

AVOIDANCE OR PREVENTION OF CONFLICTS BETWEEN AMERICAN STATES (GONDRA TREATY)

Treaty signed at Santiago May 3, 1923

Senate advice and consent to ratification March 18, 1924

Ratified by the President of the United States April 21, 1924

Ratification of the United States deposited at Santiago May 30, 1924

*Entered into force October 8, 1924*¹

Proclaimed by the President of the United States January 12, 1927

*Supplemented by convention of January 5, 1929,² and additional protocol of December 26, 1933*³

44 Stat. 2527; Treaty Series 752

TREATY TO AVOID OR PREVENT CONFLICTS BETWEEN THE AMERICAN STATES

The Governments represented at the Fifth International Conference of American States, desiring to strengthen progressively the principles of justice and of mutual respect which inspire the policy observed by them in their reciprocal relations, and to quicken in their peoples sentiments of concord and of loyal friendship which may contribute toward the consolidation of such relations,

Confirm their most sincere desire to maintain an immutable peace, not only between themselves but also with all the other nations of the earth;

Condemn armed peace which increases military and naval forces beyond the necessities of domestic security and the sovereignty and independence of States, and,

With the firm purpose of taking all measures which will avoid or prevent the conflicts which may eventually occur between them, agree to the present treaty, negotiated and concluded by the Plenipotentiary Delegates whose full powers were found to be in good and due form by the Conference:

Venezuela: César Zumeta, José Austria.

Panamá: José Lefevre.

¹ Date of deposit of second instrument of ratification.

² TS 780, *post*, p. 745.

³ TS 887, *post*, vol. 3.

United States of America: Henry P. Fletcher, Frank B. Kellogg, Atlee Pomerene, Willard Saulsbury, George E. Vincent, Frank C. Partridge, William Eric Fowler, Leo S. Rowe.

Uruguay: Eugenio Martínez Thedy.

Ecuador: José Rafael Bustamante.

Chile: Manuel Rivas Vicuña, Cárlos Aldunate Solar, Luis Barros Borgoño, Emilio Bello Codesido, Antonio Huneeus, Alcibiades Roldán, Guillermo Subercaseaux, Alejandro del Río.

Guatemala: Eduardo Poirier, Máximo Soto Hall.

Nicaragua: Carlos Cuadra Pasos, Arturo Elizondo.

United States of Brazil: Afranio de Mello Franco, Sylvino Gurgel do Amaral, Helio Lobo.

Colombia: Guillermo Valencia.

Cuba: José C. Vidal Caro, Cárlos García Vélez, Arístides Agüero, Manuel Márquez Sterling.

Paraguay: Manuel Gondra.

Dominican Republic: Tulio M. Cestero.

Honduras: Benjamin Villaseca Mujica.

Argentina: Manuel E. Malbrán.

Haiti: Arturo Rameau.

ARTICLE I

All controversies which for any cause whatsoever may arise between two or more of the High Contracting Parties and which it has been impossible to settle through diplomatic channels, or to submit to arbitration in accordance with existing treaties, shall be submitted for investigation and report to a Commission to be established in the manner provided for in Article IV. The High Contracting Parties undertake, in case of disputes, not to begin mobilization or concentration of troops on the frontier of the other Party, nor to engage in any hostile acts or preparations for hostilities, from the time steps are taken to convene the Commission until the said Commission has rendered its report or until the expiration of the time provided for in Article VII.

This provision shall not abrogate nor limit the obligations contained in treaties of arbitration in force between two or more of the High Contracting Parties, nor the obligations arising out of them.

It is understood that in disputes arising between Nations which have no general treaties of arbitration, the investigation shall not take place in questions affecting constitutional provisions, nor in questions already settled by the other treaties.

ARTICLE II

The controversies referred to in Article I shall be submitted to the Commission of Inquiry whenever it has been impossible to settle them through

diplomatic negotiations or procedure or by submission to arbitration, or in cases in which the circumstances of fact render all negotiation impossible and there is imminent danger of an armed conflict between the Parties. Any one of the Governments directly interested in the investigation of the facts giving rise to the controversy may apply for the convocation of the Commission of Inquiry and to this end it shall be necessary only to communicate officially this decision to the other Party and to one of the Permanent Commissions established by Article III.

