

N° 1403.

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**ESPAGNE ET SUISSE**

Traité de conciliation et règlement  
judiciaire. Signé à Madrid, le 20  
avril 1926.

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**SPAIN AND SWITZERLAND**

Treaty of Conciliation and Judicial  
Settlement. Signed at Madrid,  
April 20, 1926.

## TEXTE ESPAGNOL. — SPANISH TEXT.

N<sup>o</sup> 1403. — TRAITÉ<sup>1</sup> DE CONCILIATION ET RÈGLEMENT JUDICIAIRE ENTRE LA SUISSE ET L'ESPAGNE. SIGNÉ A MADRID, LE 20 AVRIL 1926.

N<sup>o</sup> 1403. — TRATADO<sup>1</sup> DE CONCILIACION Y DE ARREGLO JUDICIAL ENTRE ESPAÑA Y SUÍZA, FIRMADO EN MADRID EL 20 DE ABRIL DE 1926.

*Textes officiels français et espagnol communiqués par le Conseil fédéral suisse. L'enregistrement de ce traité a eu lieu le 8 février 1927.*

*French and Spanish official texts communicated by the Swiss Federal Council. The registration of this Treaty took place February 8, 1927.*

LE CONSEIL FÉDÉRAL SUISSE et SA MAJESTÉ LE ROI D'ESPAGNE, animés du désir de resserrer les liens d'amitié existant entre les deux pays et de contribuer au maintien de la paix générale en donnant, dans leurs rapports réciproques, la plus large application possible aux principes consacrés par le Pacte de la Société des Nations, notamment par son article XIII ;

EL CONSEJO FEDERAL SUIZO y SU MAJESTAD EL REY DE ESPAÑA animados del deseo de estrechar los lazos de amistad existentes entre los dos Países y de contribuir al mantenimiento de la paz general dando, en sus reciprocas relaciones, la más amplia aplicación posible a los principios consagrados por el Pacto de la Sociedad de las Naciones, especialmente en su art. XIII,

Se fondant sur l'article XXI du même Pacte, Ont résolu de conclure un traité général de conciliation et de règlement judiciaire, et ont désigné dans ce but leurs plénipotentiaires, savoir :

Y fundándose en el art. XXI del citado Pacto, Han resuelto celebrar un Tratado general de conciliación y de arreglo judicial, y han designado a tal efecto como Plenipotenciarios, a saber :

LE CONSEIL FÉDÉRAL SUISSE :

M. Maxime DE STOUTZ, envoyé extraordinaire et ministre plénipotentiaire de Suisse en Espagne ;

EL CONSEJO FEDERAL SUIZO :

al Sr. Maxime DE STOUTZ, Enviado Extraordinario y Ministro Plenipotenciario de Suiza en España,

SA MAJESTÉ LE ROI D'ESPAGNE :

Son Excellence Don José DE YANGUAS Y MESSIA, son ministre d'Etat ;

SU MAJESTAD EL REY DE ESPAÑA :

al Excmo. Señor Don José DE YANGUAS Y MESSIA, Su Ministro de Estado,

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

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

<sup>1</sup> L'échange des ratifications a eu lieu à Berne, le 29 janvier 1927.

<sup>1</sup> The exchange of ratifications took place at Berne, January 29, 1927.

<sup>1</sup> TRADUCTION. — TRANSLATION.No. 1403. — TREATY OF CONCILIATION AND JUDICIAL SETTLEMENT  
BETWEEN SPAIN AND SWITZERLAND. SIGNED AT MADRID  
APRIL 20, 1926.

THE SWISS FEDERAL COUNCIL and HIS MAJESTY THE KING OF SPAIN, being desirous of strengthening the ties of friendship which unite the two countries and of helping to maintain peace in general by applying on the widest possible basis, in their mutual relations, the principles embodied in the Covenant of the League of Nations and particularly in Article XIII;

Acting in the spirit of Article XXI of the aforesaid Covenant,

Have decided to conclude a general Treaty of conciliation and judicial settlement, and have appointed as their Plenipotentiaries:

THE SWISS FEDERAL COUNCIL :

M. Maxime DE STOUTZ, Swiss Envoy Extraordinary and Minister Plenipotentiary in Spain ;

HIS MAJESTY THE KING OF SPAIN :

His Excellency Don José DE YANGUAS Y MESSIA, His Minister of State ;

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 the 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, judicial settlement shall be sought in conformity with Article 7 *et seq.* of the present Treaty.

Disputes for the solution of which a special procedure is laid down by other agreements in force between the Contracting Parties shall however be subject to such special procedure.

*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 if necessary, to a judicial settlement, so long as no final judgment has been given by the court in question. Should the plaintiff Party desire to contest this decision, the procedure of conciliation must be applied to the dispute within a period of one year reckoned from the date of the decision.

