

N° 2465.

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**LUXEMBOURG ET SUISSE**

Traité de conciliation, de règlement  
judiciaire et d'arbitrage. Signé à  
Genève, le 16 septembre 1929.

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**LUXEMBURG  
AND SWITZERLAND**

Treaty of Conciliation, Judicial  
Settlement and Arbitration. Signed  
at Geneva, September 16, 1929.

<sup>1</sup> TRADUCTION. — TRANSLATION.No. 2465. — TREATY <sup>2</sup> OF CONCILIATION, JUDICIAL SETTLEMENT AND ARBITRATION BETWEEN LUXEMBURG AND SWITZERLAND. SIGNED AT GENEVA, SEPTEMBER 16, 1929.

*French official text communicated by the Minister of State, President of the Government of the Grand Duchy of Luxembourg and by the Swiss Federal Council. The registration of this Treaty took place September 18, 1930.*

HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBURG and THE SWISS FEDERAL COUNCIL, being desirous of strengthening the ties of friendship between Luxembourg and Switzerland and of promoting, in the interests of general peace, the development of procedure for the pacific settlement of international disputes,

Have resolved to conclude a Treaty for this purpose and have appointed as their Plenipotentiaries :

HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBURG :

M. Joseph BECH, Minister of State, Head of the Government ;

THE SWISS FEDERAL COUNCIL :

M. Giuseppe MOTTA, Federal Councillor, Head of the Federal Political Department ;

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

*Article 1.*

The Contracting Parties reciprocally undertake to settle, in accordance with the methods provided for in the present Treaty, all disputes of any nature whatsoever which may arise between them and which it may not have been possible to settle in a reasonable time through the diplomatic channel.

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

*Article 2.*

In the case of a dispute the subject of which, according to the municipal law of one of the Parties, falls within the competence of the national courts, the dispute shall not be submitted to one or other of the procedures laid down in the present Treaty until a final judgment has been pronounced, within a reasonable time, by the competent judicial authority.

<sup>1</sup> Traduit par le Secrétariat de la Société des Nations, à titre d'information.

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

<sup>2</sup> The exchange of ratifications took place at Geneva, September 15, 1930.

*Article 3.*

Before any recourse is had to judicial procedure or to arbitration, the dispute shall, at the request of either Party, be submitted with a view to amicable settlement to a permanent international commission, styled the Permanent Conciliation Commission.

*Article 4.*

The Permanent Conciliation Commission shall be composed of five members, who shall be appointed as follows, that is to say : the Contracting Parties shall each nominate a Commissioner chosen from among their respective nationals, and shall appoint, by common agreement, the other three Commissioners from among the nationals of third States ; those three Commissioners must be of different nationalities, and the Contracting Parties shall appoint the President of the Commission from among them.

The Commissioners are appointed for three years. 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. The Commissioners shall remain in office until they are replaced, and in any case until the termination of the work in hand at the moment of the expiry of their term of office.

Vacancies which may occur as a result of death, resignation or any other cause, shall be filled within the shortest possible time in the manner fixed for the appointments.

*Article 5.*

The Conciliation Commission shall be constituted within six months from the entry into force of the present Treaty.

If the appointment of the Commissioners to be designated by common agreement should not have been made within the said period, or, in the case of the filling of a vacancy, within three months from the time when the seat falls vacant, the President of the Permanent Court of International Justice shall, in the absence of other agreement, be requested to make the necessary appointments.

*Article 6.*

The Permanent Conciliation Commission shall be informed by means of a request addressed to the President by the two Parties acting in agreement, or, in default thereof, by one or other of the Parties.

The request, after giving a summary account of the subject of the dispute, shall contain an invitation to the Commission to take all necessary measures with a view to arriving at an amicable settlement.

If the request emanates from only one of the Parties, notification thereof shall be given without delay by that Party to the other Party.

*Article 7.*

Within fifteen days from the date on which the dispute shall have been brought before the Conciliation Commission, either Party may, for the examination of the particular dispute, replace its own Commissioner by a person possessing special competence in the matter.

The Party making use of this right shall immediately notify the other Party ; the latter shall in such case be entitled to take similar action within fifteen days from the date on which the notification reaches it.

*Article 8.*

The task of the Conciliation Commission shall be to elucidate the questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the Parties to an agreement.

The Commission shall submit its report within six months from the day on which it was notified of the dispute, unless the Contracting Parties mutually agree to extend this period.

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

The Commission shall fix the period within which the Parties must make their decision in regard to its proposals. This period shall not, however, exceed three months.

