

TREATY OF CONCILIATION AND ARBITRATION BETWEEN POLAND AND CZECHOSLOVAKIA, SIGNED AT WARSAW, APRIL 23, 1925

THE PRESIDENT OF THE POLISH REPUBLIC and THE PRESIDENT OF THE
CZECHOSLOVAK REPUBLIC,

Being desirous of further developing the friendly relations which unite the two countries,

Being guided by the principles laid down in the Resolution of the Assembly of the League
of Nations dated September 22, 1922, concerning the creation of Commissions of
Conciliation between States,

And desiring to embody the principle of compulsory arbitration in their reciprocal relations
by a general agreement such as is contemplated by Article 21 of the Covenant of the
League of Nations,

Have decided to conclude a Treaty of Conciliation and Arbitration, and have appointed for
this purpose as their Plenipotentiaries;

THE PRESIDENT OF THE POLISH REPUBLIC:

M. Aleksander SKRZYŃSKI, Doctor of Laws, Minister for Foreign Affairs;

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC:

M. Edouard BENEŠ, Doctor of Laws, Minister for Foreign Affairs;

Who, after communicating their full powers found in good and due form, have agreed upon
the following provisions.

Article 1.

The High Contracting Parties undertake to submit to the procedure of conciliation or of
arbitration all disputes which may arise between them and which it has not been found
possible to settle by diplomacy within a reasonable time.

The present Treaty shall not apply to disputes for the solution of which a special procedure
has been, or may hereafter be, provided in other Conventions between the Contracting
Parties. The Contracting Parties shall not, however, be thereby precluded from also
applying to such disputes the conciliation procedure which is provided in the present
Treaty.

Furthermore, the provisions of the present Treaty shall not apply to questions regarding
the territorial status of the Contracting Parties.

Any dispute capable of being settled in the manner set forth above shall be submitted to a
procedure of conciliation unless the Parties agree to submit it immediately to arbitration.

Should the procedure of conciliation laid down in the present Treaty fail to provide a
settlement, the dispute shall be submitted to arbitration, if either of the Parties so requests.

Article 2.

If in accordance with the municipal legislation of one of the Parties, the matter in dispute comes within the jurisdiction of its own national judicial authorities, that Party may decline to have the dispute submitted to the procedure of conciliation or arbitration until its competent national courts have given a final decision, unless the case be one of a denial of justice.

The request for conciliation must in the above case be put forward within one year, at the latest, from the date of the final judgment.

Article 3.

In the six months following the exchange of the ratifications of the present Treaty, the Contracting Parties shall set up a permanent Commission of Conciliation consisting of five members.

Each Party shall appoint two members: one being a national of its own State and the other a national of a third State. The latter must neither be domiciled in the territory of the Party which has appointed him, nor be in the service of that Party.

The two Parties shall jointly appoint a national of a third State as President of the Commission for a period of five years. Should the Parties fail to agree on this choice, the President shall be appointed, at their request, by the President of the Swiss Confederation, provided that he consents to undertake the selection.

Article 4.

In case of the death or withdrawal of one of the members of the Commission of Conciliation, arrangements shall be made to replace that member, if possible within the following three months and in any case as soon as a dispute has been submitted to the Commission.

Should one of the members of the Commission of Conciliation be temporarily prevented, as a result of illness or any other circumstance, from taking part in the work of the Commission, the Party which has appointed him shall choose a substitute who shall replace him temporarily.

The President shall cease to exercise his duties as soon as his term of office expires. The two Parties, however, by common consent, may renew his appointment for a further period of five years.

So long as proceedings have not been opened before the Commission, each Contracting Party shall be entitled to recall the members which it has appointed; in such case the member who has been withdrawn shall be replaced without delay.

Article 5.

Within fifteen days, reckoned from the date on which one of the Contracting Parties has laid a dispute before the Commission of Conciliation, each of the Parties may, for the consideration of this dispute, replace the member who is a national of its own State by a person possessing special competence in the question under consideration.

A Party which desires to avail itself of this right shall immediately inform the other Party, and the latter shall, in such case, be entitled to avail itself of the same right within a period of fifteen days, reckoned from the date on which it received notification.

Article 6.

The Commission of Conciliation shall endeavour to facilitate the solution of the dispute by conducting an impartial and conscientious enquiry into the facts, and by formulating proposals for the settlement of the dispute in conformity with the provisions of Article 12 of the present Treaty.

A dispute shall be deemed to have been referred to the Commission when one of the Contracting Parties has made application to its President.

Notification of such application shall at the same time be made to the other Party by the Party, which has requested the opening of proceedings of conciliation.

Article 7.

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

Article 8.

In proceedings before the Commission of Conciliation both Parties shall be heard. The Commission shall itself determine the procedure, being guided (unless it unanimously decides to the contrary) by the provisions of Chapter III of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

The discussions shall take place in private, unless the Commission, with the assent of the Parties, should decide otherwise.

Article 9.

The Contracting Parties shall be entitled to appoint special agents to be attached to the Commission, who may act at the same time as intermediaries between the Contracting Parties and the Commission.

Article 10.

Unless otherwise provided in the present Treaty, the decisions of the Commission of Conciliation shall be taken by a majority vote. Each member shall have one vote. If any member or members are absent and the votes are equally divided, the President shall have a casting vote.

The decisions of the Commission shall not be valid unless all the members were duly convened, i.e., unless the notices to attend were duly delivered to them and unless the President and at least two other members were present.

Article 11.

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

Article 12.

The Commission of Conciliation shall submit its report within six months, reckoned from the date of its first meeting, unless the Contracting Parties decide by agreement to shorten or lengthen this period.

The report shall include, if necessary, a draft scheme for the settlement of the dispute.

