

N° 2549.

ALLEMAGNE ET TURQUIE

Traité d'arbitrage et de conciliation,
avec protocole final. Signés à
Ankara, le 16 mai 1929.

GERMANY AND TURKEY

Treaty of Arbitration and Conciliation,
with Final Protocol. Signed at
Ankara, May 16, 1929.

¹ TRANSLATION.

No. 2549. — TREATY OF ARBITRATION AND CONCILIATION BETWEEN THE GERMAN REICH AND THE TURKISH REPUBLIC. SIGNED AT ANKARA, MAY 16, 1929.

THE GERMAN REICH and THE TURKISH REPUBLIC, being desirous of strengthening the friendly relations existing between the two countries and of promoting the development of the procedure for the peaceful settlement of disputes between States, have agreed to conclude a general arbitration and conciliation treaty.

For this purpose they have appointed as their Plenipotentiaries :

THE PRESIDENT OF THE GERMAN REICH :

Herr Rudolf NADOLNY, Envoy Extraordinary and Minister Plenipotentiary of the German Reich in Turkey,

THE PRESIDENT OF THE TURKISH REPUBLIC :

His Excellency Tevfik RÜŞTÜ Bey, Minister for Foreign Affairs of the Turkish Republic and Deputy for Smyrna.

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

Article 1.

The Contracting Parties undertake to submit any disputes whatever that may arise between them and that cannot be settled within a reasonable time through the diplomatic channel to the decision of the Permanent Court of International Justice or of a special arbitration tribunal or to conciliation procedure, in accordance with the provisions of the present Treaty.

Disputes for the settlement of which the Contracting Parties are not bound by other conventions in force between them to adopt a special procedure shall be dealt with in accordance with the provisions of the present Treaty.

Article 2.

Disputes in regard to a right, and in particular disputes concerning the following points, shall, at the request of either Party, be submitted to the decision of the Permanent Court of International Justice :

- (1) Disputes concerning the existence, interpretation and application of a treaty concluded between the two Parties ;
- (2) Any question of international law ;
- (3) The existence of any fact which, if established, would constitute a breach of an international obligation ;
- (4) The nature and extent of the reparation to be made for any such breach.

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

This provision shall not apply to disputes which, in the opinion of either Party, relate to its sovereign rights or of which the subject falls within such Party's exclusive jurisdiction. If the other Party dispute this contention, it may apply to the Permanent Court of International Justice to decide this preliminary question.

Article 3.

In the cases mentioned in Article 2, proceedings before the Permanent Court of International Justice may, by a special agreement between the Parties, be replaced by proceedings before a special arbitral tribunal.

Article 4.

Should the Parties fail to agree whether a dispute belongs to the categories mentioned in Article 2, paragraph 1, this preliminary question shall be decided by the Permanent Court of International Justice or, if the Parties have agreed on a special arbitral tribunal, by that tribunal.

Article 5.

In every case to be submitted to the Permanent Court of International Justice or to a special arbitral tribunal the Contracting Parties shall draw up a special agreement in which the nature of the dispute and the other conditions agreed on between them shall be set forth. If they agree on a special arbitral tribunal, the Contracting Parties shall, as far as possible, have regard to the provisions of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

The special agreement shall be established by Protocol or exchange of Notes. The Permanent Court of International Justice or the special arbitral tribunal shall have jurisdiction to interpret the special agreement.

If the special agreement be not concluded within two months from the date of the proposal made by one Party to the other for the institution of proceedings before the Permanent Court of International Justice or a special arbitral tribunal, either Party may by a simple request submit the case to the Permanent Court of International Justice in accordance with the Statute of that Court.

Article 6.

Any dispute which is not submitted to the decision of the Permanent Court of International Justice or to a special arbitral tribunal in accordance with the foregoing Articles shall, at the request of either Party, be dealt with by conciliation procedure.

Any dispute referred to in Article 2 may, before the institution proceedings before the Permanent Court of International Justice or a special arbitral tribunal, be submitted, by agreement between the Parties, to the conciliation procedure provided for in the present Treaty.

Article 7.

For the purpose of conciliation procedure there shall be set [up a permanent conciliation council.

The permanent conciliation council shall consist of five members. The Parties shall each nominate independently on their own behalf one member and shall select the three other members by agreement. These three members shall not be nationals of the Contracting States, nor be habitually

resident in their territory, nor be, nor have been, in the service of the Parties. From amongst these the Parties shall jointly appoint the president of the council.

Either Contracting Party, unless proceedings are pending or have been instituted by a Party, may at any time recall the member appointed by it and appoint a successor. Similarly, either Contracting Party may withdraw its approval of the appointment of each of the three jointly appointed members. In such a case steps shall immediately be taken for the joint appointment of a new member.

