

N° 1610.

CHILI ET ITALIE

Traité de conciliation et de règlement judiciaire. Signé à Rome, le 24 février 1927.

CHILE AND ITALY

Treaty of Conciliation and Judicial Settlement. Signed at Rome, February 24, 1927.

¹ TRADUCTION. — TRANSLATION.No. 1610. — TREATY² OF CONCILIATION AND JUDICIAL SETTLEMENT BETWEEN CHILE AND ITALY. SIGNED AT ROME, FEBRUARY 24, 1927.

French official text communicated by the Italian Minister for Foreign Affairs and the Chilean Ambassador at Rome. The registration of this Treaty took place December 21, 1927.

HIS MAJESTY THE KING OF ITALY, and THE PRESIDENT OF THE REPUBLIC OF CHILE, desirous of strengthening still further the bonds of friendship which exist between Italy and Chile, and imbued with the spirit of cordiality which characterises their reciprocal relations,

Have resolved to conclude a Treaty for the friendly settlement of disputes which may arise between the two countries.

And have appointed as their Plenipotentiaries for this purpose :

HIS MAJESTY THE KING OF ITALY :

H. E. Benito MUSSOLINI, Head of the Government, Prime Minister and Minister for Foreign Affairs ;

THE PRESIDENT OF THE REPUBLIC OF CHILE :

H. E. Enrique VILLEGAS, Chilean Minister accredited to His Majesty the King of Italy ;

Who, having communicated their full powers, found in good and due form, have agreed as follows :

Article 1.

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

In the event of the procedure of conciliation proving unsuccessful, a judicial settlement shall be sought in conformity with Articles 16 *et seq.* of the present Treaty.

The above shall not apply to disputes for the settlement of which a special procedure is laid down by other Conventions in force between the Contracting Parties.

Article 2.

In the case of a dispute which, according to the domestic legislation of one of the Parties, comes within the jurisdiction of the Courts, the defendant Party may oppose the submission of the dispute to a procedure of conciliation or, alternatively, to a judicial settlement, until a final

¹ Traduit par le Secrétariat de la Société des Nations.

¹ Translated by the Secretariat of the League of Nations.

² The exchange of ratifications took place at Rome, December 2, 1927.

judgment has been given by the competent judicial authority and unless one of the Parties regards the case as a denial of justice.

In this case the request for conciliation procedure must be made within a year at most from the date of such judgment.

Article 3.

The Contracting Parties shall establish a Permanent Conciliation Commission composed of five members.

Each Party shall nominate one member of its own choosing, the other three being appointed by agreement between the Parties. The latter members may not be nationals of the Contracting States nor be domiciled in their territory nor be employed in their service.

The President of the Commission shall be appointed by agreement between the Parties from among the jointly selected members.

So long as the procedure has not begun, each Contracting Party shall have the right to revoke the appointment of its nominee and to replace him by another, and also to withdraw its consent to the appointment of any of the three members nominated jointly. In this case the necessary replacement shall be effected without delay.

Members shall be replaced under the same conditions as were observed in their appointment.

Article 4.

The Commission shall be set up within six months after the ratifications of the present Treaty have been exchanged.

If the appointment of the members to be nominated jointly is not made within this period or, in case of their replacement, within three months after the vacancy occurs, such appointments shall be made in accordance with Article 45 of the Hague Convention¹ of October 18, 1907, for the pacific settlement of international disputes.

Article 5.

The task of the Permanent Conciliation Commission shall be to further the settlement of disputes by an impartial and conscientious examination of the facts and by formulating proposals with a view to settling the case.

The Commission shall be informed of a question by an application addressed to its President by one of the Contracting Parties.

This application shall be notified at the same time to the opposing Party by the Party which is requesting the institution of the procedure of conciliation.

Article 6.

The Commission shall meet at the place chosen by the President, unless there is an agreement to the contrary.

Article 7.

In proceedings before the Commission both Parties shall be heard.

The Commission shall draw up its own rules of procedure, regard being had to the regulations laid down in Part III of the Hague Convention of October 18, 1907, for the pacific settlement of international disputes, unless the Commission unanimously decides otherwise.

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

Article 8.

The deliberations of the Commission shall be in private, unless in agreement with the Parties the Commission decides otherwise.

Article 9.

The Contracting Parties shall be entitled to appoint special agents on the Commission. These agents shall also act as intermediaries between the Parties and the Commission.

Article 10.

The Commission shall take its decisions by a majority vote of its members except as otherwise laid down in the present Treaty.

