

N° 2589.

COLOMBIE ET SUISSE

Traité de conciliation, de règlement
judiciaire et d'arbitrage. Signé à
Berne, le 20 août 1927.

**COLOMBIA
AND SWITZERLAND**

Treaty of Conciliation, Judicial
Settlement and Arbitration. Signed
at Berne, August 20, 1927.

N° 2589. — TRAITÉ¹ DE CONCILIATION, DE RÈGLEMENT JUDICIAIRE ET D'ARBITRAGE ENTRE LA COLOMBIE ET LA SUISSE. SIGNÉ A BERNE, LE 20 AOUT 1927.

Textes officiels français et espagnol communiqués par le Conseil fédéral suisse et le chargé d'Affaires de Colombie à Berne. L'enregistrement de ce traité a eu lieu le 10 janvier 1931.

LE CONSEIL FÉDÉRAL SUISSE et LE PRÉSIDENT DE LA RÉPUBLIQUE DE COLOMBIE, animés du désir de resserrer les liens d'amitié qui unissent la Suisse et la Colombie et de soumettre à un règlement pacifique les différends qui viendraient à s'élever entre les deux pays,

Ont résolu de conclure à cet effet un traité et ont désigné leurs plénipotentiaires, savoir :

LE CONSEIL FÉDÉRAL SUISSE :

Giuseppe MOTTA, président de la Confédération, chef du Département politique fédéral ;

LE PRÉSIDENT DE LA RÉPUBLIQUE DE COLOMBIE :

Son Excellence M. Francisco J. DE URRUTIA, envoyé extraordinaire et ministre plénipotentiaire de Colombie en Suisse ;

Lesquels, après s'être fait connaître leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes :

Article premier.

Tous différends, de quelque nature qu'ils soient, qui s'élèveraient entre les deux Etats et

¹ L'échange des ratifications a eu lieu à Berne, le 29 décembre 1930.

TEXTE ESPAGNOL. — SPANISH TEXT.

N° 2589. — TRATADO¹ DE CONCILIACION, DE ARREGLO JUDICIAL Y DE ARBITRAJE ENTRE COLOMBIA Y SUIZA. FIRMADO EN BERNA EL 20 DE AGOSTO DE 1927.

French and Spanish official texts communicated by the Swiss Federal Council and the Colombian Chargé d'Affaires at Berne. The registration of this Treaty took place January 10, 1931.

EL PRESIDENTE DE LA REPÚBLICA DE COLOMBIA y EL CONSEJO FEDERAL SUIZO, animados del deseo de estrechar los lazos de amistad que unen a Colombia y Suiza, y de someter a un arreglo pacífico las diferencias que pudieran surgir entre los dos países,

Han resuelto celebrar un Tratado al efecto, y han designado como sus Plenipotenciarios, a saber :

EL PRESIDENTE DE LA REPÚBLICA DE COLOMBIA :

A Su Excelencia el señor doctor don Francisco José URRUTIA, su Enviado Extraordinario y Ministro Plenipotenciario en Suiza ;

EL CONSEJO FEDERAL SUIZO :

A Su Excelencia el señor Giuseppe MOTTA, Presidente de la Confederación, Jefe del Departamento Político ;

Los cuales, después de comunicarse sus plenos poderes y de hallarlos en buena y debida forma, han convenido en las disposiciones siguientes :

Artículo 1º.

Todas las diferencias, de cualquier naturaleza que sean, que surgieren entre los Estados

¹ The exchange of ratifications took place at Berne, December 29, 1930.

sera faite, en même temps, à la Partie adverse par la Partie dont elle émane.

Article 4.

La Commission de conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son président.

Article 5.

La procédure devant la Commission de conciliation sera contradictoire.

La commission réglera elle-même la procédure en tenant compte, sauf décision contraire prise à l'unanimité, des dispositions contenues au titre III de la Convention¹ de La Haye pour le règlement pacifique des conflits internationaux, du 18 octobre 1907.