The opinion of the minority, if any, accompanied by a statement of reasons shall be included in this report.

A copy of the report, signed by the President, shall be communicated to each of the Parties.

The report of the Commission shall not be in the nature of an arbitral or judicial award, either as regards its statement of the facts or of the legal considerations.

Article 13.

The Parties shall inform each other and the President of the Commission of Conciliation 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 is to be published.

Article 14.

While conciliation proceedings are actually in progress, the President and members of the Commission shall receive allowances on a scale to be determined by the Contracting Parties.

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

Article 15.

Should the Commission of Conciliation not succeed in framing a proposal for the settlement of the dispute within the period referred to in Article 12, first paragraph, of the present Treaty;

Or should one of the Contracting Parties, or both, fail to adopt the findings of the report of the Commission of Conciliation and the proposals contained therein;

Or should they fail to declare within the period referred to in first paragraph of Article 13 of the present Treaty, that they adopt the proposals in the Report;

The dispute shall be submitted to arbitration, and a Court of Arbitration shall be set up by agreement between the Contracting Parties.

If the Court of Arbitration is not set up by agreement between the Parties within a period of three months reckoned from the date on which one of the Parties has addressed the request for arbitration to the other Party, the following procedure shall be adopted:

Each Party shall appoint two arbitrators, one of whom must be on the list of members of the Permanent Court of Arbitration, but must not be a national of the Party in question. The arbitrators thus appointed shall themselves choose a President of the Court. If the votes are equally divided, the President shall be chosen by the President of the Swiss Federal Council, provided that he consents to undertake the selection.

Article 16.

Whenever a question has to be decided by arbitration, the Contracting Parties undertake to conclude, within three months reckoned from the day on which either Party has addressed a request for arbitration to the other Party, a special agreement defining the object of the dispute, the method of procedure, the special competence of the Court and any other conditions mutually agreed upon.

Unless otherwise provided in the special agreement referred to above, the Contracting Parties shall, as regards arbitration procedure, observe the provisions of the Convention signed at The Hague on October 18, 1907, for the Pacific Settlement of International Disputes.

Article 17.

It is understood that the obligations assumed by the Contracting Parties under the present Convention shall in no way restrict their right to submit, by common agreement, disputes which arise between them to the Permanent Court of International Justice at The Hague.

Article 18.

The provisions of the two last paragraphs of Article 15, and those of Article 16 shall also apply when, in virtue of fourth paragraph of Article 1 a dispute has been immediately submitted to arbitration by the Contracting Parties.

Article 19.

When the Court of Arbitration, or the Permanent Court of International Justice, are called upon to decide a dispute submitted to them, they shall, unless otherwise provided by agreement between the Parties, apply:

- (1) International Conventions, either general or partial, laying down rules which have been expressly recognised by the States parties to the dispute;
- (2) International custom, as evidence of a general usage which is accepted as being the law;
- (3) The general principles of law recognised by civilised nations;
- (4) Subject to the provisions of Article 59 of the Statute of the Permanent Court, the judicial decisions and opinions of the best qualified legal experts, as auxiliary means of determining the rules of law.

Article 20.

The provisions of Article 14 shall also apply to the Court of Arbitration.

Article 21.

The arbitral award, as well as the award of the Permanent Court of International Justice, shall be binding and must be loyally carried out by both Parties.

If, however, the award establishes the fact that the decision of some judicial or other authority of one of the Contracting Powers is entirely or partially at variance with the universally recognised rules of International Law, and if the municipal law of that Party precludes the annulment, or only allows of a partial annulment through administrative channels of the effects of such a decision, the injured Party shall be accorded equitable satisfaction in some other manner.

Should any difficulty arise regarding the meaning or scope of an award, the tribunal which has rendered the award shall interpret its meaning, if either Party so requests.

Article 22.

While the procedure of conciliation or arbitration is in progress, the Contracting Parties shall refrain from any act which may tend to hinder acceptance of the proposals of the Commission of Conciliation or the execution of the arbitral award.

Article 23.

It is understood that the present Treaty shall in no way modify the obligations of the signatory States which are based on the Protocol for the Pacific Settlement of International Disputes, adopted at Geneva on October 2, 1924.

Article 24.

Any dispute regarding the interpretation of the present Treaty shall be submitted to the Permanent Court of International Justice.

Article 25.

The present Treaty shall be ratified as soon as possible, and the instruments of ratification shall be exchanged at Prague.

It shall come into force on the thirtieth day after the date of its ratification, and shall remain in force for five years.

If it has not been denounced six months before the date of its expiration, it shall be held to have been renewed for a further period of five years, and so on for successive periods.

In faith whereof the Plenipotentiaries have signed the present Treaty and have affixed their seals thereto.

Done at Warsaw, in duplicate, April 23, 1925.

(L.S.) AL. SKRZYŃSKI.

(L.S.) Dr. EDVARD BENEŠ.

FINAL PROTOCOL.

(1) With regard to the third paragraph of Article 1, the High Contracting Parties agree that any difference of opinion as to the desirability of modifying in any way their territorial

status, constitutes a form of dispute such as is only capable of settlement by an agreement, freely entered into between themselves, and that, consequently, there is no occasion to provide for an organ competent to deal with such cases.

(2) In case proceedings for conciliation and arbitration under the present Treaty are being conducted on the date on which the Treaty ceases to be in force, such proceedings shall be continued in conformity with the provisions of this Treaty or any other treaty by which the High Contracting Parties may have replaced the present Treaty.

(3) The present Protocol shall form an integral part of the Treaty for conciliation and arbitration signed on this day.

WARSAW, April 23, 1925.

(L. S.) AL. SKRZYŃSKI.

(L. S.) Dr. EDVARD BENEŠ.

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