

N° 2002.

FINLANDE ET ITALIE

Traité de conciliation et de règlement judiciaire. Signé à Helsinki, le 21 août 1928.

FINLAND AND ITALY

Treaty of Conciliation and Judicial Settlement. Signed at Helsinki, August 21, 1928.

¹ TRADUCTION. — TRANSLATION.No. 2002. — TREATY² OF CONCILIATION AND JUDICIAL SETTLEMENT BETWEEN FINLAND AND ITALY. SIGNED AT HELSINKI, AUGUST 21, 1928.

French official text communicated by the Italian and Finnish Ministers for Foreign Affairs. The registration of this Treaty took place May 1, 1929.

HIS MAJESTY THE KING OF ITALY and the PRESIDENT OF THE FINNISH REPUBLIC, being desirous of strengthening still further the ties of friendship which unite Italy and Finland, have decided to conclude a treaty for the friendly settlement of disputes which may arise between the two countries and have for this purpose appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF ITALY :

Count Emilio PAGLIANO, Envoy Extraordinary and Minister Plenipotentiary of Italy in Finland ;

THE PRESIDENT OF THE FINNISH REPUBLIC :

M. Hj. J. PROCOPÉ, 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, before having recourse to judicial procedure, to submit to a procedure of conciliation all disputes of any nature whatsoever which may arise between them and which it may not have been possible to settle through the diplomatic channel.

It shall be for each of the Contracting Parties to decide, within a reasonable time, at what moment the procedure of conciliation may be replaced by diplomatic negotiations.

Article 2.

In the case of a dispute which, according to the laws of one of the Parties, comes within the jurisdiction of a judicial authority, the defendant Party may oppose the submission of the dispute to a procedure of conciliation and, if necessary, to judicial settlement, so long as a final decision thereon has not been given by the judicial authority in question. Should the plaintiff Party desire to contest this judicial decision, the dispute must be submitted to the procedure of conciliation within one year at most from the date of such decision.

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 Rome, April 26, 1929.

Article 3.

The Contracting Parties shall establish a Permanent Conciliation Commission, composed of five members, within six months after the ratifications of the present Treaty have been exchanged.

Each Party shall nominate one member of its own choosing, the other three being appointed by agreement between the Parties. These three members 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 between the Parties from among the jointly selected members.

The members of the Commission shall be appointed for three years. Unless otherwise agreed between the Parties the appointments of the members jointly selected shall not be revoked during their term of office.

Article 4.

Vacancies which may occur as a result of the death or retirement of any member of the Conciliation Commission shall be filled for the remainder of the term of office of such member, if possible within the following three months, and in any case as soon as a dispute is submitted to the Commission.

Should one of the members of the Conciliation Commission appointed by common agreement by the Contracting Parties be temporarily prevented by illness or any other cause from taking part in the Commission's work, the Parties shall agree to appoint a substitute to take his place for the time being. If the appointment of this substitute is not made within three months from the time when the seat became temporarily vacant, the procedure laid down in Article 5 of the present Treaty shall apply.

If upon the expiry of the term of office of a member of the Commission, no arrangement has been made for his replacement, his term of office shall be deemed to be renewed for a period of three years. Nevertheless, the Parties reserve the right to transfer, on the expiry of the term of three years, the functions of President to another of the members of the Commission appointed by common agreement.

Any member whose term of office expires while a procedure is in progress shall continue to take part in the examination of the dispute until the close of the procedure, even if his successor has been appointed.

Article 5.

If the appointment of the members of the Conciliation Commission who are to be nominated jointly, or of the President, is not made within the prescribed period of six months or, in case of replacement, within three months after the vacancy occurs, the appointments shall be made, at the request of one Party only, by the President of the Permanent Court of International Justice or, should the latter be a national of one of the contracting States, by the Vice-President, or, should the latter be in the same position, by the oldest member of the Court.

Article 6.

Within fifteen days from the date on which one of the Contracting Parties shall have brought a dispute before the Conciliation Commission, either Party may, for the examination of such dispute, replace the permanent member whom it has appointed by a person possessing special competence in the matter.

The Party intending to make use of this right shall immediately inform the other Party ; in this case the latter shall be entitled to avail itself of the same right within fifteen days from the date on which it shall have received notification.

Each Party, however, reserves the right to appoint immediately a deputy to replace temporarily a permanent member appointed by it who may be prevented by illness or any other cause from taking part in the Commission's work.

Article 7.

The task of the Conciliation Commission shall be to facilitate the settlement of the dispute by elucidating questions of fact by means of an impartial and conscientious enquiry and by formulating proposals for the settlement of the dispute, in conformity with the provisions of Article 12 of the present Treaty.

The Commission shall be informed of a dispute by means of a request forwarded to the President of the Commission by either of the Contracting Parties. Notification of such request shall at the same time be made to the other Party by the Party which has asked for the opening of the conciliation procedure.

Article 8.

The Conciliation Commission shall, in the absence of agreement to the contrary, meet at the place selected by its President.

Article 9.

In proceedings before the Commission both Parties shall be heard.

The Commission shall draw up its own rules of procedure, regard being had, in the absence of a unanimous decision to the contrary, to the provisions of Part III of The Hague Convention¹ of October 18th, 1907, for the Pacific Settlement of International Disputes.

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

Article 10.

Unless otherwise provided in the present Treaty, the decisions of the Conciliation Commission shall be taken by a majority vote. Each member shall have one vote.

Article 11.

The Contracting Parties shall supply the Conciliation Commission with all necessary information and shall facilitate its work in every respect and to the greatest possible extent.

Article 12.

The Conciliation Commission shall submit its report within six months from the date on which it is informed of the dispute, unless the Contracting Parties decide by common agreement to extend this period.

The report shall include, whenever circumstances permit, proposals for the settlement of the dispute.

The opinion of the members who are in the minority, accompanied by a statement of reasons, shall be included in the report.

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

A copy of the report, signed by the President, 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 Parties shall inform each other and the President of the Conciliation Commission within a reasonable period, which shall not in any case exceed three months, whether they accept the findings of the report and the proposals contained therein.

It will be for the Parties to decide by agreement whether the report of the Commission and the minutes of the discussions may be published before the expiration of the period during which they have to give their opinion on the proposals in the report.

Article 14.

For the actual duration of the procedure, the members of the Conciliation Commission 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 15.

If one of the Contracting 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 request that the dispute be submitted to the Permanent Court of International Justice¹.

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 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 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 17.

Should the Permanent Court of International Justice find that a decision 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

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 ; Vol. LXIX, page 70 ; Vol. LXXII, page 452 ; Vol. LXXXVIII, page 435 ; and Vol. LXXXVIII, page 272, of this Series.

allow, of the consequences of the decision in question being annulled 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 executed by the Parties in good faith.

Any difficulties to which the interpretation of the judgment may give rise shall be settled by the Court of Justice, which may be informed for this purpose by either Party by means of a simple application.

Article 19.

During the procedure of conciliation or the judicial procedure, the Contracting Parties shall abstain from any measure 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 a simple application.

Article 21.

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

The Treaty shall come into force immediately the ratifications 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, such procedure 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 Helsinki on August 21, 1928.

PAGLIANO.

Hj. J. PROCOPÉ.