ARTICLE III

Two Commissions to be designated as permanent shall be established with their seats at Washington (United States of America) and at Montevideo (Uruguay). They shall be composed of the three American diplomatic agents longest accredited in said capitals, and at the call of the Foreign Offices of those States they shall organize, appointing their respective chairmen. Their functions shall be limited to receiving from the interested Parties the request for a convocation of the Commission of Inquiry, and to notifying the other Party thereof immediately. The Government requesting the convocation shall appoint at the same time the persons who shall compose the Commission of Inquiry in representation of that Government, and the other Party shall, likewise, as soon as it receives notification, designate its members.

The Party initiating the procedure established by this Treaty may address itself, in doing so, to the Permanent Commission which it considers most efficacious for a rapid organization of the Commission of Inquiry. Once the request for convocation has been received and the Permanent Commission has made the respective notifications the question or controversy existing between the Parties and as to which no agreement has been reached, will *ipso facto* be suspended.

ARTICLE IV

The Commission of Inquiry shall be composed of five members, all nationals of American States, appointed in the following manner: each Government shall appoint two at the time of convocation, only one of whom may be a national of its country. The fifth shall be chosen by common accord by those already appointed and shall perform the duties of President. However, a citizen of a nation already represented on the Commission may not be elected. Any of the Governments may refuse to accept the elected member, for reasons which it may reserve to itself, and in such event a substitute shall be appointed, with the mutual consent of the Parties, within thirty days following the notification of this refusal. In the failure of such agreement, the designation shall be made by the President of an American Republic not interested in the dispute, who shall be selected by lot by the Commissioners already appointed, from a list of not more than six American Presidents to

be formed as follows: each Government party to the controversy, or if there are more than two Governments directly interested in the dispute, the Government or Governments on each side of the controversy, shall designate three Presidents of American States which maintain the same friendly relations with all the Parties to the dispute.

Whenever there are more than two Governments directly interested in a controversy, and the interest of two or more of them are identical, the Government or Governments on each side of the controversy shall have the right to increase the number of their Commissioners, as far as it may be necessary, so that both sides in the dispute may always have equal representation on the Commission.

Once the Commission has been thus organized in the capital city, seat of the Permanent Commission which issued the order of convocation, it shall notify the respective Governments of the date of its inauguration, and it may then determine upon the place or places in which it will function, taking into account the greater facilities for investigation.

The Commission of Inquiry shall itself establish its rules of procedure. In this regard there are recommended for incorporation into said rules of procedure the provisions contained in Articles 9, 10, 11, 12 and 13 of the Convention signed in Washington, February, 1923,⁴ between the Government of the United States of America and the Governments of the Republics of Guatemala, El Salvador, Honduras, Nicaragua and Costa Rica, which appear in the appendix to this Treaty.

Its decisions and final report shall be agreed to by the majority of its members.

Each Party shall bear its own expenses and a proportionate share of the general expenses of the Commission.

ARTICLE V

The Parties to the controversy shall furnish the antecedents and data necessary for the investigation. The Commission shall render its report within one year from the date of its inauguration. If it has been impossible to finish the investigation or draft the report within the period agreed upon, it may be extended six months beyond the period established, provided the Parties to the controversy are in agreement upon this point.

ARTICLE VI

The findings of the Commission will be considered as reports upon the disputes, which were the subjects of the investigation, but will not have the value or force of judicial decisions or arbitral awards.

⁴ Convention signed at Washington Feb. 7, 1923 (TS 717), *ante*, pp. 390-391.

ARTICLE VII

Once the report is in possession of the Governments parties to the dispute, six months' time will be available for renewed negotiations in order to bring about a settlement of the difficulty in view of the findings of said report; and if during this new term they should be unable to reach a friendly arrangement, the Parties in dispute shall recover entire liberty of action to proceed as their interests may dictate in the question dealt with in the investigation.

ARTICLE VIII

The present Treaty does not abrogate analogous conventions which may exist or may in the future exist between two or more of the High Contracting Parties; neither does it partially abrogate any of their provisions, although they may provide special circumstances or conditions differing from those herein stipulated.