Article 11.

The Contracting Parties undertake to give the Commission all possible assistance in its work and, in particular, to employ all the means placed at their disposal by their domestic legislation to enable it to call and hear witnesses or experts within their territory as well as to carry out investigations on the spot.

Article 12.

The Commission shall make its report within six months from the day on which the dispute is submitted to it, unless the Contracting Parties agree to an extension of this period.

A copy of the report shall be sent to each Party.

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

Article 13.

The Conciliation Commission shall fix the period within which the Parties will be required to take their decision as regards the Commission's proposals.

This period shall not, however, exceed four months.

Article 14.

For the actual duration of the procedure, the members of the Conciliation Commission shall receive an allowance to be fixed by an arrangement between the Contracting Parties.

Each Party shall bear its own costs and half the costs of the Commission.

Article 15.

Until the dispute has been settled, neither Party may publish the Commission's report without the consent of the other Party. Nevertheless, should there be special reasons for so doing, the Commission may order the report to be published immediately, without the previous consent of the Parties.

Article 16.

If one of the Parties does not accept the proposals of the Permanent Conciliation Commission, or does not announce its decision within the period prescribed in the report, either Party may request that the dispute be submitted to the Permanent Court of International Justice¹.

If, in the opinion of the Court, the case is not of a juridical nature, the Parties shall agree to its being settled *ex æquo et bono*.

Article 17.

In each particular case the Contracting Parties shall draw up a special agreement (*compromis*) specifying clearly the subject of the dispute, the particular competence that might devolve upon the Permanent Court of International Justice, and any other conditions fixed between themselves.

The special agreement shall be constituted by an exchange of notes between the Governments of the Contracting Parties.

All points contained therein shall be interpreted by the Court of Justice.

If the special agreement is not drawn up within three months from the day on which one of the Parties was requested to submit the matter for judicial settlement, either Party may bring the question before the Court of Justice by a simple application.

Article 18.

Should the Permanent Court of International Justice find that a decision of a court of law or other authority of one of the Contracting States is wholly or partly at variance with international law, and should the constitutional law of that State not allow, or only inadequately allow, the cancellation of this decision by administrative procedure, the Party prejudiced shall be granted equitable satisfaction in some other form.

Article 19.

The judgment given by the Permanent Court of International Justice shall be acted upon by the Parties in good faith.

Any difficulties regarding the interpretation of the judgment shall be settled by the Permanent Court upon a simple application for this purpose by either Party.

Article 20.

During the procedure of conciliation or the judicial procedure, the Contracting Parties shall abstain from all measures which might prejudicially affect the acceptance of the proposals of the Conciliation Commission or the execution of the judgment of the Permanent Court of International Justice.

Article 21.

Any disputes which may arise as to the interpretation or the execution of the present Treaty shall, in the absence of any agreement to the contrary, be submitted direct to the Permanent Court of International Justice by simple application.

¹ Vol. VI, page 379; Vol. XI, page 404; Vol. XV, page 304; Vol. XXIV, page 152; Vol. XXVII, page 416; Vol. XXXIX, page 165; Vol. XLV, page 96; Vol. L, page 159; Vol. LIV, page 387, of this Series, and page 70, of this Volume.

Article 22.

The present Treaty shall in no way affect the rights and obligations of the Contracting Parties as Members of the League of Nations and consequently shall not limit the powers or competence of the League of Nations.

Nevertheless, it is understood that any dispute that may arise between the Contracting Parties shall first be dealt with under the procedure laid down in Article 1 of the present Treaty, before being submitted to the Council of the League of Nations as provided in Article 15 of the Covenant.

Article 23.

The present Treaty shall be ratified.

The instruments of ratification shall be exchanged at Rome as soon as possible.

The Treaty shall come into force as soon as the instruments of ratification have been exchanged. It shall be concluded for a period of ten years from the date of its coming into force. Unless denounced six months before the expiration of this period, it shall be deemed to have been renewed for a further period of five years, and similarly thereafter.

If a procedure of conciliation or a judicial procedure is pending at the time of the expiration of the present Treaty, it shall pursue its course in accordance with the provisions of the present Treaty or any other convention which the Contracting Parties may have agreed to substitute therefor.

In faith whereof the Plenipotentiaries have signed the present Treaty.

Done at Rome, in duplicate, February the twenty-fourth, one thousand nine hundred and twenty-seven.

For Italy :

(L. S.) Benito MUSSOLINI.

For Chile :

(L. S.) E. VILLEGAS.
