

PEACE STRUCTURES OF INTER-AMERICAN CONFERENCES  
FROM 1890-1942 AS TRANSLATED FROM  
ORIGINAL SPANISH DOCUMENTS WITH INTERPRETATIONS

PARCHMENT

U.S.A.

PEACE STRUCTURES OF INTER-AMERICAN CONFERENCES  
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ORIGINAL SPANISH DOCUMENTS WITH INTERPRETATIONS

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## PREFACE

For a clearer understanding of the consistency of the American republics in their fervent struggle for the maintenance of peace through conciliatory measures, there are presented in the ensuing pages of this manuscript translations from official documentary Spanish sources. These translations pertain to numerous inter-American conferences from the First Pan-American Conference, which assembled in Washington, D. C., 1890, to the last general conference of the Third Meeting of Ministers of Foreign Affairs of the American Republics that convened in Rio de Janeiro, 1942. The translations are supplemented with interpretations of the author for the purpose of clarifying the data given in the conferences. Corollary and subsequent events are mentioned in the interpretations as an endeavor to elucidate various terms of the peace pacts which may otherwise appear confusing to the reader.

It is desired by the author that the reader of this manuscript will obtain a higher sense of values of the intense struggle coordinated in Pan-Americanism of our neighbors to the south. In every conference cited there is seen a vigorous step toward the settlement of international disputes through means of international law, conciliation, and juridical arrangements.

In the preparation of this thesis a variety of sources was studied. Among these primary and secondary sources

were included: manuscripts; government publications; journals from various American republics (including the United States of America); and books which exhibit the results of scholarly historical research.

The translations are taken from the following source, and the page references given under the title of the conferences cited may be found in this volume:

Cerna, Jose Rodriguez, Pactos Interamericanos, Volumen II, Parte Segunda (Coleccion de Tratados de Guatemala), Publicaciones de la Secretaria de Relaciones Exteriores, Guatemala, C. A., Julio de 1943.

Acknowledgement should be made of the scholarly aid of Professor Thomas H. Reynolds, Head of the History Department of the Oklahoma Agricultural and Mechanical College, who directed this study. His last book to date, entitled Progress of Pan-Americanism, served immensely in giving assistance to the author's finding additional source material for this thesis.

Josephine Sue Houston

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I

FIRST INTERNATIONAL AMERICAN CONFERENCE

(Washington D. C., October 2, 1889--April 19, 1890)

NOTE: This conference and all ensuing conferences are taken from: Cerna, Jose Rodriguez, compiler, Pactos Inter-americanos, Volumen II, Parte Segunda (Coleccion de Tratados de Guatemala), publicaciones de la Secretaria de Relaciones Exteriores, Guatemala, C. A., Julio de 1943.

Pp. 28-29; 52-53

International Law

It is resolved:

That it is recommended to the governments represented in this conference which have not accepted every agreement on international law, private, civil, commercial and criminal of the Montevideo Congress that convened August 25, 1888, that they examine and study said treaties, in order that within a year's time related from the date of the clause of that conference, they may express terms of arbitration if they should agree to them. If modifications are made a record of same shall be accepted in writing at the conference.

It is equally resolved:

That there is recommended the adoption from the beginning the legalization of documents which the conference might consider, made in due form, when it adheres to regulations of the laws of the country from which such adoption may come. These laws may be deemed authentic by the diplomatic agent or consul who in said country, or in the particular locality, may have accredited the government of the state in whose territory the laws are to be realized.

Dictamen of the Executive Commission

The Executive Commission has examined the honorable delegate from Uruguay presented last January 30, about the



initiating into force the acts of that conference, and asks for permission to submit the dictamen which follows and to recommend its adoption:

#### Arbitration with European Powers

The International American Conference resolves:

That European controversies with the Republics of America be settled through friendly arbitration in the same manner as the republics settle disputes among themselves.

The conference recommends that each of the friendly governments represented agree to arbitration by voting.

#### Right of Conquest

Considering:

1. There may be no further territorial acquisitions by conquest.
2. Acts of war for conquest among American nations shall be unjustifiable.
3. The system of armed peace breeds international insecurity.
4. That the conference should fulfill its mission as one of pacific and fraternal aspirations.

Resolves:

To intrust to the governments represented the adoption of the following declarations:

1. The right of conquest remains eliminated from the American people during the time this treaty of arbitration is in force.
2. The cessions of territory that might be made following said treaty shall be null if made through war or armed force.
3. The nation which might have made such cession shall have the right to appeal for amendment of this violation by arbitration.
4. The renunciation shall be consummated in light of Article 2 of this treaty. (April 18)

Reclamations and Diplomatic Intervention

The International American Conference recommends to the governments represented in it that they recognize as principles of American international law the following:

1. The foreigners may enjoy all the civil laws that the nationals may enjoy, and can make use of them, in the depth, the form or proceeding and the recourses to which they give place, absolutely on the same terms of said nationals.

2. The nation which does not recognize the civil rights of foreigners therein shall be subjected to abide by the constitution and laws.

\* \* \* \* \*

II

SECOND INTERNATIONAL AMERICAN CONFERENCE

(Mexico, D. F., October 22, 1901--January 31, 1902)

Pp. 78-82

Treaty of Obligatory Arbitration

(II)

The undersigned, delegates to the Second International American Conference which convenes at Mexico City, are the following republics:

Argentina, Bolivia, Dominica, Guatemala, El Salvador, Mexico.

These delegates are duly authorized by their respective governments and have agreed on the following articles:

1. The high contracting parties are obligated to submit to arbitration all controversies which exist or may arise among them, and which cannot be solved by diplomacy, at all times, in the exclusive judgment of any of the interested nations; said controversies shall not affect either the independence or the national honor.

2. They shall not compromise the national honor in the controversies on diplomatic privileges, limits, right of navigation, validity, understanding and fulfillment of treaties.

3. By virtue of the faculty which recognizes Article 26 of the convention for the pacific settlement of international conflicts, made at the Hague, July 29, 1899, the high contracting parties agree to submit to the decision of the Permanent Court of Arbitration that said convention establish all the controversies to which the present treaty is referred, unless some of the parties prefer to organize a special tribunal.

In case of being submitted to the Permanent Court of the Hague, the high contracting parties accept the precepts of the referred to convention, as much in relation to the proceedings as to what has been submitted.

4. Always as for whatever motive a special tribunal should be organized, already it may be because the court of arbitration does not come to a decision. There shall be established upon making a compromise, the proceedings which it has followed. The tribunal shall determine the date and place of sessions, the language used, and it will be invested with the authority of solving all the questions relating to its jurisdiction, or further those which are related to the proceedings in the points not foreseen in the compromise.

5. If upon organizing the special jurisdiction it should not be in conformity with the high contracting parties in order to designate an arbiter, the tribunal shall be composed of three judges. Each state shall name one arbiter and these two contracting parties shall designate the third. If they cannot come to an agreement on this designation, the chief of the third state shall insist that the arbiters accept his designation. Failing to come to an agreement on the last mentioned, each one of the parties shall designate a third power, and the election of the third party will be made by the parties thus designated.

6. The high contracting parties stipulate that in case of grave dissension, or of conflicts between two or more of them, which make war imminent, they shall have recourse to, insofar as the circumstances permit, the good offices or mediation of one or more friendly powers.

7. Independently of this recourse, the high contracting parties judge useful, that one or more powers without the dispute offer freely or spontaneously inasmuch as the circumstances require it, their good offices or their mediation to the states in question.

The right of offering the good offices or mediation shall belong to the powers unrelated to the conflict, even during the conflict.

The exercise of this right shall not be considered by one of the other contending parties as an unfriendly act.

8. The office of mediator consists in conciliating the conflicting pretensions, and appeasing the nations in conflict.

9. The functions of the mediator shall cease from the moment when evidence is established even by one of the contestants, even by the mediator himself, that the means of conciliation proposed by it are not accepted.

10. The good offices and the mediation that has been made by the parties in conflict or by the initiative of the outside powers, do not have other character than of council, and never of obligatory force.

The acceptance of mediation cannot produce the effect, save agreement to the contrary of interpretation, to delay promotion of mobilization or other means preparatory to war. If the mediation is to take place though hostilities cease, it is not to be interrupted by it, save agreement to the contrary, the course of military operations.

12. In case (perchance) of grave differences which threaten the peace, and always that the interested powers cannot come to accord to select or accept as a mediator, a friendly power, the selection of a power, is recommended to the states, in conflict, in which they confide, respectively, the authority of entering into direct relation with the power selected by the other interested nation, with the object of avoiding a rupture of peaceful relations.

While this duration lasts meanwhile it is mandatory, except as stipulated in the contract, not to exceed in the contract, not to exceed thirty days, the contending states shall cease direct relations with the motive of conflict, in which it shall be considered as exclusively deferred to the mediatory powers.

If these friendly powers shall not succeed in coming to an agreement, a solution which is acceptable to those found in conflict, they shall designate a third which might continue the mediation.