Either Party may, within three weeks from the date on which one of the Parties has brought a dispute before the permanent conciliation council, replace the member of the conciliation council nominated by it to deal with the dispute a person specially qualified in the matter. A Party availing itself of this right shall immediately inform the other Party, who shall then be at liberty to do the same within two weeks from the date of receipt of the communication.

The permanent conciliation council shall be set up within six months of the exchange of ratifications of the present Treaty. Retiring members shall be replaced as speedily as possible in accordance with the method adopted for the first election.

If the appointment of the jointly appointed members has not taken place within six months from the exchange of ratifications or, in the case of the replacement of a member, within three months from the retirement of such member, the President of the Swiss Confederation shall, unless otherwise agreed, be requested to make the necessary appointments.

Article 8.

The permanent conciliation council shall enter on its duties as soon as a case is submitted to it by either Party. The latter shall forward its request simultaneously to the president of the permanent conciliation council and to the other Party. The president shall summon the permanent conciliation council as speedily as possible.

The Contracting Parties undertake to facilitate the work of the permanent conciliation council in all cases and in every respect, and, in particular, to give it all judicial assistance through the competent authorities. They shall adopt all necessary measures whereby the permanent conciliation council may hear witnesses and experts and visit the localities in question.

The permanent conciliation council may receive evidence either at a plenary sitting or by one or more of its members appointed by it for the purpose.

Article 9.

The permanent conciliation council shall select its seat and change this as it thinks fit.

The permanent conciliation council shall, if need be, set up a Chancery. In so far as it shall appoint to the Chancery nationals of the Parties, it shall give equal treatment to both Parties.

Article 10.

The permanent conciliation council may take decisions when all members have been regularly summoned and when at least the jointly appointed members are present.

The permanent conciliation council shall take its decisions by a simple majority. In case of equality of votes, the president shall have a casting vote.

Article 11.

The Permanent Conciliation Council shall draw up a report explaining the situation and, save where the special circumstances of the case render it undesirable, shall make proposals for the settlement of disputes.

The report shall be presented within six months from the day on which the dispute was submitted to the permanent conciliation council, unless the Parties shall agree to prolong this period or, prior to the meeting of the permanent conciliation council, to shorten it. The report shall be drawn up in three copies, one of which shall be handed to each Party and the third retained by the permanent conciliation council.

The report shall not have the character of a final and binding award, either as regards the facts or as regards the legal arguments. When communicating its report, the permanent conciliation council may suggest to the Parties to state, within a period to be fixed in the report, whether and how far they accept the conclusions of the report and agree to its proposals.

The Parties shall jointly decide whether the report shall be immediately published. Failing agreement, the permanent conciliation council may, on special grounds, decide immediately to publish the report.

Article 12.

Each Party shall be responsible for the remuneration of the member of the permanent conciliation council nominated by it and for half of the remuneration of the jointly appointed members.

Each Party shall pay its own costs and half of such costs as may be ordered by the permanent conciliation council to be borne jointly.

Article 13.

Save where otherwise provided in the foregoing Articles, the provisions of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes shall be applied to conciliation procedure. In case of doubt, the permanent council shall itself decide.

Article 14.

During proceedings before the Permanent Court of International Justice, the special arbitral tribunal or the permanent conciliation council, the Contracting Parties undertake, as far as possible to avoid any measure that might prejudicially affect the carrying out of the award to be given or the acceptance of the proposals of the permanent conciliation council.

Article 15.

This Treaty shall be ratified as soon as possible. The instruments of ratification shall be exchanged in Berlin.

The Treaty shall come into force one month after the exchange of the instruments of ratification.

The Treaty shall remain in force for ten years. Failing denunciation six months before the end of this period, it shall remain in force for a further five years. The same shall apply as regards the subsequent period, should the Treaty not be denounced within the time-limit fixed.

Any proceedings before the Permanent Court of International Justice or a special arbitral tribunal or any conciliation proceedings which may be pending at the time of expiry of this Treaty shall be governed by the provisions of this Treaty or by those of any other agreement by which the Contracting Parties may decide to replace it.

In faith whereof the undersigned Plenipotentiaries have signed the present Treaty.

Done in two copies both in the German and Turkish languages.

ANKARA, *May 16*, 1929.

Rudolf NADOLNY.

Dr. Rüştü.

FINAL PROTOCOL

TO THE ARBITRATION AND CONCILIATION TREATY BETWEEN THE GERMAN
REICH AND THE TURKISH REPUBLIC.

1. The Contracting Parties adopt the view that the provisions of the present Treaty are, in case of doubt, to be interpreted in favour of the application of the principle of judicial or arbitral settlement of disputes.

2. The Contracting Parties declare that the Treaty does not apply to disputes arising out of events prior to its conclusion.

3. The Treaty shall also apply as between the German Reich and the Turkish Republic in cases where other Powers are likewise parties to the dispute.

ANKARA, *May 16*, 1929.

Rudolf NADOLNY.

Dr. Rüştü.