

N° 1797.

ALLEMAGNE ET ITALIE

Traité de conciliation et d'arbitrage.
Signé à Rome, le 29 décembre
1926.

GERMANY AND ITALY

Treaty of Conciliation and Arbitra-
tion. Signed at Rome, Decem-
ber 29, 1926.

TEXTE ALLEMAND. — GERMAN TEXT.

N^o 1797. — VERGLEICHS-¹ UND SCHIEDSGERICHTSVERTRAG ZWISCHEN DEM KÖNIGREICH ITALIEN UND DEM DEUTSCHEN REICHE. GEZEICHNET IN ROM, DEN 29. DEZEMBER 1926.

German and Italian official texts communicated by the Italian Minister for Foreign Affairs. The registration of this Treaty took place July 21, 1928.

SEINE MAJESTÄT DER KÖNIG VON ITALIEN UND DER DEUTSCHE REICHSPRÄSIDENT, von dem Wunsche erfüllt, die zwischen ihren beiden Ländern bestehenden freundschaftlichen Beziehungen zu festigen und zur Aufrechterhaltung des allgemeinen Friedens beizutragen, haben beschlossen, einen Vergleichs- und Schiedsgerichtsvertrag abzuschliessen.

Zu diesem Zwecke haben zu Bevollmächtigten ernannt :

SEINE MAJESTÄT DER KÖNIG VON ITALIEN :

den Chef der Regierung, Premierminister und Minister der Auswärtigen Angelegenheiten.
BENITO MUSSOLINI

DER DEUTSCHE REICHSPRÄSIDENT :

den deutschen Botschafter bei Seiner Majestät dem König von Italien CONSTANTIN
FREIHERRN VON NEURATH

die, nachdem sie ihre Vollmachten geprüft und in guter und gehöriger Form befunden haben, über folgende Bestimmungen übereingekommen sind :

Artikel 1.

Die vertragschliessenden Teile verpflichten sich, die Streitigkeiten, die zwischen ihnen entstehen und nicht auf dem gewöhnlichen diplomatischen Wege in freundschaftlicher Weise geschlichtet werden können, einem Vergleichsverfahren zu unterwerfen.

Die Bestimmung findet keine Anwendung auf Streitigkeiten, die aus Tatsachen entsprungen sind, die zeitlich vor dem gegenwärtigen Verträge liegen und der Vergangenheit angehören.

Falls das Vergleichsverfahren nicht zum Erfolge führt, wird die Streitigkeit nach Massgabe der Artikel 8 ff des gegenwärtigen Vertrages vor ein Schiedsgericht oder vor den Ständigen Internationalen Gerichtshof im Haag ² gebracht werden.

Streitigkeiten, für deren Schlichtung die vertragschliessenden Teile durch andere zwischen ihnen bestehende Abmachungen an ein besonderes Verfahren gebunden sind, werden auf der Grundlage der Bestimmungen dieser Abmachungen geregelt.

¹ The exchange of ratifications took place at Rome, July 16, 1928.

² 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 ; Vol. LXIX, page 70 ; Vol. LXXII, page 452, and Vol. LXXVIII, page 435, of this Series.

¹ TRANSLATION.

No. 1797. — TREATY OF CONCILIATION AND ARBITRATION BETWEEN THE KINGDOM OF ITALY AND THE GERMAN REICH. SIGNED AT ROME, DECEMBER 29, 1926.

HIS MAJESTY THE KING OF ITALY and THE PRESIDENT OF THE GERMAN REICH, being desirous of strengthening the friendly relations at present existing between the two countries and of contributing to the maintenance of general peace, have decided to conclude a Treaty of Conciliation and Arbitration.

For this purpose they have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF ITALY :

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

THE PRESIDENT OF THE GERMAN REICH :

His Excellency Baron Constantino VON NEURATH, German Ambassador to His Majesty the King of Italy ;

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 any disputes which may arise between them and which it may not have been possible to settle amicably by the normal methods of diplomacy.

This provision does not apply to disputes arising out of events prior to the present Treaty and belonging to the past.

In the event of the procedure of conciliation proving unsuccessful, the dispute shall be submitted to arbitration or to the Permanent Court of International Justice at The Hague, in accordance with Article 8 *et seq.* of the present Treaty.

Disputes for the settlement of which a special procedure is laid down in other Conventions in force between the Contracting Parties shall be settled in conformity with the provisions of those Conventions.

Article 2.

Should disputes to which the procedure laid down in Articles 1, 8 and 9 is applicable, under the terms of the present Treaty, come within the competence of a judicial or administrative authority in accordance with the municipal law of the Party against which a demand has been formulated, such Party may require that the dispute shall not be submitted to a procedure of conciliation or, alternatively, in conformity with Articles 8 *et seq.*, to arbitration or to the Permanent Court of International Justice, until a final decision has been pronounced by the aforesaid

¹ Translated by the Secretariat of the League of Nations, for information.

judicial or administrative authority. Should one of the Parties intend to dispute the decision of the judicial or administrative authority, the question must be submitted to a procedure of conciliation not later than one year after the date of such decision.

Article 3.

Should the Arbitral Tribunal, or the Permanent Court of International Justice, state in its finding that a decision or final judgment of a court of law or other authority of one of the Parties is wholly or partly at variance with international law and should the constitutional law of that Party not allow of the cancellation of such decision or judgment by administrative procedure, the injured Party may submit the dispute to the Conciliation Commission in order that the latter may decide whether equitable satisfaction in some other form should be granted.