This third power, in case of rupture of peaceful relations will have at all times the charge of profiting by whatever occasion for the establishment of peace.

13. In controversies of an international character proceeding with the evaluation of facts, the signatory republics judge practical that the parties which have not been able to agree by diplomacy, shall institute insofar as possible, an international commission of investigation, charged with the solution of these litigations, clarifying by means of an impartial examination, conscious of the facts in question.

14. The International Commission of Investigation is to be constituted by special agreement of the parties in litigation. The agreement shall be precise as to the facts that shall be examined, thus as to the extension of the powers of the commission, and it shall arrange the proceedings to which it shall subject itself. Should the investigation arrive at a contradictory termination, and if it is not in agreement as to the form and place, a desirable situation might be determined by the commission.

15. The International Commission of Investigation shall be constituted in the same manner, save stipulation to the contrary, as the Tribunal of Arbitration.

16. It is the obligation of the powers in litigation, by the most ample methods that they judge possible, to the Commission of International Investigation, all the means and necessary facilities for complete acknowledgement and exact appreciation of the controversial facts.

17. The commissioners mentioned shall be limited to ascertaining the truth of the facts, without manifesting the appreciation of mere technicalities.

18. The International Commission of Investigation shall present to the powers that constitute it the information subscribed to by all the members of the commission. This information, limited to the investigation of the facts, does not have in the absolute sense the character of an arbitral sentence. There is given to the contending parties entire liberty of evaluating that which is esteemed just.

19. The constitution of the Commission of Investigation shall be included in the compromises of arbitration, as in previous proceedings, for the purpose of establishing the facts which will be a matter of judgment. The present treaty does not annul pre-existing ones between two or more contracting parties, on account of giving major extension to obligatory arbitration. Neither shall it alter stipulation on arbitration relative to determined questions which have already arisen, in the course of judicial arbitration which they follow with a motive of these.

21. Without the necessity of an exchange of ratifications, the treaty shall be in force for the three states, at least for those which shall subscribe to it, showing the approval to the government of the United Mexican States, which will communicate to the other governments.

22. The nations which do not subscribe to the present treaty may adhere to it at any time. If any of the signatory powers wishes to recover its liberty to denounce the treaty, the denunciation shall not produce effect except

only in respect of the nation that puts it into practice, and only one year after the rejection of the treaty. When the nation denouncing has some negotiations of arbitration pending at the expiration of a year, the denunciation will not provide effects in relation to case still not resolved.

\* \* \* \* \*

(I). The present treaty will be ratified as soon as possible.

(II). The ratifications shall be sent to the Secretary of Foreign Relations of Mexico, where it will remain deposited.

(III). The Mexican Government shall remit a certified copy of each one of them to the other contracting governments.

In the faith in which the present treaty has been made we have placed our respective seals...

Made in the City of Mexico, January 20, 1902, in a single copy that will remain deposited in the Ministry of Foreign Relations of the United Mexican States from which shall be sent, by way of diplomacy, certified copies to the contracting governments.

#### Protocol of Adherence to the Convention of the Hague

Considering:

That the delegates to the International Conference of the American Republics which are here represented augment in a constant manner the public opinion in the nations in the sense of actively favoring full application of the principles of arbitration; that the American Republics guided by the same principles and responsibilities of the democratic rule and leagued by increasing mutual interests can by themselves conserve the peace of the continent, and that stable peace among them will be the propeller most efficacious in the national development, as well as for the well-being and commercial greatness of their peoples.

Consequently they agree on the following articles:

1. The American Republics represented in the International Conference of Mexico, not signatories of the three conventions signed at the Hague July 29, 1899, recognize the principles subscribed to by them, as part of American Public International Law.

2. The adherence in respect to the conventions that have the character of sincerity, ratified by the respective governments, shall be communicated by these and by diplomatic channels to the Low Countries for their effects.

3. Being publicly known for general convenience that the differences whose solution comes to be submitted to arbitration, the governments represented are to confide in the jurisdiction of the Tribunal of such high importance as is the court of arbitration of the Hague. Thus the American nations not signatory to the convention which created such beneficent institution can repair to it in use of a considered recognized right, and one which is accepted; moreover, taking into consideration the invitation of the governments of the United States of America and of Mexico, the conference confers on said governments the duty of negotiating terms with the other signatory powers of the convention for pacific settlement of international disputes. Any American nation that is not a signatory power may adhere to the conference if full application be made.

4. In order that it can arrive at the principles of justice in the most satisfactory manner, it is agreed that the convention establish principles mutually advantageous to all governments represented. Such principles are directed to the president of Mexico who will in turn authorize the establishment of partial protocol if necessary to make the aspirations practicable.

Subscribed to by the delegates of Guatemala, Mexico, Argentina, Peru, Uruguay, Costa Rica, Haiti, Dominican Republics, Paraguay, Bolivia, El Salvador, Colombia, Honduras, Nicaragua, and the United States of America... The agreement of Venezuela which plays a part in the foot of Article 3, ad referendum, and with reservations, does not appear at the end of Article 4; subsequently, underwriting to the convention referring to the Hague, the following states: Argentina, Bolivia, Brasil, Colombia, Cuba, Dominica, Uruguay and Venezuela. Guatemala signed June 14, 1907. The same states and Honduras were made adherent also to the understanding on laws and customs on land warfare, and on adoption of the principles of the Geneva Conference on maritime warfare.

## III

## THE THIRD INTERNATIONAL AMERICAN CONFERENCE

(Rio de Janeiro, July 23--August 27, 1906)

Pp. 104-109

## Convention on International Law

Their excellencies, the presidents of Ecuador, Paraguay, Bolivia, Colombia, Honduras, Cuba, Panama, Dominica, Peru, El Salvador, Costa Rica, Mexico, Guatemala, Uruguay, Argentina, Nicaragua, Brazil, United States, and Chile,

Desiring that the countries respectively represented at the Third International Conference, send to it, duly authorized to approve the resolutions, recommendations, conventions, and treaties which they judge valuable to the interests of America the following delegates...

Who, after having communicated their full powers and found them in good and due form, have come to believe in joint international jurisprudence in the following terms:

1. A joint international council of jurists will be composed of a representative from each one of the signatory states, named by their respective governments. It will be constituted to take charge of the preparation of a code of International Public Law, that will regulate the relations among the American nations. Two or more nations can name by agreement a single representative, in which case he will have a vote.

2. The communications of those named of the body will be directed, by the governments that adhere to the present convention, of the United States of Brazil, which will be authorized to arrange an agreement for the unification of the first session. Those named will be communicated to the government of Brazil before April 1, 1907.

3. The first gathering of the junta will take place in the city of Rio de Janeiro in the course of the year 1907, and will be considered constituted when not less than twelve states representatives meet. The same body shall designate the dates and places of their later meetings. It is also agreed that the proceedings of this immediate convention shall be communicated to the various governments of their respective delegates at least one year prior to the Fourth International American Conference.



4. The joint gathering, with the object of organizing and distributing the labor among its members, can be divided into distinct commissions: one to prepare a code of International Private Law, and the other to prepare a code of International Public Law, being obliged to proceed separately, until the termination of said conference.

Another commission can gather from the governments their subscriptions of trained specialists in order to determine studies, in view of the most prompt and efficacious termination of their projects, being able to fix reasonable places for their presentation.

5. With the object of determining the matters which their projects should undertake; the Third International American Conference recommends to the commissions that they give first preference to the principles and points that have the object of uniform accord in the treaties and states of America, and in which exists conformity among the national laws of the States of America, and especially that takes into account the treaties of Montevideo 1889, those projects adopted the Second International Conference celebrated in Mexico in 1902, and all other debates and questions which were of moment or that made for effective juridical progress or which tends to elimination of causes of lack of understanding or conflict among those same states.

#### The Third International American Conference

##### Resolves:

To ratify the adherence to the principle of arbitration, to the end of putting into practice such a high purpose. It recommends to the nations represented in the conference that they give their instructions to their delegates of the Second Conference of the Hague, in order that this assembly of world character procure celebration of a general convention of arbitration so effective and defined that by meriting the approbation of the civilized world, it shall be accepted and the proceedings of which shall be put into force by all nations.

## IV

## THE FIFTH INTERNATIONAL AMERICAN CONFERENCE

(Santiago, Chile, May 3, 1923)

Pp. 161-166; 215-219

## Treaty for Avoiding or Preventing Conflicts

Among the American States

(Pacto Gondra)

The governments represented at the Fifth International American Conference, in the desire to strengthen each time the principles of justice and mutual respect in which this policy is inspired resolve to observe reciprocal relations and to quicken in their people sentiments of concord, and of loyal freidnship those principles which contribute to solidarity of their relations: they confirm their most sincere desire to maintain immutable peace, not only among themselves, but also that of all other nations of the earth; they condemn armed peace, which requires military and navy force more than of necessities of interior security or the maintenance of sovereignty and independence of the states, and with this deep-rooted purpose, decide to promote the means that avoid or prevent the conflicts that eventually might occur among them...

