurisdiction of the national courts, the international proceedings will be subject to the exhaustion of the local remedies available to the injured person for the purpose of securing redress. This is also, more or less, the conclusion adopted by the Preparatory Committee. The majority of the governments have adhered to this doctrine without hesitation. Only in isolated cases have certain reservations been made. Denmark affirms the principle, especially as regards injuries caused through the action of the courts:

"In the case of the acts," she adds, "of an administrative authority, the above principle cannot, however, be applied unconditionally. In the domain of the administration, it is possible to conceive of cases in which the act of a subaltern authority may give rise to diplomatic action, even though the person concerned has the right of recourse to a higher instance. Here the decision must depend on the nature of each case; no definite limits can be set. In the collection of taxes, Customs or other duties, contrary to the provisions of commercial treaties, the claim may doubtless be brought immediately against the State, even though the foreign private individual were entitled to complain to a higher Customs or fiscal authority. When, however, the matter is rather one of technical or arbitrary judgment—as for instance the classification of certain goods under a certain tariff heading—the State in question may insist that the foreigner shall first of all submit the matter to a higher expert authority before making any claim against the State."

Hungary avers, on her part, that

"This principle may, of course, be modified on behalf of foreigners as a result of an obligation assumed by the State in an international convention, or when the settlement of a dispute falls in virtue of an international agreement, within the jurisdiction of an international organ."

Japan restricts the application of the principle to cases involving court decisions. Finally, Norway states that

"If damage has been caused to a foreigner as a result of an act contrary to the various laws of the State, the foreigner in question must first exhaust all remedies open to him under the laws of that State before international responsibility can be invoked against the State. The only exception to this rule would be in extreme cases of denial of justice or other flagrant injustice.

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Hay Duties, British American Claims Commission, March 19, 1925, American Journal of International Law, vol. 19 pages 797, 799; The R. T. Roy, *ibid.* 802; Adolph G. Studer, *ibid.* 794.

<sup>1</sup>Traité Général d'Arbitrage communiqué au Bureau International de la Cour Permanente d'Arbitrage.