

N° 3664.

SUISSE ET TURQUIE

Traité de conciliation, de règlement
judiciaire et d'arbitrage. Signé à
Angora, le 9 décembre 1928.

SWITZERLAND AND TURKEY

Treaty of Conciliation, Judicial Settle-
ment and Arbitration. Signed at
Angora, December 9th, 1928.

¹ TRADUCTION. — TRANSLATION.No. 3664. — TREATY² OF CONCILIATION, JUDICIAL SETTLEMENT AND ARBITRATION BETWEEN SWITZERLAND AND TURKEY. SIGNED AT ANGORA, DECEMBER 9TH, 1928.

French official text communicated by the Swiss Federal Council. The registration of this Treaty took place June 14th, 1935.

THE SWISS FEDERAL COUNCIL
and

THE PRESIDENT OF THE TURKISH REPUBLIC,

Being desirous of strengthening the ties of friendship between Switzerland and Turkey and of submitting to pacific settlement any disputes which may arise between the two countries,

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

THE SWISS FEDERAL COUNCIL :

Monsieur Henri MARTIN, Envoy Extraordinary and Minister Plenipotentiary of the Swiss Confederation in Turkey ;

THE PRESIDENT OF THE TURKISH REPUBLIC :

Monsieur Ali CHEVKI Bey, former Under-Secretary of State in the Ministry of Foreign Affairs, Deputy for Tokat ;
Monsieur VELI Bey, Legal Adviser to the Ministry of Foreign Affairs ;

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, at the request of either Party, to a conciliation procedure and, if necessary, to a procedure of judicial or arbitral settlement all disputes which may arise between them and which it has not been found possible to settle, within a reasonable time, through diplomatic channels.

Nevertheless, each Contracting Party shall remain free to exclude from any conciliation procedure and procedure for judicial or arbitral settlement all disputes which, in its opinion, relate to questions affecting principles of its constitution or its vital interests or questions which international law leaves to the exclusive jurisdiction of States.

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 Berne, August 7th, 1930.

The fact that either Party has accepted purely and simply the resort to a conciliation procedure shall not prejudice its right to decline, in the circumstances mentioned in the preceding paragraph, any request for judicial settlement or for arbitration as provided for in Articles 6 to 8 of the present Treaty.

The Contracting Parties may in any case agree that a dispute shall be settled directly by way of judicial or arbitral settlement, without preliminary resort to a conciliation procedure.

Article 2.

The conciliation procedure shall be entrusted to a permanent commission of three members.

Each Contracting Party shall appoint one member of its own choosing, the third member, who shall *ex officio* be the President of the Permanent Conciliation Commission, being appointed by common agreement. The President may not be a national of either of the contracting States nor be habitually resident in their territories, nor be employed in their service.

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

If the appointment of the President is not made within the said period of six months or, in the case of resignation or death, within three months after the vacancy occurs, such appointment shall be made, even at the request of one Party only, by the President of the Permanent Court of International Justice or, if he is a national of one of the contracting States, by the Vice-President or, if the latter is similarly situated, by the eldest member of the Court who is not a national of either contracting State.

The members of the Commission shall be appointed for three years but their term of office shall be deemed to be renewed for a further period of three years, and similarly thereafter, if neither Party objects to such renewal.

Article 3.

The Contracting Parties reserve the right to add to the Conciliation Commission, in each particular case, two other members appointed by common agreement, and who would sit on the Commission, with the same powers as the members already appointed, until the close of the procedure.

Article 4.

The task of the Conciliation Commission shall be to elucidate the questions which are the subject of the dispute and to frame, in a report, proposals with a view to its settlement.

The Commission shall have a dispute brought before it by an application addressed to its President by either Contracting Party. The applicant Party shall previously inform the other Party of its intention to resort to conciliation. If, within a period of three months from such notification, the defendant Party has not raised any objection in conformity with Article 1, paragraph 2, of the present Treaty, the Commission may have the dispute duly brought before it.