By senior plenipotentiaries, the foregoing objectives for said conference are agreed upon for their adjustment and fulfillment in good and due form...

The countries subscribing to the above agreements were: Venezuela, Panama, United States of America, Uruguay, Ecuador, Chile, Guatenala, Nicaragua, Brazil, Colombia, Cuba, Paraguay, Dominica, Honduras, Argentina and Haiti.

Every question for whatever cause that arises between two or more high contracting parties, and which is not capable of being solved by diplomacy, or brought to arbitration by virtue of existing treaties, will be submitted to investigation and information by a commission constituted in the same manner which is established in Article 4 of this conference. The high contracting parties are obligated, in case of conflict, not to initiate mobilization, concentration of troops on the frontier of another party or execute any act hostile or preparatory to hostilities, until there has

been promoted the convocation of an investigatory commission, until after producing information of the same. See Article 7 of this treaties.

\* \* \* \* \*

This stipulation does not abrogate nor restrict the compromises establishes in conventions of arbitration established among two or more high contracting parties, or the obligations which may be derived from them:

1. It is understood that in the conflicts that arise among nations which do not have general treaties of arbitration, the investigation shall not proceed on questions that affect constitutional prescriptions or those questions already solved by treaties of another nature.

2. The questions to which Article 1 refers will be referred to a commission of investigation when the negotiations or diplomatic proceedings for solving them or for submitting them to arbitration, have failed; or, in cases in which circumstances of fact make impossible any negotiation. If a conflict exists among the parties in which these two governments are directly interested, a commission may be summoned to investigate said circumstances. This commission may then communicate officially this decision to the other party and one of the permanent commissions as referred to in Article 3.

3. There shall be constituted two commissions with a seat at Washington D. C. and in Montevideo, and they shall be called permanent. These commissions shall be composed of three American diplomatic agents previously established in said capitals, and called from the chancelleries of those states organized, designating their respective presidents. Their function shall be limited to receiving of interested parties, asking for the calling of a commission of investigation, and immediately notifying the other party. The government that solicits the call shall designate in the same act, the persons, who, on its side shall integrate the commission, and the adverse party will have equally the designation of the members that correspond to it, as soon as it receives the notice.

The party that promotes the proceeding which this treaty establishes shall directly communicate such action to the permanent commission, which it judges most efficacious, for a quick response of the investigating commission.

4. The Commission of Investigation for a controversy so imminent, shall be composed of five members, all national and American states and shall be designated in the following manner: each government shall select at the time of the convention two of them; of these only one can be of his own

nationality. The fifth shall be elected in common agreement by the two already designated, and he shall fulfill the duties as president; but this election shall not fall back on any citizen of the nationality already represented on the commission. Any of the two governments shall have power and for motives reserved to themselves, not to give their approval to a member-elect, and in such case, the replacement be designated within thirty days following the notification of this refusal, by common accord among the parties, and upon the failure of this agreement, the designation shall be made by the president of an American republic not interested in the conflict and who will be selected by the commissioners already named; from a list of not more than six chiefs of American States formed as follows: each government that is a party to the question, or if the governments directly interested in it are more than two, the government or governments from one or the other side of the controversy, three presidents of American nations shall be designated if they maintain the same friendly relations with all the parties in the conflict.

When there are more than two governments directly interested in a conflict and the interests of two or more of them are identical, the government or governments which are on each side of the question may be augmented from the number of their commissioners insofar as is indispensable, to the end that the controversy always has equal representation on the commission.

\* \* \* \* \*

### Homage to the Inter-American Institute of International Law

The Fifth International Pan-American Conference resolves:

To send a vote of thanks to the American Institute of International Law and at the same time manifest in it the hope that such Institute shall constitute in the future the exercising of a beneficent influence in favor of the principles of International Law on the American Continents.

### Judicial Arbitral Arrangement

The Fifth International American Conference sees with complacency the extension of conciliatory experiments by means of arbitration as a means of settling conflicts on the American continents. Acceptance is made obvious by the representatives for they endorse forcefully the institutions which show continual progress.

The Argentine delegation votes with the motive of security in connection with the idea that its country have the aspirations of adopting a broad principle of arbitration such as the countries which have established treaties of arbitral arrangement such as the system of conferences held at Washington in 1922. Especially did Argentina favor the enactment of an investigating commission for settling a controversy at the point of open hostilities.

### Court of American Justice

The Fifth International American Conference resolves:

#### (First Agreement)

To recommend to the governments of America the initiative of continental cooperation with the purpose of erecting in Washington a monument of homage to the memory of Henry Clay, who consecrated himself as an apostle for peace.

(a) To confirm the most sincere wish for permanent peace among the peoples of America and all the peoples of the earth;

(b) To declare that armed peace be condemned because it increases military and naval force more than is necessary for interior security and sovereignty and independence of states.

#### (Second Agreement)

(a) That it be recommended to the governments that they adhere to conciliatory principles such as those adopted at the Second Conference of the Hague, 1907, for the solution of international conflicts; and,

(b) To recommend to the governments represented that they adhere to methods for the prevention of war, and especially to those that consult the investigation and examination of international conflicts previous to the outbreak of hostilities.

#### (Third Agreement)

To recommend to the governments that they promote in their respective nations a free and spontaneous exercise of already existing peace pacts and a wise consideration of their armaments respectively.

## (Fourth Agreement)

To recommend that disposition No. 1 in the treaty celebrated at Washington, 1922, be established as practicable.

(a) That no power shall acquire any capital ship that exceeds 35,000 tons of normal displacement or any ship carrying airplanes, which exceeds 27,000 tons; and,

(b) That no capital ship shall mount cannon whose calibre exceeds sixteen inches.

## (Fifth Agreement)

(a) To recommend that they adhere to the Hague Conference of 1907 and later agreements which restrict military hostilities, and limit the uses of war and the rights and obligations of neutrals.

(b) To recommend to the governments that they adopt the rules of the civilized nations for the protection of the life of neutrals and non-combatants on the sea as a part of established international law.

(c) To recommend to the governments the prohibition of asphyxiating gasses in the event of war.

## V

## SIXTH INTERNATIONAL AMERICAN CONFERENCE

(La Habana, January 16--February 20, 1928)

Pp. 243; 245-246

## Convention on Private International Law

The presidents of the republics of Peru, Uruguay, Panama, Ecuador, Mexico, El Salvador, Guatemala, Nicaragua, Bolivia, Venezuela, Colombia, Honduras, Costa Rica, Chile, Brazil, Haiti, Argentina, Paraguay, Santo Domingo, United States, and Cuba, desiring that their respective countries should be represented in the Sixth International American Conference, do send to it, duly authorized for approving recommendations, resolutions, conventions and treaties that shall be judged useful by the following delegates;

\* \* \* \* \*

Those who, after communicating their full powers, have found them in good and correct form, have agreed to the following articles:

1. The contracting republics accept and put into force the code of international private law, already discussed in a previous convention.
2. The dispositions of this code shall not be applicable except among the contracting republics and those other states that adhere to it in the form signed in advance.
3. Each one of the contracting states upon ratification of the present convention shall declare that it reserves the acceptance of one or various articles of the code annexed and shall not obligate itself to that which is otherwise referred.
4. The code shall be entered in force by the republics that ratify it within thirty days of the deposit of the respective ratification, provided that at least it has been ratified by two republics.
5. The ratifications shall be deposited in the office of the Pan-American Union, which at the time shall transmit a copy to each of the contracting republics.
6. The states and international juridical persons who are not contracting parties which desire to adhere to this convention and to the code annexed, shall report to the office of the Pan-American Union, which at the time shall communicate said report to all the states even then contracted or adhering to it. After three months have passed from this communication the state or international juridical person interested, shall be able to deposit the instrument of adhesion in the office of the Pan-American Union. Such a deposit shall remain therein throughout the convention...
7. Whatever American republic joins in this convention which might desire to modify in whole or in part the code annexed, shall present the corresponding proposition to the International American Conference for the resolution of procedure.
8. If any of the international juridical persons, contractants or adherents, should wish to denounce the present convention, it shall notify as to the denunciation by writing to the Pan-American Union which, shall transmit immediately the literal certified copy of the notification to the others, acknowledging the date received. The renunciation shall not have the desired effect in respect of the contract notified and received from the Pan-American Union.

9. The office of the Pan-American Union shall send a registry of the dates of the receipts of the ratification, adherence, and renunciations by copies for each contractant which has solicited them...

## Code of International Private Law

### (General Rules)

1. The foreigners who belong to any of the contracting states enjoy in the territories of the others the same civil rights that are conceded to the nationals.

Each contracting state can, for reasons of public order, refuse or subordinate on special conditions the exercise of certain civil rights to the nationals of the others and any of those states can, in such cases, refuse or subordinate under special conditions the same exercise to the nationals of the first.

2. The strangers who belong to any of the contracting states shall enjoy similarly in the territory of the others identical guarantees as the nationals of that state, republic, or territory except in those instances where the constitution of each respective government deems otherwise.

