

N° 3284.

ITALIE ET LUXEMBOURG

Traité de conciliation et de règlement judiciaire. Signé à Luxembourg, le 15 avril 1932.

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Treaty of Conciliation and Judicial Settlement. Signed at Luxemburg, April 15, 1932.

¹ TRADUCTION. — TRANSLATION.No. 3284. — TREATY ² OF CONCILIATION AND JUDICIAL SETTLEMENT BETWEEN THE KINGDOM OF ITALY AND THE GRAND-DUCHY OF LUXEMBURG. SIGNED AT LUXEMBURG, APRIL 15, 1932.

French official text communicated by the Minister of State, President of the Government of the Grand-Duchy of Luxemburg and by the Italian Minister for Foreign Affairs. The registration of this Treaty took place October 25, 1933.

HER ROYAL HIGHNESS THE GRAND-DUCHESS OF LUXEMBURG and HIS MAJESTY THE KING OF ITALY,

Inspired by the friendly relations that happily unite their two countries;

Considering that their collaboration in the work of peace has already been confirmed by their common accession to the Treaty ³ of London of May 11, 1867, the Covenant of the League of Nations and the Pact ⁴ for the Renunciation of War signed at Paris on August 28, 1928;

Desirous of developing this policy of confidence and understanding;

Sincerely convinced of the need for promoting, in the interests of universal peace, the development of the procedures for the pacific settlement of international disputes, and, in all cases, of ensuring the pacific settlement of any disputes that may arise between their countries;

Have resolved to conclude a treaty of conciliation and judicial settlement for these purposes and have appointed as their Plenipotentiaries :

HER ROYAL HIGHNESS THE GRAND-DUCHESS OF LUXEMBURG :

M. Joseph BECH, Her Minister of State, President of the Government ;

HIS MAJESTY THE KING OF ITALY :

M. Girolamo DE' ROSSI, His Envoy Extraordinary and Minister Plenipotentiary at Luxemburg ;

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

Article 1.

The Contracting Parties, in view of the friendly and confident relations existing between them, 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.

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.

² The exchange of ratifications took place at Luxemburg, October 20, 1933.

³ *British and Foreign State Papers*, Vol. 57, page 32.

⁴ Vol. XCIV, page 57 ; and Vol. CXXXIV, page 411, of this Series.

In the event of the procedure of conciliation proving unsuccessful, a judicial settlement shall be sought in conformity with Articles 15 *et seq.* of the present Treaty.

The above shall not apply to disputes for the solution 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 municipal law 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 judgment has been given by the competent judicial authority.

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 his own choosing, the other three being appointed by joint agreement. The latter may not be subjects of the Contracting Parties nor be domiciled in their territory nor be employed in their service.

The President of the Commission shall be appointed by joint agreement 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 his nominee and replace him by another, and also to withdraw his 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 seized 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.

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

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 Title III of the Hague Convention of October 18, 1907, for the pacific settlement of international disputes, unless the Commission unanimously decides otherwise.

Article 8.

The deliberation of the Commission shall be heard 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 when 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 three 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 his own costs and half the costs of the Commission.

Article 15.

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

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 16.

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 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 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 17.

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 18.

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 Court of Justice upon a simple application for this purpose by either Party.

Article 19.

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 20.

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.

Article 21.

The present Treaty shall be ratified and the instruments of ratification shall be exchanged at Luxemburg 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 in duplicate at Luxemburg on April 15, 1932.

(Signed) JOS. BECH.

(Signed) G. DE' ROSSI.