

N° 2869.

FRANCE ET PORTUGAL

Traité de conciliation et d'arbitrage.
Signé à Paris, le 6 juillet 1928.

FRANCE AND PORTUGAL

Treaty of Conciliation and Arbitra-
tion. Signed at Paris, July 6, 1928.

TEXTE PORTUGAIS. - PORTUGUESE TEXT.

Nº 2869. — TRATADO¹ DE ARBITRAGEM E DE CONCILIAÇÃO ENTRE PORTUGAL E A FRANÇA. ASSINADO EM PARIS, EM 6 DE JULHO DE 1928.

Textes officiels français et portugais communiqués par le ministre des Affaires étrangères de la République française. L'enregistrement de ce traité a eu lieu le 8 janvier 1932.

O PRESIDENTE DA REPUBLICA FRANCÊSA e
O PRESIDENTE DA REPUBLICA PORTUGUÊSA,

Inspirando-se nos laços de amizade que felizmente existem entre Portugal e a França, Considerando que a Convenção de arbitragem² concluída entre os dois países em Paris, em 29 de Junho de 1906, expirou em 5 de Abril de 1914,

E igualmente desejosos de assegurar em todos os casos, conforme os princípios consagrados no Pacto da Sociedade das Nações, o regulamento pacífico de todos os desacordos e conflitos, de qualquer natureza que sejam, que venham a surgir entre os dois países,

Resolveram para este fim concluir um Tratado e nomearam por seus Plenipotenciários, a saber :

O PRESIDENTE DA REPUBLICA FRANCÊSA :

O Sr. Aristides BRIAND, Ministro dos Negocios Estrangeiros da Republica Francêsa.

O PRESIDENTE DA REPUBLICA PORTUGUÊSA:

O Sr. Armando Humberto da GAMA OCHÔA, Enviado Extraordinario e Ministro Ple-

Nº 2869. — TRAITÉ¹ DE CONCILIATION ET D'ARBITRAGE ENTRE LA FRANCE ET LE PORTUGAL. SIGNÉ A PARIS, LE 6 JUILLET 1928.

French and Portuguese official texts communicated by the Minister for Foreign Affairs of the French Republic. The registration of this Treaty took place January 8, 1932.

LE PRÉSIDENT DE LA RÉPUBLIQUE FRANÇAISE et LE PRÉSIDENT DE LA RÉPUBLIQUE PORTUGAISE,

S'inspirant des heureuses relations d'amitié qui unissent le Portugal et la France,

Considérant que la Convention d'arbitrage² conclue entre les deux pays à Paris, le 29 juin 1906, est venue à expiration le 5 avril 1914.

Et également désireux d'assurer dans tous les cas, conformément aux principes consacrés par le Pacte de la Société des Nations, le règlement pacifique de tous les différends et conflits, de quelque nature qu'ils soient, qui viendraient à s'élever entre les deux pays,

Ont résolu de conclure un traité à cet effet et ont nommé pour leurs plénipotentiaires respectifs, savoir :

LE PRÉSIDENT DE LA RÉPUBLIQUE FRANÇAISE :

M. Aristide BRIAND, ministre des Affaires étrangères de la République française ;

LE PRÉSIDENT DE LA RÉPUBLIQUE PORTUGAISE ;

M. Armando Humberto DA GAMA OCHÔA, envoyé extraordinaire et ministre pléni-

¹ L'échange des ratifications a eu lieu à Paris, le 10 décembre 1931.

² DE MARTENS, *Nouveau Recueil général de Traités*, troisième série, tome II, page 303.

¹ The exchange of ratifications took place at Paris, December 10, 1931.

² *British and Foreign State Papers*, Vol. 100, page 921.

A Parte que usar deste direito notificá-lo-ha imediatamente á outra Parte ; esta terá, neste caso, a faculdade de proceder da mesma forma, num prazo de 15 dias a partir da data em que a notificação lhe tenha sido feita.

Artigo 7º.

A Comissão Permanente de Conciliação terá por missão elucidar as questões em litigio, recolher para este fim todas as informações uteis por via de inquerito ou por outra forma e esforçar-se por conciliar as Partes. Poderá, após o exame do caso, propôr ás Partes os termos do acordo que lhe pareça conveniente e marcar-lhes um prazo para se pronunciarem.

No fim dos seus trabalhos, a Comissão elaborará uma acta consignando, segundo os casos, que as partes se puzeram de acordo e nesse caso quaes as condições desse acordo, ou que as Partes não puderam ser conciliadas.

Os trabalhos da Comissão deverão, a menos que as Partes convenham no contrario, estar terminados no prazo de seis menses a contar do dia em que o litigio lhe haja sido submetido.

Artigo 8º.

Salvo estipulação especial em contrario, a Comissão Permanente de Conciliação regulará ella propria o seu processo que, em todos os casos, deverá ser contradictorio. Em materia de inquerito, a Comissão, se não decidir o contrario por unanimidade, conformar-se-ha com a disposição do Título III (Comissão internacional de inquerito) da Convenção da Haya¹ de 18 Outubro de 1907 para a solução pacifica dos conflitos internacionaes.