3. ....

4. The constitutional precepts are of a public international order.

5. All of the regulations for individual or collective protection, established by political and administrative law, are also of a public international nature, except in cases in which they are expressly arranged to the contrary.

6. In all cases not foreseen by this code, each one of the contracting states shall apply its own judgment to the institutions of a juridical relation for stipulation as to the limitations of the constitutional private law in a given territory...

## Convention on Treaties

Desiring that the governments of the states of America clarify the rules which should govern the subscribed treaties among them, the following named plenipotentiaries have agreed to establish them in a convention, and to put them into effect...



These plenipotentiaries who having exchanged their full powers respectively and having found them in good and due form, have agreed to the following articles:

1. The treaties shall be celebrated by competent powers of the states or by their representatives according to their internal rights respectively.

2. The treaties shall be duly recorded in written form.

3. The authentic interpretation of the treaties, when the contracting parties judge necessary, will also be formulated in written form.

4. The treaties will be published immediately after the exchange of ratifications; any omission in the fulfillment of this international obligation will not affect the enactment of the treaties, or the exigency of the obligations contained therein.

5. The treaties are not binding except after their ratification by the contracting states; although this clause does not state the full powers of the negotiators or figure in the same treaty.

6. The ratification shall be authorized unconditionally. It shall be made in written form, in conformity with the laws of the state. If the state ratifying has made reservations in the treaty, such limitations shall be enacted from the time of acknowledgement of these reservations. The other contracting party shall accept them expressly, or not having rejected them formally, execute acts that imply its acceptance.

In the international treaties celebrated among different states the reservation made by one of them in the act of ratification only affects the application of the clause respectively, in the relations of the other states in the contract with the state which made the reservation.

7. The failure of the ratification or the reservations made are inherent acts in national sovereignty, and as such constitute the execution of a right that does not violate any disposition or sound international form. In case of the negative, it shall be communicated to the others in the contract.

8. The treaties are in force from the exchange or deposit of the ratifications unless a specific date be set.

9. The acceptance or non-acceptance of the clauses of a treaty in favor of a third state that is not a contracting party depends exclusively on the former.

10. No state can be exempt from the obligations of the treaty or modify the stipulations except by agreement, peaceably obtained by the other contractors.

11. The treaties shall continue in effect even when modified by the internal constitutions of the contracting states. If the organization of the state changes in a manner that the execution be impossible, through division of territory, or by other analogous motives, the treaties shall be adapted to their new condition.

12. When the treaty is found impractical through blame of the party that is obligated, or by circumstances when in the moment of the celebration should depend on this party even though ignored by the other party.

13. The execution of the treaty can, by express clause, or by virtue of special agreement be placed, in whole or in part, under the guarantee of one or more states.

The guarantee state shall not be permitted to intervene in the execution of the treaty, except in virtue of requirement of one of the interested parties and when the conditions under which the intervention was stipulated are realized. After this is completed it will only be legal to employ means authorized by international law and without other exigencies of major capacity of the same state guaranteed.

14. The treaties are not binding under conditions indicated below:

- A. Fulfillment of stipulated obligation.
- B. Elapse of term by which it was celebrated.
- C. Fulfillment of the condition of resolution.
- D. If special agreements to the contrary are made among the contracting parties.
- E. By the renunciation of the party whom the treaty has benefitted in an exclusive manner.
- F. By the denunciation, total or partial, when opposed.
- G. When it is termed impractical.

15. If any nature of the treaty becomes obsolete it may be legally acclaimed as such and the treaty will continue to be subject to arbitration.

16. The obligations contracted in the treaties will be sanctioned in cases of unfulfillment only through arbitral negotiation.

17. Treaties may not be denounced after agreement of contracting parties except by established rules of international law.

Due to failure of stipulation, the treaty can be denounced if the contracting state announces in due time its decision on obligations agreed upon by the same.

In this case the treaty remains in effect and shall continue to subsist for the other signatories.

#### Reservation of Mexican Delegation

The Mexican delegation, without taking into account the votes that it wishes to manifest against various articles subscribed by international law, does not subscribe to Article 13.

(The Salvador delegation does not subscribe to the convention.)

#### Reservations of Bolivia

In the mind of the delegation of Bolivia, the partially unenforceable Section C. referred to in Article 14 produces the following cases:

1. When the facts and circumstances that give origin to or serve as a base have changed fundamentally.
2. When the execution turns contrary to the nature of things.
3. When the axis is incompatible with the existence of the state, with its independence or dignity.
4. When it turns out to be ruinous to its wealth and commerce.
5. Any human understanding is susceptible to error and there is nothing unchangeable and eternal with man.

## VI

## INTER-AMERICAN CONFERENCE FOR CONSOLIDATION OF PEACE

(Buenos Aires, December 1-23, 1936)

Pp. 469-473; 475-480; 481-484; 502-506; 519-521

## Convention Upon Maintenance, Security

## And Reestablishment of Peace

The governments represented in this conference agree on the terms made by President Roosevelt to the presidents of the other American Republics.

1. That according to President Roosevelt's own terms, to whose high spirit should be the reunion of this conference, the standards that will be adopted in it, "Will be for world peace, and for that reason the settlements that may be agreed upon will serve the means for completing and strengthening the purposes of the Society of Nations and for all the other present or future institutions of peace, when they endeavor to impede the war."

2. That every war or the menace of war affects directly or indirectly all civilized people and places in danger, the great principles of liberty and justice that constitute the ideal of America and the norm for its international policy.

3. That the Treaty of Paris 1928 (Kellogg-Briand Pact) has been accepted by all the Civilized Nations, members or not of other institutions of peace and that the Treaty of Non-Agression and of Conciliation of 1933 agrees with the approbation of the twenty-one American Republics represented in that Conference...

## (I)

After having presented their full powers, found in due and good form, the representative governments have agreed to the following terms:

1. In case of being conversant with the menace of the peace of the continent, and having the object of coordinating the efforts for preventing said war, any of the American governments signatory to the Treaty of Paris of 1928 or the non-aggression treaty and of conciliation of 1933, or of both,

members or non-members of other institutions of peace, shall consult with the other governments for the effects of procuring and adopting formulas of peaceful cooperation.

2. In the event that war should prevail among the American countries, their respective governments shall immediately effectuate the necessary mutual consultation to the end of the exchange of ideas and to search, within the obligations emanating from the pacts already cited and the norms of international morality. Methods of determining the course of action to be taken will be established among the signatory nations.

3. If these open hostilities cannot be settled through diplomacy, then settlement of such controversies shall be submitted to the conciliatory proceedings of conventions in force or to arbitral recourse or to judicial settlement.

4. The present convention shall be ratified by the high contracting parties, in accord with regular constitutional proceedings. The original convention and the instruments of ratification shall be deposited in foreign relations of the Argentine republic which in turn will communicate them to the other signatory states. As soon as each nation represented ratifies said convention, the latter will be in force.

5. In the event that any signatory nation wishes to renounce its ratification, it shall direct such renunciation a year in advance to the Argentine republic, which shall transmit such notice to the other signatory nations...

Reservations of the delegates of Paraguay, Ecuador, and Honduras respectively:

1. Each nation is to be recognized equally in respect to the society of nations.

2. Upon ratifying the present convention, declares, with relation to Article 2 that it admits consultation as a help and that treaties between two or more nations should not be excluded from the principles of the convention for fear the lack of compromise will result in international conflict.

3. The governments of Honduras resolve that the dispositions of the present convention not be applicable to pre-existing controversies.

\* \* \* \* \*

## (II)

Convention on Coordinating, Amplifying and Securing the  
Fulfillment of the Existing Treaties  
Among the American States  
(Argentina, 1936)

The governments represented...resolve to settle international differences by a pacific solution. It is acclaimed that greater restrictions are necessary to prevent the recurrence of war as evidenced by the following articles:

1. That as to the treaty for preventing conflicts among the American nations, subscribed to in Santiago, 1923 (recognized as the Gondra Treaty) these high contracting parties agree to submit to a committee of investigation any terms of disagreements which have not been settled through diplomacy. Furthermore, the governments represented in this convention declare themselves wholly in agreement with the terms of the Briand-Kellogg Pact of 1928 insofar as any recourse to war is condemned.

A. That by general convention of inter-American conciliation, signed in Washington, 1929, the high contracting parties obligate themselves to submit to the procedure of conciliation all of their controversies which have not been settled by diplomacy and to establish a "Commission of Conciliation" in order to put into effect the obligations which were assumed in the convention.

B. That by the general treaty of inter-American arbitration, subscribed to in Washington 1929, the high contracting parties are obligated to submit to arbitration, with certain exceptions, all the differences of an international character, which have not been adjusted by diplomatic means.

C. Non-aggression by non-acquisition of territories except by pacific means is to be in force; moreover, in case of a lack of fulfillment of these obligations, the contracting states agree to adopt in their capacity as neutrals, a common attitude of solidarity and to exercise political, juridical or economic means, authorized by international law, and to bring public opinion to bear without recourse to any intervention be it armed or diplomatic.