Article 6.

Les délibérations de la Commission de conciliation auront lieu à huis clos, à moins que la commission, d'accord avec les Parties, n'en décide autrement.

Article 7.

Les Parties contractantes auront le droit de nommer, auprès de la Commission de conciliation, des agents spéciaux qui serviront, en même temps, d'intermédiaires entre elles et la commission.

Article 8.

Sous réserve de l'article 5, alinéa 2, les décisions de la Commission de conciliation seront prises à la majorité simple des voix.

Article 9.

Les Parties contractantes s'engagent à faciliter, dans la plus large mesure possible, les travaux de la Commission de conciliation et, en particulier, à user de tous les moyens dont elles disposent, d'après leur législation intérieure, pour lui permettre de procéder, sur leur terri-

¹ DE MARTENS, *Nouveau Recueil général de Traités*, troisième série, tome III, page 360.

ficará al propio tiempo, a la Parte contraria por la Parte de que emana.

Artículo 4º.

La Comisión de conciliación se reunirá, salvo acuerdo en contrario, en el lugar designado por el Presidente.

Artículo 5º.

El procedimiento ante la Comisión de conciliación será contradictorio.

La Comisión misma fijará las reglas de procedimiento, teniendo en cuenta, salvo decisión en contrario adoptada por unanimidad, las disposiciones contenidas en el Título 3º de la Convención de La Haya¹ para el arreglo pacífico en los conflictos internacionales, de 18 de octubre de 1907.

Artículo 6º.

Las deliberaciones de la Comisión de conciliación serán secretas, salvo que la Comisión, de acuerdo con las Partes, decida lo contrario.

Artículo 7º.

Las Partes contratantes tendrán derecho a nombrar, ante la Comisión de conciliación, agentes especiales que sirvan de intermediarios entre ellas y la Comisión.

Artículo 8º.

Bajo reserva del artículo 5º, párrafo 2º, las decisiones de la Comisión de conciliación serán adoptadas por simple mayoría de votos.

Artículo 9º.

Las Partes contratantes se comprometen a facilitar en la más amplia medida posible, los trabajos de la Comisión de conciliación, y, en particular, a emplear todos los medios de que dispongan, según su legislación interior, para que pueda proceder, en su territorio, a la cita-

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

¹ TRADUCTION. — TRANSLATION.

No. 2589. — TREATY OF CONCILIATION, JUDICIAL SETTLEMENT AND ARBITRATION BETWEEN COLOMBIA AND SWITZERLAND. SIGNED AT BERNE, AUGUST 20, 1927.

THE SWISS FEDERAL COUNCIL and THE PRESIDENT OF THE REPUBLIC OF COLOMBIA, desirous of strengthening the ties of friendship which exist between Switzerland and Colombia and of submitting to pacific settlement any disputes that may arise between the two countries,

Have resolved to conclude a treaty for this purpose, and have appointed as their Plenipotentiaries :

THE SWISS FEDERAL CONCIL

M. Giuseppe MOTTA, President of the Confederation, Head of the Federal Political Department ;

THE PRESIDENT OF THE REPUBLIC OF COLOMBIA :

His Excellency M. Francisco J. DE URRUTIA, Envoy Extraordinary and Minister Plenipotentiary of Colombia in Switzerland ;

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

Article 1.

All disputes of any nature whatsoever which may arise between the two States and which it may not be possible to settle within a reasonable time by diplomacy shall, at the request of one of the Contracting Parties, be submitted to a procedure of conciliation.

In the event of the procedure of conciliation proving unsuccessful, the dispute shall, at the request of either Party, be submitted to judicial or arbitral procedure in conformity with Article 13 of the present Treaty.

The Contracting Parties may, however, agree that any individual dispute shall be settled by judicial means or by arbitration, without previous recourse to the procedure of conciliation.

Article 2.

The task of conciliation shall be entrusted to a Commission of three members, who shall be appointed for each individual case by the Contracting Parties.