Article 5.

The Conciliation Commission shall present its report within six months from the day on which the dispute was brought before it, unless the Contracting Parties decide by common agreement to curtail or to prolong this period.

A copy of the report shall be handed to each Party. The report shall not have the character of an arbitral award, either as regards the statement of facts or as regards the legal arguments.

The Commission shall prescribe the period within which the Parties must give their decision regarding its proposals. This period shall not, however, exceed three months.

In the absence of any provision to the contrary in the present Treaty, the conciliation procedure shall be governed by the provisions contained in Part III of the Hague Convention¹ of October 18th, 1907, for the Pacific Settlement of International Disputes.

Article 6.

If one of the Contracting Parties does not accept the proposals of the Conciliation Commission or does not give its decision within the period prescribed in the latter's report, either Party may request that the dispute be submitted, by means of a special agreement, to the Permanent Court of International Justice.

Article 7.

The Contracting Parties reserve the right to agree jointly to bring the dispute, by means of a special agreement, before a tribunal sitting under the auspices of the Permanent Court of Arbitration.

If the Arbitral Tribunal is not set up by agreement between the Parties within a period of three months from the day on which they agreed to resort to arbitration, it shall consist of five arbitrators selected from the list of the Permanent Court of Arbitration at The Hague. Each of the Parties shall appoint one arbitrator of its own choosing ; they shall appoint the three others by common agreement and, from amongst them, the umpire. These three arbitrators may not be nationals of the Contracting Parties nor be habitually resident in their territories nor be in their service. If the appointment of the arbitrators to be chosen by common agreement or the appointment of the umpire is not made within three months from the day on which the Parties agreed to resort to arbitration, the appointments shall be made in conformity with Article 45 of the Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes.

In the absence of any provision to the contrary in the present Treaty, the arbitration procedure shall be governed by the provisions contained in Chapter III of the Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes.

Article 8.

The special agreement referred to in Articles 6 and 7 shall be constituted by an exchange of notes between the two Governments.

If it is not drawn up within a period of three months from the day on which one of the Parties notified the other of its intention to resort to judicial settlement or from the day on which the two Parties agreed to resort to arbitration, the Permanent Court of International Justice or the Arbitral Tribunal shall give a decision on the basis of the claims advanced by the Parties.

Article 9.

During the course of the conciliation procedure or the judicial or arbitral procedure the Contracting Parties shall abstain from all measures capable of producing consequences prejudicial to the acceptance of the Conciliation Commission's proposals or to the execution of the judgment of the Permanent Court of International Justice or the award of the Arbitral Tribunal.

Article 10.

Any dispute which may arise as to the execution of a judicial sentence or an arbitral award or as to the interpretation of the present Treaty, except in respect of the provisions of paragraphs 2 and 3 of Article 1, may be submitted to the Permanent Court of International Justice at the request of either Party.

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

Article 11.

The provisions of the present Treaty shall not apply to disputes which arose prior to the exchange of the instruments of ratification, even if such disputes relate to treaties at present in force between the Contracting Parties. It is understood, however, that any dispute that may arise in regard to such treaties as from the date of the entry into force of the present Treaty shall remain subject to the provisions thereof.

Article 12.

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

The Treaty is concluded for a period of five years reckoned from the date of the exchange of ratifications. Unless it is denounced six months before the expiration of that period, it shall remain in force until the end of a period of six months reckoned from the date on which either Party shall have notified the other of its intention to terminate the effects thereof.

In faith whereof the above-named Plenipotentiaries have signed the present Treaty in duplicate and have thereto affixed their seals.

Done at Angora, the ninth day of December, one thousand nine hundred and twenty-eight.

(L. S.) (Sig.) Henri MARTIN.

(L. S.) (Sig.) A. CHEVKI.

(L. S.) (Sig.) VELI.