Article 4.

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

Each Contracting Party shall nominate one member of its own choosing, the other three members being appointed by joint agreement. The three latter members may not be nationals of the contracting States nor be domiciled in their territories nor may they be employed or have been employed in their service. The Contracting Parties shall appoint the President by agreement from among these members.

So long as proceedings have not begun, each Party shall have the right to withdraw the member appointed by it and to replace him by another. Subject to the same condition, each Party may withdraw its consent to the appointment of any of the three members nominated jointly. In this case another member shall be appointed by agreement without delay. Members shall be replaced by the same method as was observed in their appointment.

Five deputy members shall be appointed in the manner as indicated in the foregoing paragraphs.

The Permanent Conciliation Commission shall meet at the place chosen by the President.

Article 5.

Each Party shall pay the expenses of the member of the Permanent Conciliation Commission appointed by itself and one-half of the expenses of the other members. Each Party shall further bear the costs which it has itself occasioned and one half of those which the Permanent Conciliation Commission declares to be joint costs.

Article 6.

The Permanent Conciliation Commission shall enter on its duties immediately upon a request being made to it by either Party. The Party making the request shall forward its application simultaneously to the President of the Permanent Conciliation Commission and to the other Party.

The Contracting Parties undertake to facilitate in every case and in all respects the work of the Permanent Conciliation Commission and, in particular, to enable the Commission to proceed in their respective territories in accordance with the rules governing their Courts to the summoning and hearing of witnesses or experts, and to visit the localities in question.

Article 7.

The Permanent Conciliation Commission shall examine the special questions referred to it and shall set forth the results of its investigations in a report, the aim of which shall be to elucidate the facts of the case and facilitate the settlement of the dispute. In this report the Conciliation Commission shall define the points at issue and make proposals for settling the dispute.

The report shall be drawn up within six months from the date on which the dispute was submitted to the Permanent Conciliation Commission, unless the Parties agree on a different time-limit.

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

The Parties must give a decision on the Commission's proposals within three months.

The report of the Permanent Conciliation Commission shall not, either as regards statements of facts or as regards legal considerations, be in the nature of a final judgment binding upon the Parties.

Article 8.

Should the Parties disagree on a point of law, and should they not accept the proposals of the Conciliation Commission, the dispute shall be submitted, by means of an agreement (*compromis*), to a special Arbitral Tribunal.

Article 9.

In the case indicated in the foregoing Article, the Parties may submit the dispute to the Permanent Court of International Justice at The Hague instead of to a special Arbitral Tribunal; in that case, they shall jointly draw up a statement specifying the questions on which a decision is requested. Should the Parties not agree as to the terms of this statement, either Party shall be entitled, two months after notice has been given to the other Party, to bring the question in dispute directly before the International Court of Justice by a simple application.

Article 10.

The judgment given by the Arbitral Tribunal or by the Permanent Court of International Justice shall be executed by the Parties in good faith.

The Contracting Parties shall undertake, during the course of the proceedings before the Conciliation Commission, the Arbitral Tribunal, or the Permanent Court of International Justice, to refrain, as far as possible, from any action which might prejudice the acceptance of the proposals of the Permanent Conciliation Commission or the judgment of the Arbitral Tribunal or of the Permanent Court of International Justice.

The Arbitral Tribunal may, at the request of either of the Parties, prescribe conservatory measures provided that such measures can be carried out by the Parties through their administrative machinery. The Permanent Conciliation Commission may also make proposals for the same purpose.

Article 11.

The Permanent Conciliation Commission shall lay down its own procedure, regard being had to the provisions of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

Except as otherwise provided in the present Treaty or in the special arbitration agreement, the procedure of the Arbitral Tribunal shall be regulated by the said Hague Convention of October 18, 1907.

In so far as the present Treaty refers to the stipulations of the Hague Convention, the latter shall continue to be applicable to the relations between the Contracting Parties, even if one or both of them should denounce the said Convention.

Article 12.

This Treaty shall apply as between the Contracting Parties even if other States are equally concerned in the dispute.

Should it be possible, however, to submit the dispute, jointly with the other States concerned, to a single procedure of arbitration or judicial settlement, the Contracting Parties shall come to an agreement to that effect.

Article 13.

The present Treaty shall not apply to disputes which, under the terms of Treaties in force between the two Parties, and according to international law, fall within the jurisdiction of either Party. It shall likewise not apply to rights and obligations arising out of the Locarno Pact.

Article 14.

The present Treaty shall not in any way affect the rights and obligations of the Contracting Parties as Members of the League of Nations, nor shall it in any way restrict the powers and competence of the League.

Article 15.

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

Article 16.

The present Treaty shall remain in force for a period of ten years. If not denounced six months before the expiry of this period, it shall remain in force for a further period of five years, and similarly thereafter.

Proceedings which are still pending on the date when the present Treaty is due to expire, shall unless otherwise agreed between the Parties be settled in accordance with its terms.

In faith whereof the Plenipotentiaries have signed the present Treaty.

Done in duplicate in Italian and German, both texts being equally authentic.

ROME, *December 29, 1926.*

(*L. S.*) Benito MUSSOLINI.

(*L. S.*) C. VON NEURATH.