

N° 1700.

ITALIE ET LITHUANIE

Traité de conciliation et de règlement judiciaire. Signé à Rome, le 17 septembre 1927.

ITALY AND LITHUANIA

Treaty of Conciliation and Judicial Settlement. Signed at Rome, September 17, 1927.

¹ TRADUCTION. — TRANSLATION.No. 1700. — TREATY ² OF CONCILIATION AND JUDICIAL SETTLEMENT BETWEEN ITALY AND LITHUANIA. SIGNED AT ROME, SEPTEMBER 17, 1927.

French official text communicated by the Italian Minister for Foreign Affairs. The registration of this Treaty took place May 7, 1928.

HIS MAJESTY THE KING OF ITALY and THE PRESIDENT OF THE LITHUANIAN REPUBLIC, animated by the spirit of cordiality which characterises the relations between Italy and Lithuania, have decided to conclude a Treaty for the friendly settlement of any disputes which may arise between the two countries,

And have appointed as their Plenipotentiaries for this purpose ;

HIS MAJESTY THE KING OF ITALY :

His Excellency Benito MUSSOLINI, Head of the Government, Prime Minister and Secretary of State, Secretary of State for Foreign Affairs ;

THE PRESIDENT OF THE LITHUANIAN REPUBLIC :

His Excellency Augustinas VOLDEMARAS, President of the Council of Ministers, Minister for Foreign Affairs ;

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

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 in 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

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, February 22, 1928.

dispute to a procedure of conciliation or, if necessary, to judicial settlement, until a final judgment has been given by the competent judicial authority.

In this case the request for conciliation 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 joint agreement. The latter 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 from among the jointly selected members.

So long as the procedure has not begun, each Contracting Party shall have the right to withdraw the commissioner appointed by it 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 members whose mandate is terminated shall be replaced without delay.

Commissioners shall be replaced in the manner fixed for 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 facilitate the settlement of the dispute by elucidating questions of fact by means of an impartial and conscientious examination, and by formulating proposals with a view to settling the dispute.

The Commission shall be informed by means of a request addressed to its president by one of the Contracting Parties.

This request shall be notified at the same time to the other Party by the Party which applies for the opening of the procedure of conciliation.

Article 6.

The Commission shall meet, in the absence of an agreement to the contrary, at a place chosen by its president.

Article 7.

In proceedings before the Commission both Parties shall be heard.

The Commission shall lay down its own procedure, regard being had, unless the Commission decides unanimously to the contrary, to the provisions of Chapter III of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

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

Article 8.

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

Article 9.

The Contracting Parties shall be entitled to appoint special agents to 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 simple majority vote 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 use all the means at their disposal under their domestic legislation to allow it to proceed in their territory to the summoning and hearing of witnesses or experts, and to visit the localities in question.

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 extend 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 a 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.

Before the settlement of a dispute, the report of the Commission may not be published by one of the Parties without the consent of the other Party.

Article 16.

If one of the Parties does not accept the proposals of the Permanent Conciliation Commission or does not give a 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 Court, the case is not of a juridical nature, the Parties shall agree to its being settled *ex aequo 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 Parties is wholly or partly at variance with international law, and should the constitutional law of that Party not allow, or only inadequately allow, of 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 executed by the Parties in good faith.

Any difficulties regarding the interpretation of the judgment shall be settled by the Permanent Court of International Justice 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 judgement 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 an agreement to the contrary, be submitted direct to the Permanent Court of International Justice by a 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, and Vol. LXIX, page 70, of this Series.

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, in consequence, shall not limit the powers and jurisdiction of the League of Nations.

It is nevertheless understood that any dispute which may arise between the Contracting Parties must first be submitted to the procedure laid down in Article 1 of the present Treaty, before being submitted to the Council of the League of Nations under 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 ratifications have been exchanged. It shall be concluded for ten years as from the date of its coming into force. If it is not 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 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 on the seventeenth day of September, one thousand nine hundred and twenty-seven.

For Italy :

(L. S.) Benito MUSSOLINI.

For Lithuania :

(L. S.) Prof. A. VOLDEMARAS.