2. It is agreed by these same high contracting parties that every nation be treated as equal sovereignties in the promotion of rights and liberties.

3. In case of a menace of war, the high contracting parties shall promote the application of dispositions contained in Articles 1 and 2 of the convention on maintenance, strengthening and the reestablishment of peace, celebrated on the same date. For six months the parties to the conflict shall not resort to hostilities nor exercise any military action.

4. If hostilities recur more than once the commissions of investigation and conciliation, and all existing juridical personnel shall assemble immediately for consultation toward the ending the controversy. Prior to this every diplomatic negotiation possible is to have been administered.

5. Otherwise the following stipulations must be agreed upon:

A. The treaty of non-aggression and conciliation (Treaty of Saavedra Lamas) shall be adopted.

B. The contracting parties shall make a prompt decision in accordance with the legal treaties already existing between or among the nations in conflict.

6. Without grievance of universal principle of previous neutrality in the case of international war outside of America and without affecting the contractual obligations by American states which may be members of the society of nations, the high contracting parties re-affirm their fidelity to the principles enunciated in the five pacts referred to in Article I. They agree that in the event of an outbreak of hostilities or a threat of an outbreak among two or more of them, steps shall be taken to adopt immediately methods of consultation which will arrest and avoid the propagation or prolonging of hostilities.

No material aid is to be given to the states in conflict by these high contracting parties.

7. Nothing established in this convention shall be extended so as to affect the rights and obligations of the high contracting parties which shall be at the same time members of the society of nations.

8. The present convention shall be ratified...in accord with constitutional proceedings... (See Article V of the resolutions for terms on ratification and renunciation.)

## Reservations

## (Reservation of Argentina delegation)

1. By Article 6 in no case shall food and raw materials destined to belligerents be considered as contraband of war, nor shall there exist the obligation of prohibiting credits for acquisition of said articles.

In the case of an embargo of armaments, each nation can reserve its attitude confronted by a war of aggression.

2. Paraguay and El Salvador make identical reservations as those of Argentina.

3. The delegation of Colombia understands upon subscribing to this convention that the phrase, "in its capacity as neutrals," which appears in Articles 5 and 6 implies a new concept of international law which permits one to distinguish between aggressor and the attacked. At the same time the delegation of Colombia considers it necessary to assure the full and effective application of this pact by defining the aggressor as the state that is responsible for one or various acts of the following:

(a) Armed forces trespassing the land, maritime or air frontiers of territories.

(b) Intervention in a unilateral manner into the domestic and foreign affairs of a state.

(c) Denial of a course of arbitral arrangement in event of conflict.

4. The delegates of the United States of America sustain the foregoing reservations but proclaim that said interpretations and definitions do not have the character of an amended text and that they are to be upheld only by those nations subscribing to them. Moreover, the United States is not obligated to such reservations.

\* \* \* \* \*

## Treaty Relative to the Prevention of Controversies

The governments represented in the Inter-American Conference for the Consolidation of Peace...who after having exhibited their full powers, founded in good and due form, have agreed to the following articles:

1. The high contracting parties obligate themselves to create bilateral mixed permanent commissions, formed by



representatives of the signatory nations.

Each government shall name its own representative on said commissions. The conventions shall be held alternately in the capital seat of one or the other of the governments represented. The first convention shall be celebrated at the capital of the government which promotes it.

2. The commission referred to shall have the mission of studying and proposing means for eliminating the causes of future controversies. Insofar as possible, detailed methods, in conformity with law, are to be executed in order that the treaties in force be applied among the conflicting states; moreover, provisions are made for a friendlier relation among the same.

3. All governments represented on any of the commissions for the prevention of wars shall communicate their proceedings to all governments concerned.

4. By virtue of international agreement the present treaty does not affect the compromises contracted previously by the high contracting parties.

5-7. ... (This treaty provides for the same terms in regard to its ratification, renunciation and place of deposit as all other treaties of this same convention.)

\* \* \* \* \*

#### Ratification of the Convention

Considering:

That the circumstances that were adjusted in the Seventh International American Conference should continue to approve a resolution on the ratification of the peace convention; and,

That all the American states in their answers to the invitation of President Roosevelt should agree to the necessity of coordinating and giving greater efficacy to said instruments in the present convention.

The Inter-American Conference for the Consolidation of Peace resolves:

1. To send an invitation to the American nations which still have not ratified it or the Montevideo Conference. (The United States hastily adopted it.)

2. To ratify the agreements adopted by the Pan-American Union July 22, 1936 and, consequently, to recommend to all the commissions that they should give immediately preferred attention to the study and conclusions on questions related to the organization of peace.

3. To secure the benefits of the consolidation for peace; thus, there shall be made possible the celebration of the same conferences and its results, due in its principal part to the happy opportunity of a reunion of the presidents of the United States and of Argentina. (Together they promoted the elevated interests of the convention for peace.)

4. To show the recognition and gratitude of the peoples and governments of America as reflected in the persons of President Roosevelt and the Argentine Chief of State.

5. To extend the effects of their recommendation to the additional protocol of the general international American Conference of 1929; and,

6. To reaffirm the recommendations and means of consultation approved by the Seventh International American Conference referred to on the ratification of the peace convention. (December 16)

(IV)

The International Inter-American Court of Justice

In this same conference for peace it is resolved:

To send to the directive council of the Pan-American Union special recommendations, including the study of the projects presented to the conference, in respect to the creation and organization of a court of Inter-American International justice. Said directive council shall submit the information in respect to the objectives set up for ensuing Eighth International Conference.

(V)

The universalization of the rule of inter-American jurisprudence is made possible by permitting adherence and accession to the different treaties to all American states.

In order to provide a revision of pre-existing conventions the following recommendations are offered:

1. That the treaties and conventions celebrated in the conferences of America can be opened to the accession and adherence of the states of America which have not already subscribed to it; and,

2. That the treaties and conventions celebrated in the inter-American conferences shall remain open to the accession or adherence of all the states, when thus disposed in the proper instrument.

(VI)

Codification of International Law

For consideration:

The necessity of carrying forward the work of the codification of international law and of not permitting the beneficent efforts of realization to be paralyzed through the commission of international American jurists and through the permanent committees of codification created by the Sixth International American Conference;

The convenience of harmonizing the resolutions taken in Montevideo and Havana on the methods of codification;

That this work, by its nature, requires preparatory work executed in the spirit of continuity, meditation and constancy, particularly of unique organisms with centralized and permanent character; and,

That, given the importance of the experts, created by the Seventh International American Conference, the corresponding superior functions of revisions and coordination, it is not possible to unite with continuity and necessary frequency for the slow elaboration of the preparatory studies of codification.

Furthermore, the Inter-American Conference for the Consolidation of Peace makes the following resolutions:

1. To reestablish the permanent committees created by the Sixth International American Conference, for the purpose of exercising the preparatory studies of the codification of international law; and,

2. That these studies shall be finished in the following form, taking into account the resolutions set forth in the two preceding conferences:

A. The national commissions of codification of international law shall have, in their respective countries, the doctrinaire studies of the different matters of codification, and shall send the results of these studies to the permanent committees of the same.

B. These permanent committees shall elaborate projects of conventions and of resolutions as a base and preparation of labors of the international conference of American jurists.

C. The transactions of the permanent committees on codification shall be sent to the members of the committees of experts at Washington for consultation and coordination.

D. After which these experts at Washington will submit their detailed information to the Pan-American Union. The latter then shall submit same for deliberation to the inter-American international jurists. The Pan-American Union shall inform annually its judges and each of the American governments on its proceedings; also, it shall relate the rules, principles or norms passed upon by the committee of experts; and,

E. The committee of experts can work together with the majority of its members which represent the two great juridical systems of this hemisphere.

#### (VII)

#### The Digests of Doctrines, Precedents and Decisions of the Chancellors

Penetrated with grave importance...this conference attempts to expedite the prosecution of the work of the codification of international law upon laying down these resolutions:

To recommend to all the governments of America that they promote, as soon as possible, the publications of texts and methods of digests in order that they may consult among themselves with facility on the doctrines sustained by each of the governments on questions of international law; and,

To recommend to the Pan-American Union the publications of the works to which the first part of this resolution refers.

## (VIII)

## American Academy of International Law

The Academy of the International Law of the Hague with the assistance of the Carnegie Foundation advise the establishment in America of a similar academy because of the obvious efficacy of such an organization...

\* \* \* \* \*

## Limitations of Armaments

It is agreed that limitation of armaments is a most efficacious means for completing every international action toward consolidation of peace.

The only instance wherein these American governments will recognize armaments is for national defense in the event of an outside aggression.

Relative to the limitation of armaments the following resolution is to be considered:

To recommend that all of the governments shall celebrate general or bilateral agreements with the purpose of determining or amplifying the limitation of their armaments to the extreme if possible and exceptions made only in the necessity of the interior order and the justifiable defense of a nation's sovereignty.