The Contracting Parties shall each appoint one member of its own choosing and shall jointly appoint the third member, who shall be *ex officio* President of the Commission, from among the nationals of third Powers. The Commissioner thus jointly appointed shall not be domiciled in the territory of the Contracting Parties nor employed in their service.

The Conciliation Commission shall be constituted within three months of the date on which one of the Parties shall have notified the other of its intention to resort to conciliation proceedings.

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.

If the Commissioner to be chosen jointly is not appointed within this period, he shall be appointed at the request of one only of the Parties by the President of the Permanent Court of International Justice, or, if the latter is a national of one of the contracting States, by the Vice-president or the oldest member of the Court who is not a national of either of the contracting States.

Article 3.

It shall be the duty of the Conciliation Commission to elucidate the questions in dispute and to formulate, in a report, proposals with a view to the settlement of the case.

The Commission shall be informed of a question by an application addressed to its President by one of the Contracting Parties. Notice of this application shall be given at the same time to the other Party by the Party by whom it is made.

Article 4.

Unless otherwise agreed between the Parties, the Conciliation Commission shall meet at the place chosen by its President.

Article 5.

In proceedings before the Conciliation 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.

Article 6.

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

Article 7.

The Contracting Parties shall be entitled to appoint special agents to the Conciliation Commission; these agents shall also act as intermediaries between the Parties and the Commission.

Article 8.

Except as otherwise provided in Article 5, paragraph 2, the Conciliation Commission shall take its decisions by a majority vote of its members.

Article 9.

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

Article 10.

The Conciliation 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 11.

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 three months.

Article 12.

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

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

Article 13.

If one of the Parties does not accept the proposals of the Conciliation Commission, or does not announce its decision within the period prescribed in the report, either Party may have recourse to the Permanent Court of International Justice by a simple application if, in conformity with Article 36, paragraph 2, of the Statute of the Court, the dispute concerns :

- (a) The interpretation of a treaty ;
- (b) Any question of International Law ;
- (c) The existence of any fact which, if established, would constitute a breach of an international obligation ;
- (d) The nature or extent of the reparation to be made for the breach of an international obligation.

In the event of a disagreement as to whether the dispute is capable of judicial settlement in the sense of the preceding paragraph, the Court of Justice shall decide.

All other disputes shall be settled, at the request of either Party, by arbitration according to the provisions of Article 14 of the present Treaty.

Article 14.

Recourse to arbitration shall be governed by the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

If the arbitral tribunal is not constituted by agreement between the Parties within a period of three months from the date on which one of the Parties asked for arbitration, it shall be composed of five members chosen from the list of members of the Permanent Court of Arbitration at The Hague. Each of the Parties shall nominate one member of its own choosing ; the other three members, one of whom shall act as President, shall be appointed by agreement between the Parties. These three arbitrators must not be nationals of the Contracting Parties, nor be domiciled in their territory or employed in their service.

If the appointment of the arbitrators to be designated jointly or the appointment of the President is not made within six months from the date on which one of the Parties asked for

arbitration, the appointments shall be made in accordance with Article 45 of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

Article 15.

During the conciliation proceedings or the judicial or arbitration proceedings, 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 or the award of the arbitral tribunal.

Article 16.

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

Article 17.

The present Treaty shall be ratified. The instruments of ratification shall be exchanged at Berne 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 within six months before the expiry of this period, it shall be deemed to renewed for a further period of five years, and similarly thereafter.

If conciliation proceedings or judicial or arbitral proceedings are pending at the time of the expiration of the present Treaty, they shall pursue their course in accordance with the provisions of the present Treaty.

In faith whereof the Plenipotentiaries have signed the present Treaty.

Done in duplicate at Berne, the twentieth day of August, one thousand nine hundred and twenty-seven.

(L. S.) (Signed) MOTTA.

(L. S.) (Signed) DE URRUTIA.