ARTICLE IX

The present Treaty shall be ratified by the High Contracting Parties, in conformity with their respective constitutional procedures, and the ratifications shall be deposited in the Ministry for Foreign Affairs of the Republic of Chile, which will communicate them through diplomatic channels to the other Signatory Governments, and it shall enter into effect for the Contracting Parties in the order of ratification.

The Treaty shall remain in force indefinitely; any of the High Contracting Parties may denounce it and the denunciation shall take effect as regards the Party denouncing one year after notification thereof has been given.

Notice of the denunciation shall be sent to the Government of Chile, which will transmit it for appropriate action to the other Signatory Governments.

ARTICLE X

The American States which have not been represented in the Fifth Conference may adhere to the present Treaty, transmitting the official document setting forth such adherence to the Ministry for Foreign Affairs of Chile, which will communicate it to the other Contracting Parties.

In witness whereof, the Plenipotentiaries and Delegates sign this Convention in Spanish, English, Portuguese and French and affix the seal of the Fifth International Conference of American States, in the city of Santiago, Chile, on the 3rd day of May in the year one thousand nine hundred and twenty three.

This Convention shall be filed in the Ministry for Foreign Affairs of the Republic of Chile in order that certified copies thereof may be forwarded through diplomatic channels to each of the Signatory States.

For Venezuela:
C. ZUMETA
JOSÉ AUSTRIA

For Panama:
J. E. LEFEVRE

For the United States of America:
HENRY P. FLETCHER
FRANK B. KELLOGG
ATLEE POMERENE
WILLARD SAULSBURY
GEORGE E. VINCENT
FRANK C. PARTRIDGE
WILLIAM ERIC FOWLER
L.-S. ROWE

For Uruguay:
EUGENIO MARTÍNEZ THEDY
With reservations relative to the provisions of Article I (first) in so far as they exclude from the investigation questions that affect constitutional provisions.

For Ecuador:
JOSÉ RAFAEL BUSTAMANTE

For Chile:
MANUEL RIVAS VIGUÑA
CARLOS ALDUNATE S.
L. BARROS B.
EMILIO BELLO C.
ANTONIO HUNEEUS
ALCIBÍADES ROLDÁN
GUILLERMO SUBERCASEAUX
ALEJANDRO DEL RÍO

For Guatemala:
EDUARDO POIRIER
MÁXIMO SOTO HALL

For Nicaragua:
CARLOS CUADRA PASOS
ARTURO ELIZONDO

For the United States of Brazil:
AFRANIO DE MELLO FRANCO
S. GURGEL DO AMARAL
HELIO LOBO

For Colombia:
GUILLERMO VALENCIA

For Cuba:
J. C. VIDAL CARO
CARLOS GARCÍA VÉLEZ
A. DE AGÜERO
M. MÁRQUEZ STERLING

For Paraguay:
M. GONDRA

For the Dominican Republic:
TULIO M. CESTERO

For Honduras:
BENJAMÍN VILLASECA M.

For the Argentine Republic:
MANUEL E. MALBRÁN

For Hayti:
ARTURO RAMEAU

APPENDIX

ARTICLE I

The Signatory Governments grant to all the Commissions which may be constituted the power to summon witnesses, to administer oaths and to receive evidence and testimony.

ARTICLE II

During the investigation the Parties shall be heard and may have the right to be represented by one or more agents and counsel.

ARTICLE III

All members of the Commission shall take oath duly and faithfully to discharge their duties before the highest judicial authority of the place where it may meet.

ARTICLE IV

The Inquiry shall be conducted so that both Parties shall be heard. Con-

sequently, the Commission shall notify each Party of the statements of facts submitted by the other, and shall fix periods of time in which to receive evidence.

Once the Parties are notified, the Commission shall proceed to the investigation, even though they fail to appear.

ARTICLE V

As soon as the Commission of Inquiry is organized, it shall at the request of any of the Parties to the dispute, have the right to fix the status in which the Parties must remain, in order that the situation may not be aggravated and matters may remain in *statu quo* pending the rendering of the report by the Commission.