The delegation of Paraguay voted the approval of the following reservation:

Paraguay does not accept the greatest limitation of armaments as those signed in bilateral peace pacts. It is observed at the same time that there exists a protocol in force signed between Paraguay and Bolivia, in which they have expressed their limitation of armaments.

\* \* \* \* \*

## Humanizing War

Reaffirming once more the fundamentals of peace as recommended in previous conventions, and interpreting the moral principles and human sentiments which integrate the conscience of the American people, the Inter-American Conference for Peace resolves:

1. To declare a formal repudiation of war as an instrument for determining the differences among states;

2. To prohibit the use of chemical elements in the employment of war as they produce cruel and unnecessary damages;
3. To exclude, insofar as possible, civil populations from the effects of international conflagrations; and,
4. To recommend to the American governments that the pacts for limitation of armaments include a denial of the use of poison gasses or bacteria which would desecrate the human welfare.

## VII

### EIGHTH INTERNATIONAL AMERICAN CONFERENCE

(Lima, Peru, December 9-27, 1938)

Pp. 556-557; 557-560

#### (I)

#### Perfection and Coordination of the Instrument of the Inter-American Peace

##### Considering:

That the juridical norms are found for the prevention of war in America dispersed in treaties, convention, pacts and declarations which are precisely systematized in a joint harmonious organism;

That the Mexican code of peace represents an appreciable effort toward coordination with the Montevideo Conference, the Scientific American Congress of Mexico and the Conference for the Consolidation of Peace; it was referred to the committee of experts which accepted it with slight modification before the ensuing conference;

That the American governments, in spite of the recommendations of the Montevideo, have not expressed their judgment and their initiative on the matter which said codes include; furthermore, it is agreed that these American governments represented in this conference shall pass their judgment and exercise their initiative on the preventive norms of war in America;

That in the desire of bettering the structure of American peace, they have presented to this conference

interesting projects which contain excellent salients and points of view, for whose initiation they have considered. By means of a compilation in a simple instrument of dispositions contained in the eight treaties in force, the United States delegation presented rules of technique and the "consolidation of American Covenants of Peace" for purposes of a pacific solution of the international American differences;

That once the opinion of the governments, on the project of a revised code of peace is recognized and other projects referred to are known these represented governments agree to systematize an organism of technical character which is to be accepted by every state concerned. This organism is based on coordination with each one of the judicial systems in force.

The Eighth International American Conference resolves:

1. That the Mexican code of peace, jointly with the foregoing project of the committee of experts, the North American project for the consolidation of peace and the other projects and information presented to this conference in relation with preventive norms of war, pass to the Pan-American Union for classification and for remitting to each American government a solicitation of the opinions and initiative of said government for the purpose of using such collaboration as a base for the codification of said norms.

2. That the American governments send, within a prudent time, their replies to the Pan-American Union, and the latter shall remit these replies to the International Commission of American Jurists, who shall undertake the definite work of codifying the peace.

3. That the International Commission of American Jurists shall give account to the next International American Conference as to the state of its labors.

(II)

Declarations in Defense of Human Rights

Considering:

That if peaceful living together in America and the conception of the international relations in our continents make it necessary to adopt regulations of war, America cannot be indifferent, from the human point of view, to the sufferings derived from the same and it shall exercise the desire to diminish them;

That the occurrence in situation of war outside this hemisphere which is conducive to the employment of contrary methods other than those practices and recognized rules of international law and human sentiments, such as the bombardment of defenseless cities from the air, the rendering useless human life in noncombatant populations and the destruction of material operations not used for military operation is an act of war;

That America, having received for the formation of its civilization actual spiritual elements of other continental civilizations, shall not be indifferent toward those forces which are destructive to those cultural contributions of other nations or those which are detrimental to our own intellectual and artistic legacy.

The Eighth International American Conference resolves:

That the American republics do not recognize war as a legitimate method of solving international or national differences, and therefore express the desire that when war occurs in any other region of the world, the American governments will join in a united effort to prevent its nearing our shores:

(NOTE: At this Eighth International American Conference agreements were made by the twenty-one American Republics that thereafter the foreign ministers of each republic would meet in consultation at subsequent reunions for the purpose of settling problems which arise in their foreign relations. It was likewise agreed that such reunions would conform to the agreements cited at Lima in 1938 and at Buenos Aires in 1936. The first reunion of said ministers convened at Panama, September 23--October 3, 1939 and the second reunion convened at Havana July 30-31, 1940. Detailed translations of the Third Reunion for Consultation of the American Foreign Ministers, Rio de Janeiro, 1942 will be presented in the following document.)



## VIII

THIRD MEETING OF THE MINISTERS  
OF FOREIGN AFFAIRS OF THE AMERICAN REPUBLICS

(Rio de Janeiro, January 15-28, 1942)

Pp. 702-704; 705-706

## Reiteration of a Principle of American Public Law

## Considering:

1. That in conformity with its historical, racial, juridical and political conditions in America, the so-called "minorities" shall not supplant their aims in America to the detriment of our religion.

2. That in accord with this concept, the resolutions XXVII and XXVIII approved in the Pan-American Conference of Lima in 1938 where there was signed this statement: "The residents considered as foreigners shall conform to local law and they cannot invoke collectively the conditions of minorities, without giving up individually the rights associated with the principles of the minorities."

Moreover, it is declared that the principle of American public law be reiterated, according to which residents in an American state find themselves subject to the jurisdiction of the same state, not being bound to the governments as to organizations of the countries in which said national interfere, either directly or indirectly, in the national life with the purpose of ruling the situations or activities of the same.

Continental Solidarity in the Observance  
of International Treaties

## It is resolved:

1. That the concept of solidarity also embodies the idea of altruistic sentiments in accord with cooperation necessary for preventing any obstacle which might destroy harmony among the American republics on international morality;

2. That said solidarity shall be made concrete; in fact, in order to convert itself into a living reality;

therefore, the mere philosophical conception is to be replaced by a more realistic approach;

3. That the respect of pledged faith in international treaties reposed thus in incontestable juridical precepts, as in moral principles, in accord with the maximum sudden departure from canon law; Facta sunt servanda;

4. That the spirit expressed in bilateral or multi-lateral concepts shall not be modified or omitted in effect, but through the same voluntary means as arranged for in previous conventions, except in cases of renunciation;

5. That only in this way would peace be assented to on durable bases. Such as was recognized in the Havana Conference;

6. That any pacific understanding between people would be practically impossible without strict observance of pacts solemnly celebrated and whose juridical efficacy shall fulfill all the formalities previously declared in positive law by the high contracting parties.

In observance of the above resolutions foreign ministers in the Third Meeting of the Ministers of Foreign Affairs of the American Republics declares:

1. In the cases where an American government violates an agreement or a treaty duly perfected between two or more countries of the continent or a state prepares for said violation and if the consequences of which might disturb the peace of the American solidarity, any American state can promote the consultation provided for in Resolution XVII of the Havana Conference.

2. The government which desires consultation shall indicate its purposes by remitting the same to the Ministers of Foreign Affairs or their representatives for advice. The approximate date for consultation should be communicated to the foreign ministry too.

\* \* \* \* \*

### Policy of the Good Neighbor

(Same Conference)

Considering:

1. That fellowship among states if it has bases which shall secure judicial international order, shall be founded upon the imperative principle of universal justice.

2. That the norm proclaimed and realized by the United States of America in which an international policy shall be modeled on that of the "good neighbor," is a general criterion of rectitude and regulated source for the relations among states; that said formula, with fertile compass, prescribing the fundamental rights of states, as in cooperation for the well-being of international society; and,

3. That it has been one of the antecedents created by the actual solidarity of the Americas and of its joint cooperation in the important problems of the continent.

In lieu of the considerations cited above this conference of foreign ministers declares that the principles on which international conduct has been inspired in the "good neighbor policy," and is the norm of international law of the continent.

\* \* \* \* \*

Condemnation of Inter-American Conflicts

(Same Conference)

Considering:

1. That the state of war exists between the republic of the United States and the Axis countries;

2. That the other American republics in conformity with the inter-American conventions, have declared their solidarity with the United States of America; and,

3. That it implies, consequently, that all of the countries of the hemisphere unite closely for the defense of the American republics on both continents.

The following resolution was an outcome of the preceding considerations:

To appeal to the spirit of conciliation of the different governments for the solution of conflicts, recurring to inter-American agreements of peace, as elaborated in the course of the last Inter-American Conference, or all of the other juridical means, and recognizing the meritorious labor of the countries which aid in collaboration and continue to aid in favor of pacific solution of existing differences among American countries, and encourage them to continue intensifying their efforts in the interest of the noble cause of harmony and continental solidarity.

\* \* \* \* \*

## Problems of the Post War

(Same Conference)

## Considering:

1. That the peace of the world has been based upon the principles of respect for law, of justice and cooperation which has been inspired in the nations of America from 1889 until today;

2. That a new peaceful order has been sustained in economic principles which make equity and durable international traffic with equality of opportunities for all of the nations;

3. That collective security is found not only in political institutions, but in just, efficacious and liberal economic systems;

4. That it is indispensable to study from anew the fundamentals of this new economic and political order; and,

5. That it is a firm necessity of the American countries to increase their productive capacity; to obtain in international commerce utilities which permit adequate remuneration to labor and a higher standard of life for laborers; to defend and conserve the health of its people, and develop civilization and culture.