Artigo 9º.

A Comissão Permanente de Conciliação reunir-se-há, salvo acordo contrario entre as Partes, no local designado pelo seu Presidente.

La Partie qui userait de ce droit en fera immédiatement la notification à l'autre Partie ; celle-ci aura, dans ce cas, la faculté d'agir de même, dans un délai de quinze jours à partir de la date où la notification lui sera parvenue.

Article 7.

La Commission permanente de conciliation aura pour tâche d'élucider les questions en litige, de recueillir à cette fin toutes informations utiles par voie d'enquête ou autrement et de s'efforcer de concilier les Parties. Elle pourra, après examen de l'affaire, proposer aux Parties les termes de l'arrangement qui lui paraîtrait convenable et leur impartir un délai pour se prononcer.

À la fin de ses travaux, la commission dressera un procès-verbal constatant, suivant les cas, soit que les Parties se sont arrangées et, s'il y a lieu, les conditions de l'arrangement, soit que les Parties n'ont pu être conciliées.

Les travaux de la commission devront, à moins que les Parties en conviennent différemment, être terminés dans le délai de six mois à compter du jour où la commission aura été saisie du litige.

Article 8.

À moins de stipulation spéciale contraire, la Commission permanente de conciliation réglera elle-même sa procédure qui, dans tous les cas, devra être contradictoire. En matière d'enquêtes, la commission, si elle n'en décide autrement à l'unanimité, se conformera aux dispositions du Titre III (Commission internationale d'enquête) de la Convention de La Haye¹ du 18 octobre 1907 pour le règlement pacifique des conflits internationaux.

Article 9.

La Commission permanente de conciliation se réunira, sauf accord contraire entre les Parties, au lieu désigné par son président.

¹ DE MARTENS, *Nouveau Recueil général de Traités*, troisième série, tome III, page 360.

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

¹ TRADUCTION. — TRANSLATION.No. 2869. — TREATY OF CONCILIATION AND ARBITRATION
BETWEEN FRANCE AND PORTUGAL. SIGNED AT PARIS, JULY 6,
1928.

THE PRESIDENT OF THE FRENCH REPUBLIC and THE PRESIDENT OF THE PORTUGUESE
REPUBLIC,

Inspired by the friendly relations which happily exist between Portugal and France,

Taking into consideration that the Arbitration Convention concluded between the two countries
at Paris on June 29, 1906, expired on April 5, 1914,

And also desiring to ensure in all cases, in conformity with the principles laid down in the
Covenant of the League of Nations, the pacific settlement of all differences and disputes of whatever
nature which may arise between the two countries,

Have resolved to conclude a Treaty with that object and have appointed as their respective
Plenipotentiaries :

THE PRESIDENT OF THE FRENCH REPUBLIC :

M. Aristide BRIAND, Minister for Foreign Affairs of the French Republic ;

THE PRESIDENT OF THE PORTUGUESE REPUBLIC :

M. Armando Humberto DA GAMA OCHÓA, Envoy Extraordinary and Minister Plenipo-
tentiary of the Portuguese Republic at Paris ;

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

Article 1.

All disputes of whatever kind between the Government of the French Republic and the Govern-
ment of the Portuguese Republic which it may not have been possible to settle by the normal
methods of diplomacy shall, before any resort is made to procedure before the Permanent Court
of International Justice or to arbitration, be submitted with a view to amicable settlement to a
permanent international commission, styled the " Permanent Conciliation Commission ", consti-
tuted in accordance with the present Treaty.

Nevertheless, the High Contracting Parties may always agree that a specific dispute shall be
settled direct by the Permanent Court of International Justice or by arbitration without previous
resort to the conciliation procedure provided for above.

Article 2.

In the case of a dispute which, according to the municipal law of one of the Parties, falls within
the competence of the national courts of that Party, including the administrative courts, the
matter in dispute shall not be submitted to the procedure laid down in the present Treaty until a
judgment with final effect has been pronounced within a reasonable time by the competent
national judicial authority.

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.

Article 3.

The Permanent Conciliation Commission mentioned in Article 1 shall be composed of five members, who shall be appointed as follows : the High Contracting Parties shall each appoint a commissioner, chosen from among their respective nationals, and shall jointly nominate the other three commissioners from among the nationals of third Powers ; these three commissioners shall be of different nationalities, and the French and Portuguese Governments shall nominate the President of the Commission from among them.

The Commissioners are appointed for three years and their mandate is renewable. Their appointment shall continue until they are replaced, and in any case until the completion of any work in hand at the time of the expiry of their mandate.

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

Article 4.

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

If the commissioners to be nominated jointly should not have been appointed within that period or, in the case of the filling of a vacancy, within three months from the time when the vacancy occurs, the President of the Swiss Confederation shall in the absence of any other agreement, be requested to make the necessary nominations.