*Article 3.*

The Contracting Parties shall establish a permanent Conciliation Commission consisting of five members.

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<sup>1</sup> Traduit par le Secrétariat de la Société des Nations.

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<sup>1</sup> Translated by the Secretariat of the League of Nations.

Each Party shall appoint one member of its own choice, the other three being appointed by agreement between the Parties. The three latter members may not be nationals of the Contracting Parties, or be domiciled in their territories or be employed in their service. The Contracting Parties shall, by agreement, appoint one of these three members as President.

So long as no proceedings have been begun, either Contracting Party may revoke the appointment of its Commissioner and appoint a successor, and may also withdraw its consent to the appointment of any of the three Commissioners appointed jointly. In this case the Commissioners whose mandates have been withdrawn shall be replaced without delay.

The method of replacing commissioners shall be the same as that governing their appointment.

For the actual duration of the procedure, the jointly appointed Commissioners shall receive an allowance, to be fixed by an arrangement between the Contracting Parties and borne by them in equal shares. On the other hand, each Party shall fix and be responsible for the allowance of the Commissioners appointed by itself.

The general expenses of the Commission shall be borne by the Contracting Parties in equal shares.

The Commission shall be constituted within six months after the exchange of ratifications of the present Treaty. It shall meet in the place appointed by its President.

If the appointment of the members to be nominated jointly is not made within six months as from the exchange of ratifications, or in the case of replacement, within three months after the vacancy occurs, these appointments shall be made in conformity with Article 45 of The Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

#### Article 4.

Failing any special agreement to the contrary, the procedure of conciliation shall be governed by the rules laid down in The Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

#### Article 5.

The Commission may be seized of a question by one of the Parties, who shall notify its request to the President of the Commission and the opposing Party.

The Commission may, however, offer its services should its President and two of the Commissioners agree to such a course of action.

The Contracting Parties undertake in all circumstances to give all possible assistance to the Commission in its work and in particular, to employ all the means they possess, under their municipal law, to invest it with the same powers as their Supreme Courts as regards the calling and hearing of witnesses and experts, and the carrying out of investigations *in situ*.

#### Article 6.

It shall be the duty of the Conciliation Commission to consider the various questions submitted to it, and to embody the results of its enquiry in a report, the object of which shall be to elucidate questions of fact and thus facilitate the settlement of disputes. In its report it shall state the controversial issues which the aforesaid questions raise, and shall then proceed to make such recommendations as would, in its opinion, be calculated to lead to an agreement between the Parties.

The Commission's report shall be presented within six months from the date on which the dispute is submitted to it, unless the Contracting Parties decide to curtail or extend this period. The report shall be drawn up in triplicate, one copy being sent to each of the Parties and the third being filed in the archives of the Commission.

The Commission shall prescribe a period within which the Parties will be required to take their decision as regards its recommendations, and also a period within which the Parties may,

in case the procedure of conciliation should fail, submit the dispute to judicial settlement. These periods may not, however, exceed a limit of six months, in the case of the first period, and three months, in the case of the second period.

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

*Article 7.*

Should the Parties not accept the recommendations of the Commission of Conciliation, either of them may, within the period prescribed by the latter, 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 aequo et bono*.

*Article 8.*

Nevertheless, the Contracting Parties may decide to refer any dispute to a Court of Arbitration established in conformity with Article 55 *et seq.* of the Convention of October 18, 1907, for the Pacific Settlement of International Disputes, or in conformity with any other agreement concluded between them.

*Article 9.*

On the basis of the Statute and Rules of the Permanent Court of International Justice, the Contracting Parties shall draw up a special agreement (*compromis*) specifying the subject of the dispute, the particular competence that might devolve on the Permanent Court of International Justice, and any other conditions agreed upon between themselves.

The Agreement shall be constituted by an Exchange of Notes between the Governments of the Contracting Parties and all points contained therein shall be interpreted by the Court of International 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 International Justice by a simple application.

*Article 10.*

If, in a decision rendered in conformity with the present Treaty, it is found that a ruling of a court of law or of any 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, the cancellation of this decision by administrative procedure, the Party prejudiced shall be granted equitable satisfaction in some other form.

*Article 11.*

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

During the procedure of conciliation or the judicial procedure, the Contracting Parties shall undertake to abstain as far as possible from all measures which might prejudicially affect the acceptance of the proposals of the Conciliation Commission, or the execution of the judgment.

*Article 12.*

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 13.*

The present Treaty shall be ratified as soon as possible, and the instruments of ratification shall be exchanged at Berne.

The Treaty shall remain in force for a period of ten years from the date of the exchange of ratifications. Unless denounced six months before the expiration of this period, it shall remain in force 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 of 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 Madrid, the twentieth day of April, One thousand nine hundred and twenty-six.

(L. S.) (*Signed*) M. DE STOUTZ.

(L. S.) (*Signed*) JOSÉ DE YANGUAS.

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