## It is resolved:

1. To empower the Directive Council of the Pan American Union with the calling of a technical economic Inter-American Conference charged with studying the actual economic problems and those that shall arise in the post war.

2. To charge to the inter-American juridical committee the formulation of specific recommendations relating to the international organization in the fields of law and politics on international security.

3. To empower the consultative economic financial Inter-American Committee with a similar attribute in the field of economics, for making necessary preparations for the Inter-American Technical Economic Conference referred to in Resolution I.

4. To empower the Pan-American Union which constitutes the Executive Committee for the purpose of receiving the plans that the American nations have for promoting well-being. In turn the Pan-American Union shall submit said plans respectively to the Inter-American Juridical Committee and the Consultative Economic Financial Inter-American Committee.

5. That the recommendations of the above-named committees shall be submitted to the respective American republics through the direction of the Pan-American Union. After the American nations attach their conclusions to the recommendations the latter can then be adopted by a new reunion of the ministers of foreign relations.

6. To empower the Pan-American Union with the authority to determine the date and place for a future consultation at an Economic Inter-American Conference. (See Resolution I.)

## IX

## INTERPRETATIONS

NOTE: The interpretations which follow are the author's own conclusions from the foregoing documents on the underlying principles of the inter-American peace structure, 1890-1942. For that reason, footnotes are not used.

The Pan-American Conference of 1890 (Washington) represents one of the earlier attempts of the western hemisphere nations to arbitrate controversies which might lead to war. Existing machinery, as well as treaties in force, were to be called into action for the purpose of fulfilling previous attempts in coordinating American affairs.

The above conference also recommended that controversies between the respective Latin-American Republics and European powers should be settled through friendly arbitration in the same manner as the American nations attempt to settle disputes among themselves. Among the outstanding recommendations made were the following: outlawry of war for conquest of additional territory is unjustifiable, and, armed peace is unfavorable to a nation's welfare.

In these resolutions one observes the increasing spirit of Pan-Americanism. Collective action was recommended through the Pan-American Union. Conquest was outlawed some forty years before the outbreak of the present World War.

This conference also declared that force should not be resorted to as a national policy for the settlement of disputes, thus (by implication, at least) was embodied the principle of the Kellogg-Briand Pact forty years in advance. International law was acknowledged by the nations participating in the Washington Conference, especially in regard to protection of foreigners within the territories of the republics participating. The western hemisphere nations also agreed to submit all controversies to arbitration except cases which might reduce the sovereignty or independence of the states concerned, especially when such controversies could not be settled by diplomacy.

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At the Second International American Conference the Hague Tribunal of 1899 was called upon to act in the settlement of said controversies. Such body was to act according to the provisions of the treaties agreed to by American Nations. In the event that unusual circumstances might arise, thus making war inevitable between two or more American Republics, a special court might be created in an effort to prevent war.

Parties to the treaties referred to should then, in case war became imminent, halt all military movements until the machinery set up should have a chance to adjust to said controversy.

The special commission was to investigate as to facts only, such action not being regarded as a final settlement.

The nations not parties to treaties of arbitration might also adjust their controversies by the foregoing means. The ratifications were to be made through the secretaries of foreign relations which antedates the machinery for Pan-American Cooperation agreed to at the Lima Conference (1938) by some fifty years. Not only were the principles of international arbitration so early recognized but the principle of collective action formulated during the last ten years in inter-American affairs was also emerging at this early date.

Most of the disputes referred to concerned boundary lines which led to frequent wars. This not only disturbed the continents but adversely affected trade as well.

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The Third International American Conference which convened in Brazil in 1907 proclaimed the good offices and mediations of all former Inter-American Conferences for peace as its primary interests and proceeded to emphasize the enactment of said resolutions by creating commissions of specialists to make practicable the notable steps taken toward western hemispheric solidarity. For the further meriting of this conference's conclusions all of its instructions were conceded to the Second Conference of the Hague.

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The Fifth International American Conference which convened at Santiago, Chile, May, 1923 adopted the Gondra Pact



which recognized justice as a base for a better understanding among nations. The signatory powers condemned armed peace and recommended conciliatory means as a method of settlement. They also agreed to create a commission for the investigation of all disputes which could not be settled by diplomacy. While controversies were being investigated, parties to such controversies should not mobilize troops on the frontiers. Elaborate machinery was set up for conciliation of disputes which might lead to a conflict. The parties agreed to arbitrate all controversies. One of the major aims of the American nations was security for the continent. Thus can be seen an emerging American international law backed by public opinion of the American nations. In line with the philosophy as expressed in these peace pacts, the contracting parties agreed to limit military establishment. For instance, capital ships were never to exceed 35,000 tons. The powers concerned wished to protect neutral rights, at the same time, agreed to respect international law.

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In the Sixth International American Conference at Havana, 1928, the powers of the western hemisphere as enumerated in this section of peace pacts accepted and put into force the code of international private law. The code was binding only on the nations subscribing to it. The ratification was deposited in the offices of the Pan-American Union. Powers not adhering to this convention were permitted

to become members later if they wished.

Some of the general rules were:

1. Foreign nations subscribing to this convention were to enjoy the same right as nationals of the country wherein they reside.
2. The right of suffrage and other political rights enjoyed by nationals were subject to special disposition.
3. The regulations for individual or collective protection established by administrative or political law were to be regarded as being of a public international nature, except in cases expressly arranged otherwise.

Furthermore, at the Havana Conference of 1928 the treaties ratified by the western hemisphere nations were to be regarded as constituting rights which were to be observed within the territories of the nations that ratified said treaties. Once a treaty was ratified no state might be exempted from the enforcement of its provisions. Should changes occur in the territories of the contracting states the treaty was to remain in effect, being adjusted or adapted to new conditions. Should the conditions under which a treaty was made change, the treaty should cease to exist; however, a court of justice was to be set up for the purpose of making said decision. The provisions of the treaty as agreed to were not to prohibit the contracting states from calling a convention for the purpose of adjusting differences.

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At the International American Conference for the Consolidation of Peace which convened in Buenos Aires, 1936 the American republics reiterated their sentiments for forwarding international cooperation by re-affirming the treaty of Paris, 1928 (Kellogg-Briand Pact), the Washington Conference of 1929, the treaty of non-aggression and of conciliation in the Montevideo Conference of 1933, and the Seventh International American Conference. It is significant that these conferences were being held at the very moment when the axis powers were preparing to deluge the world in blood. The principles enunciated in the above conferences, such as outlawry of war, refusal to recognize territory gained by force, conciliation of disputes which might lead to war, sanctity of treaties, the ideals for which the United Nations are fighting today, were being developed into a body of American constitutional law during the era 1928-1936.

The second contribution which has been developed in the western hemisphere is the voluntary principle of consultation. President Franklin D. Roosevelt initiated this method when he wrote the respective Latin-American governments, suggesting that each of said republics send delegates to an all-American conference for the purpose of discussing methods of cooperation in defense of the hemisphere. Out of this idea evolved regular meetings of the secretaries of foreign relations of the nations of this hemisphere. Relations of intimate cooperation were thereby established by developing a procedure of consultation in cases of aggression

by foreign powers. Such consultation served as a bulwark in the defense of the liberty and independence of the American republics.

A third principle which has emerged in these various conventions has been that of equality of the nations of the western hemisphere, regardless of size or power. It was agreed upon by all the contracting parties: that every nation be treated as equal sovereignty in the promotion of rights and liberties; that in case of the menace of war the parties of the conflict should not resort to hostilities nor exercise any military action within a period of six months; that if hostilities recur more than once, commissions of investigation and conciliation and all existing juridical personnel should assemble immediately for consultation for the ending of the controversy if every diplomatic negotiation possible has been previously administered; and that no material aid considered as contraband of war was to be given to the states in conflict by these high contracting parties. Thus, there is observed the origin of the machinery of consultation, and efficacious means for the prevention of war in this part of the world when solidarity is so essential. The depth of this structure is evidenced by the fact that during the period of World War II conciliatory methods have worked, making Pan-Americanism a practical reality.

Sumner Welles, former under-Secretary of State, in the Daily Oklahoman Wednesday, May 10, 1944, in commenting on the consultative method said:

One of the greatest achievements realized by the American nations was the agreement to consult together when it became necessary to find a solution for threats to their common safety. This is a singularly appropriate moment for a resort to that procedure.

In commenting on the present Argentina situation, having in mind the same consultative method, Sumner Welles said further:

In view of the intolerable impasse now brought about, one can only hope that one of the American governments will undertake leadership, as each government is empowered to do by existing agreements, and request a consultative meeting in order to check the growing jeopardy to hemispheric unity before more harm results to the vital interests of all of the American nations.