*Article 9.*

Failing any special provision to the contrary, the Conciliation Commission shall lay down its own procedure, which in any case must provide for both Parties being heard. In regard to enquiries, the Commission, unless it unanimously decides otherwise, shall act in accordance with the provisions of Chapter III of the Hague Convention<sup>1</sup> of October 18, 1907, for the Pacific Settlement of International Disputes.

*Article 10.*

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

*Article 11.*

The work of the Commission shall not be conducted in public unless a decision to that effect is taken by the Commission with the consent of the Parties.

*Article 12.*

The Parties shall be represented before the Commission by agents, whose duty it shall be to act as intermediaries between them and the Commission: they may, moreover, be assisted by counsel and experts appointed by them for that purpose, and they may request that all persons whose evidence appears to them useful should be heard.

The Commission, on its side, shall be entitled to request oral explanations from the agents, counsel and experts of the two Parties, as well as from all persons it may think fit to summon with the consent of their Government.

*Article 13.*

Unless otherwise provided in the present Treaty, the decisions of the Commission shall be taken by a majority vote.

*Article 14.*

The Contracting Parties undertake to facilitate the work of the Commission and, in particular, to supply it to the greatest possible extent with all relevant documents and information, and to

<sup>1</sup> *British and Foreign State Papers*, Vol. 100, page 208.

use the means at their disposal to enable it to proceed in their territories, and in accordance with their laws, to the summoning and hearing of witnesses or experts, and to visit localities in order to carry out enquiries on the spot.

*Article 15.*

During the proceedings of the Commission, each Commissioner shall receive emoluments the amount of which shall be fixed by agreement between the Contracting Parties.

Each Party shall pay its own expenses and an equal share of the expenses of the Commission.

*Article 16.*

Should either Party not accept the Commission's proposals or not give its decision within the period fixed in the Commission's report, the dispute shall be submitted by means of a special agreement either to the Permanent Court of International Justice, under the conditions and according to the procedure laid down by its Statute, or to an arbitral tribunal, under the conditions and according to the procedure laid down in the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

If the special agreement has not been drawn up within three months from the day on which one of the Parties notified the other of its intention to have recourse to judicial settlement or arbitration, either Party shall have the right to bring the dispute direct before the Court of Justice by means of an application.

*Article 17.*

If, in the opinion of the Permanent Court of International Justice or of the arbitral tribunal, the dispute is not of a juridical nature, the Parties agree that it shall be settled *ex aequo et bono*.

*Article 18.*

Should the Permanent Court of International Justice or the arbitral tribunal find that a decision of a judicial or any other authority of either of the Contracting Parties is wholly or in part contrary to international law, and if the constitutional law of that Party does not permit or only partially permits the consequences of the decision in question to be annulled by administrative action, the injured Party shall be granted some other compensation.

*Article 19.*

The decision of the Permanent Court of International Justice or the arbitral award shall be carried out in good faith by the Parties.

Disputes arising out of the interpretation of the decision or award shall be settled by the Court of Justice, to which the dispute shall be submitted by a simple request emanating from one of the Parties.

*Article 20.*

The Contracting Parties respectively undertake to refrain during the course of any procedure opened in virtue of the provisions of the present Treaty from all measures likely to affect prejudicially either the execution of the decision of the Permanent Court of International Justice or the arbitral

award, or the arrangements proposed by the Permanent Conciliation Commission, and in general, to refrain from any act whatsoever which might aggravate or extend the dispute.

In all cases, and particularly if the question on which the Parties differ arises out of acts already committed or on the point of being committed, the Court of Justice or the arbitral tribunal constituted by common agreement shall indicate within the shortest possible time the provisional measures to be adopted. The Contracting Parties undertake to comply with the provisional measures thus indicated.

If the dispute is brought before the Conciliation Commission, the latter may recommend to the Parties the provisional measures which it considers suitable.

*Article 21.*

The present Treaty shall continue to be applicable as between the Contracting Parties even if other Powers are interested in the dispute.

*Article 22.*

The Treaty shall be communicated for registration to the League of Nations in accordance with Article 18 of the Covenant.

*Article 23.*

The present Treaty shall be ratified and the ratifications exchanged at Berne as soon as possible.

The Treaty shall enter into force as soon as the ratifications have been exchanged and shall remain in force for a period of ten years as from its entry into force. If it has not been denounced six months before the expiration of this period, it shall be deemed to be renewed for a period of five years, and similarly thereafter.

If, on the expiration of the present Treaty, proceedings of conciliation, judicial settlement or arbitration are pending, they shall pursue their course until their completion, in accordance with the stipulations of the present Treaty.

In faith whereof the above-mentioned Plenipotentiaries have signed the present Treaty.

Done at Geneva in duplicate on September 16, one thousand nine hundred and twenty-nine.

(Signed) BECH.

(Signed) MOTTA.