Article 5.

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 the absence of such agreement, by either 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 is made by only one of the Parties, that Party shall notify it without delay to the other.

Article 6.

Within fifteen days from the date when the French or the Portuguese Government shall have notified the Permanent Conciliation Commission of a dispute, either Party may, for the examination of the particular dispute, replace its commissioner by a person possessing special competence in the matter.

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

Article 7.

The task of the Permanent Conciliation Commission shall be to elucidate 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. After examining the case, it may propose to the Parties the terms of settlement which it considers suitable, and lay down a period within which they are to make their decision.

At the close of its proceedings the Commission shall draw up a report stating, as the case may be, either that the Parties have come to an agreement and, if necessary, the terms of the agreement, or that it was been impossible to effect a settlement.

The proceedings of the Commission shall, unless the Parties agree otherwise, be terminated within six months from the date on which the Commission is notified of the dispute.

Article 8

Failing any special stipulation to the contrary, the Permanent 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 to the contrary, shall act in accordance with the provisions of Chapter III (International Commission of Enquiry) of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

Article 9.

In the absence of agreement by the Parties to the contrary, the Permanent Conciliation Commission shall meet at a place selected by its President.

Article 10.

The proceedings of the Permanent Conciliation Commission shall not be public, unless a decision to that effect has been taken by the Commission with the consent of the Parties.

Article 11.

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

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 whom it may think desirable to summon with the consent of their Governments.

Article 12.

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

The Commission may not take decisions on the substance of the dispute unless all the members have been duly convened and the President and at least two members are present. Should only three members and the President be present, the Chairman shall have two votes.

Article 13.

The High Contracting Parties undertake to facilitate the work of the Permanent Conciliation Commission, and in particular to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to allow it to proceed in their territory and in accordance with their law to the summoning and hearing of witnesses or experts, and to visit the localities in question.

Article 14.

During the proceedings of the Permanent Conciliation Commission each commissioner shall receive emoluments, the amount of which shall be fixed by agreement between the French and the Portuguese Governments, each of which shall contribute an equal share.

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

Article 15.

Should no amicable agreement be reached before the Permanent Conciliation Commission. disputes regarding a right asserted by one Party and contested by the other, particularly the disputes mentioned in Article 13 of the Covenant of the League of Nations, 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 the Statute of that Court, or to an arbitral tribunal, under the conditions and according to the procedure laid down by the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

If the Parties cannot reach an understanding as to the terms of the special agreement, either of them may, after a month's notice, bring the dispute before the Permanent Court of International Justice direct by means of an application.

Article 16.

Disputes other than these mentioned in Article 15, paragraph 1, shall, if no amicable agreement is reached, be submitted to an arbitral tribunal with power to decide *ex aequo et bono*.

This tribunal shall, in the absence of agreements to the contrary, consist of five members appointed by the method laid down in Articles 3 and 4 for the composition of the Conciliation Commission.

Should the Parties fail to agree as to the terms of the special agreement submitting the dispute to the tribunal, either of them may, after a month's notice, bring the dispute before the tribunal direct.

Article 17.

The French and Portuguese Governments respectively undertake to abstain, during the course of proceedings opened in virtue of the provisions of the present Treaty, from all measures likely to react prejudicially upon the execution of the decision to be given by the Permanent Court of International Justice or the arbitral tribunal, or upon the arrangements proposed by the Permanent Conciliation Commission and, in general, to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

In any case, and particularly if the question on which the Parties differ arises out of acts already committed or on the point of being committed, the Conciliation Commission or, if the latter was not informed of the dispute the Permanent Court of International Justice, acting in accordance with Article 41 of its Statute, or the arbitral tribunal, shall indicate as soon as possible the provisional measures to be adopted. Both the High Contracting Parties undertake to conform to the said measures.

Article 18.

Should any dispute arise between the High Contracting Parties concerning the application of the present Treaty, such dispute shall be brought before the Permanent Court of International Justice direct in accordance with the procedure laid down in Article 40 of the Statute of the Court.

Article 19.

The present Treaty shall apply only to disputes which arise after the exchange of ratifications in regard to situations or events subsequent to that date.

Disputes for the settlement of which a special procedure is provided in other agreements in force between the Contracting Parties shall be settled in conformity with the terms of such agreements.

Article 20.

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

Article 21.

The present Treaty shall come into force as soon as the ratifications have been exchanged, and shall be concluded for five years as from the date of its coming into force. If it is not 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 on the expiration of the present Treaty any proceedings whatever in virtue of this Treaty are pending before the Permanent Conciliation Commission, the Permanent Court of International Justice, or an arbitral tribunal, they shall pursue their course until they are completed.

In faith whereof the above-mentioned Plenipotentiaries have signed the present Treaty, done in duplicate, in French and Portuguese, the two texts having the same force and value and being equally authentic.

Done at Paris, July 6, 1928.

(L. S.) (Signed) A. BRIAND.

(L. S.) (Signed) DA GAMA OCHÓA.