At the Buenos Aires Conference, 1936, Argentina and Bolivia ratified the treaty made at that conference but expressly declared that raw materials and foods destined to belligerents not be considered as contraband of war; moreover, they declared that credit extended to belligerents for purchase of said articles not be prohibited. This is significant in that at the present the United Nations, particularly the Anglo-Americans, are exerting pressure on such neutrals as Spain, Turkey, Sweden and Switzerland in an endeavor to prevent further shipment of supplies to the enemy powers.

Since the United States did not obligate themselves to the reservations made by Argentina and Bolivia, there can be seen the relative positions of the South American republics named and that of the United States to the European approach to World War II. The fact that the United States

refrained from the reservations related to "contraband of war" indicated the alertness of our Department of State to the inevitable entry of the United States into another world conflict. At the same time, it showed that care was exercised by the United States, not to violate the chief aims of the treaty.

That all the American states did agree to the necessity of coordinating and giving greater efficacy to the instruments of this peace conference, as invited to do so by the esteemed President of the United States, was indicative of the unity of purpose of the Americas. Thus, President Roosevelt and Cordell Hull have built a solid structure for the preservation of peace in this hemisphere. Sumner Welles also produced unlimited assistance by cementing friendlier relations between the United States and the other American republics.

Most of the American republics agreed at the Buenos Aires Conference for the consolidation of peace in 1936 to regard food and raw materials destined to belligerent nations as contraband of war. In an endeavor to eradicate future wars among Latin-American nations the following recommendations were discussed by the representatives of the American Republics: aggressor nations were defined; armed forces of any nation must not trespass territories of any signatory nation; there should be no intervention in the affairs of a state; and aggressor states must not be granted the privileges of arbitration.

Other means for preventing war were provided. Mixed commissions were created for the purpose of adjusting controversies by studying the causes of war and of providing for the observance of treaties. The extensive treaty structure of the continent was ample for the prevention of war until preparation for war could result. So, the observance of treaties is quite significant. Wars between the two continents of this hemisphere have practically ceased as a result.

The ratification of the convention for the preservation of peace gave preference to the study of peace. The presidents of the United States and of Argentina jointly in 1936 recommended that the peace pacts existing should be observed by the American nations.

The peace structure of the Americas was to be interpreted by an International American Court of Justice. The universalization of the rule of American jurisprudence was made possible by permitting adherence and accession to the different treaties to all American states which had not already subscribed to said treaties.

In order to further strengthen the peace structure of the continent, a body of jurists was appointed to the end that American international law might be codified. There was already in existence the establishment of a body of legal experts (as had been provided in the Sixth International

American Conference) for a perusal of the resolutions to be codified. The results of frequent meetings of experts on codification were to send the results of their study to committees of experts at Washington D. C. for consultation and coordination. Detailed information was afterwards to be sent to the Pan-American Union. The latter body was, in turn, to submit same for deliberation to the Inter-American International Jurists. The Pan-American Union "shall annually inform its judges and each of the American governments on its proceedings"; also, "it shall relate the rules, principles or norms passed upon by the committee of experts"; and, "the latter can work together with the majority of its members which represent the two great juridical systems of this hemisphere."

Digests of doctrines, precedents and decisions of chancellors are penetrated as matters of grave importance. Recommendations were made to the effect that governments of America promote publications of texts and methods of digests in order that they may consult among themselves with facility on the doctrines sustained by each of the governments on questions of international law, and to recommend to the Pan-American Union the publications referred to in this treaty. The American Academy of International Law was recommended by the Hague and sponsored by the Carnegie Foundation as these organizations felt that such a body could define and codify American international law.



Limitation of armaments was provided, as a further efficacious means, for the consolidation of peace. In the event of outside aggression it was recommended that armaments might be regarded as defensive in nature. Bilateral agreements were recommended for the purpose of determining or amplifying armaments according to the internal or external considerations. The above provision did not apply to treaties previously agreed to. For instance, Paraguay and Bolivia had previously entered into a similar treaty.

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At the Eighth International American Conference which convened at Lima, Peru, December 9-27, 1938, the Americas energetically defended democracy and American culture. In newspapers and reviews the leading thinkers of Hispanic America referred to the Monroe Doctrine as a positive force which has preserved values such as liberty. That doctrine was not a theoretical creation of Monroe's mind. Its historic antecedents precede 1823; in fact, it was born with the discovery of America.\*

At the Lima Conference in 1938 the American nations were consulting collectively when aggressor nations were planning world conquest. This conference is significant also because it issued declarations in favor of conciliation and peace for the world of Columbus. Tolerance was recommended

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\*It is to be born in the mind of the reader that these are the author's own statements and are not the exact words of other writers.

at a time when racial hatred was being practiced on the continent of Europe.

The declarations of Lima reaffirmed American solidarity and the willingness of the twenty-one republics of this hemisphere to maintain them against European intervention. Provisions were also made for the purpose of strengthening mechanism for conciliation precisely at a time when conquest threatened to engulf the world.

An enumeration of the principles on which American solidarity is based will suffice to illustrate the work done at Lima.

The declaration of Monroe was supported by the British. The principles of non-colonization by European powers saved America from conquest. America at that time was regarded as having a separate set of interests from those of Europe. The Lima Conference marked a new path for by 1938 collective action was agreed to by the western hemispheric nations instead of a unilateral action by the United States. Consultation and conciliation were agreed to at Lima whenever differences arise among the American nations and collective nations.

The judicial norms for the prevention of war in America are found dispersed in treaties, conventions, pacts and declarations. An attempt was made in this conference to compile all of the instruments of peace in a harmonious whole. Eight treaties were therefore compiled in a single code. The consolidation of the instruments of peace was carried into execution by the Pan-American Union.

Regulations governing war were recommended for peaceful living together in America. The bombing of cities in other countries which is so destructive to human life has caused the Americans to respect international law. The American nations, therefore, disapprove of war as a method of settling disputes.

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The Third Meeting of Ministers of Foreign Affairs of the American Republics set up a judicial committee in Rio de Janeiro, 1942, for the express purpose of adjusting disputes. This body of jurists shall study the problems arising out of the war in Europe, making rules governing contraband, neutrality and formulating the principles which shall govern cases arising. Claims arising from the incidents shall likewise come under this committee's jurisdiction.

The judicial committee also has power according to the provisions of the Lima Conference to prevent minorities from exercising practices which threaten the nation. This of course refers to the subversive activities of axis groups. Such nationals must not interfere directly or indirectly in the national life with the purpose of controlling said nation. Treaties are to be respected also. Where American treaties are broken and when war is thereby made inevitable, any American nation may act to prevent war. Force as a method of solving disputes is proscribed according to action of the foreign ministers. Japan was accordingly condemned as a violator of American international law when the nation

attacked the United States at Pearl Harbor. The foreign ministers asserted that civilization is based upon law, justice and cooperation. They also recommended collective means for securing peace. The stability of the community of nations is to be based upon economic liberalism as well as upon political institutions.

It was further recommended that the American nations should increase their productive capacity as well as remove economic barriers. With a view to better post-war conditions a technical commission was appointed.

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In conclusion the author must reiterate that she is firmly convinced that if the other nations of the world are as intent on sustaining and maintaining peaceful relations as the American republics are that we can have hopes for a better post-war world. Furthermore, an international organization whether in the field of inter-American cooperation or in the broader field of world peace must have two main supports as Secretary Hull declared in his speech on observance of Pan-American Day as found in the New York Times, April 15, 1944, page 12:

It must gather its greatest strength from the rightness and justness of the principles upon which it is founded and the mutual trusts of its members. It must also have such an essential framework and machinery and such an acceptance of their obligations on the part of its members as will enable it to act promptly and effectively in time of crises.

Despite the fact that there now exists the greatest war in all history and apparently international law was never more supinely situated than now, the world can com-

memorate those great achievements of the last fifty years in Pan-Americanism as guideposts for future world federation.

Inter-American unity was not brought about by force or a conception of the master race whose mission is to rule. Unity comes from a spiritual passion for human liberty and national independence for all peoples of the earth. This may be attained even though the peoples have different languages if they have the same ends.

At the Montevideo Conference in 1933 the American republics affirmed their belief in certain essential principles upon which cooperation between nations and international order must be based; every nation large and small should have equal rights before the laws of nations; and, every nation should have its rights to develop its own institutions free from intervention by others.

At Buenos Aires in 1936 and at Lima in 1938 the American nations united to ward off dangers to world peace for hemispheric solidarity. In the Third Meeting of Ministers of Foreign Affairs of the American Republics which convened at Rio de Janeiro, 1942 collaborated in a united effort to the extent that all the American republics broke diplomatic relations with the Axis except Argentina and Chile. Fortunately, the last two named have now broken officially with the Axis; however, Argentina persists in being somewhat independent of the United Nations' supreme effort to subdue the axis powers.

Finally, it is hoped by the American lovers of peace that in the future international cooperation will replace economic imperialism and economic nationalism.

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