

International Law Studies – Volume 37

International Law Situations with Solutions and Notes

U.S. Naval War College (Editor)

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VII

CONVENTION TO COORDINATE, EXTEND, AND ASSURE THE FULFILLMENT OF THE EXISTING TREATIES BETWEEN THE AMERICAN STATES

(Treaty Series, No. 926)

The Governments represented at the Inter-American Conference for the Maintenance of Peace,

Animated by a desire to promote the maintenance of general peace in their mutual relations;

Appreciating the advantages derived and to be derived from the various agreements already entered into condemning war and providing methods for the pacific settlement of international disputes;

Recognizing the need for placing the greatest restrictions upon resort to war; and

Believing that for this purpose it is desirable to conclude a new convention to coordinate, extend, and assure the fulfillment of existing agreements, have appointed Plenipotentiaries as follows:

[Here follow the names of the Plenipotentiaries.]

Who, after having deposited their full powers, found to be in good and due form, have agreed upon the following provisions:

ARTICLE I

Taking into consideration that, by the Treaty to Avoid and Prevent Conflicts between the American States, signed at Santiago, May 3, 1923 (known as the Gondra Treaty), the High Contracting Parties agree that all controversies which it has been impossible to settle through diplomatic channels or to submit to arbitration in accordance with existing treaties shall be submitted for investigation and report to a Commission of Inquiry;

That by the Treaty for the Renunciation of War, signed at Paris on August 28, 1928 (known as the Kellogg-Briand Pact, or Pact of Paris), the High Contracting Parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of interna-

tional controversies and renounce it as an instrument of national policy in their relations with one another ;

That by the General Convention of Inter-American Conciliation, signed at Washington, January 5, 1929, the High Contracting Parties agree to submit to the procedure of conciliation all controversies between them, which it may not have been possible to settle through diplomatic channels, and to establish a "Commission of Conciliation" to carry out the obligations assumed in the Convention ;

That by the General Treaty of Inter-American Arbitration, signed at Washington, January 5, 1929, the High Contracting Parties bind themselves to submit to arbitration, subject to certain exceptions, all differences between them of an international character, which it has not been possible to adjust by diplomacy and which are juridical in their nature by reason of being susceptible of decision by the application of the principles of law, and, moreover, to create a procedure of arbitration to be followed ; and

That by the Treaty of Non-Aggression and Conciliation, signed at Rio de Janeiro, October 10, 1933 (known as the Saavedra Lamas Treaty), the High Contracting Parties solemnly declare that they condemn wars of aggression in their mutual relations or in those with other States and that the settlement of disputes or controversies between them shall be effected only by pacific means which have the sanction of international law, and also declare that as between them territorial questions must not be settled by violence, and that they will not recognize any territorial arrangement not obtained by pacific means, nor the validity of the occupation or acquisition of territories brought about by force of arms, and, moreover, in a case of non-compliance with these obligations, the contracting States undertake to adopt, in their character as neutrals, a common and solidary attitude and to exercise the political, juridical, or economic means authorized by international law, and to bring the influence of public opinion to bear, without, however, resorting to intervention, either diplomatic or armed, subject nevertheless to the attitude that may be incumbent upon them by virtue of their collective treaties ; and, furthermore, undertake to create a procedure of conciliation ;

The High Contracting Parties reaffirm the obligations entered into to settle, by pacific means, controversies of an international character that may arise between them.

ARTICLE II

The High Contracting Parties, convinced of the necessity for the cooperation and consultation provided for in the Convention for the Maintenance, Preservation, and Reestablishment of Peace signed by them on this same day, agree that in all matters which affect peace on the Continent, such consultation and cooperation shall have as their object to assist, through the tender of friendly good offices and of mediation, the fulfillment by the American Republics of existing obligations for pacific settlement, and to take counsel together, with full recognition of their juridical equality, as sovereign and independent States, and of their general right to individual liberty of action, when an emergency arises which affects their common interest in the maintenance of peace.

ARTICLE III

In case of threat of war, the High Contracting Parties shall apply the provisions contained in Articles I and II of the Convention for the Maintenance, Preservation, and Reestablishment of Peace, above referred to, it being understood that, while such consultation is in progress and for a period of not more than six months, the parties in dispute will not have recourse to hostilities or take any military action whatever.

ARTICLE IV

The High Contracting Parties further agree that, in the event of a dispute between two or more of them, they will seek to settle it in a spirit of mutual regard for their respective rights, having recourse for this purpose to direct diplomatic negotiation or to the alternative procedures of mediation, commissions of inquiry, commissions of conciliation, tribunals of arbitration, and courts of justice, as provided in the treaties to which they may be parties; and they also agree that, should it be impossible to settle the dispute by diplomatic negotiation and should the States in dispute

have recourse to the other procedures provided in the present Article, they will report this fact and the progress of the negotiations to the other signatory States. These provisions do not affect controversies already submitted to a diplomatic or juridical procedure by virtue of special agreements.

ARTICLE V

The High Contracting Parties agree that, in the event that the methods provided by the present Convention or by agreements previously concluded should fail to bring about a pacific settlement of differences that may arise between any two or more of them, and hostilities should break out between two or more of them, they shall be governed by the following stipulations:

(a) They shall, in accordance with the terms of the Treaty of Non-Aggression and Conciliation (Saavedra Lamas Treaty) adopt in their character as neutrals a common and solidary attitude; and shall consult immediately with one another, and take cognizance of the outbreak of hostilities in order to determine, either jointly or individually, whether such hostilities shall be regarded as constituting a state of war so as to call into effect the provisions of the present Convention.

(b) It is understood that, in regard to the question whether hostilities actually in progress constitute a state of war, each of the High Contracting Parties shall reach a prompt decision. In any event, should hostilities be actually in progress between two or more of the Contracting Parties, or between two or more signatory States not at the time parties to this Convention by reason of failure to ratify it, each Contracting Party shall take notice of the situation and shall adopt such an attitude as would be consistent with other multilateral treaties to which it is a party or in accordance with its municipal legislation. Such action shall not be deemed an unfriendly act on the part of any State affected thereby.

ARTICLE VI

Without prejudice to the universal principles of neutrality provided for in the case of an international war outside of America and without affecting the duties contracted by those

American States members of the League of Nations, the High Contracting Parties reaffirm their loyalty to the principles enunciated in the five agreements referred to in Article I, and they agree that in the case of an outbreak of hostilities or threat of an outbreak of hostilities between two or more of them they shall, through consultation, immediately endeavour to adopt in their character as neutrals a common and solidary attitude, in order to discourage or prevent the spread or prolongation of hostilities.

With this object, and having in mind the diversity of cases and circumstances, they may consider the imposition of prohibitions or restrictions on the sale or shipment of arms, munitions, and implements of war, loans or other financial help to the States in conflict, in accordance with the municipal legislation of the High Contracting Parties, and without detriment to their obligations derived from other treaties to which they are or may become parties.

ARTICLE VII

Nothing contained in the present Convention shall be understood as affecting the rights and duties of the High Contracting Parties which are at the same time members of the League of Nations.

ARTICLE VIII

The present Convention shall be ratified by the High Contracting Parties in accordance with their constitutional procedures. The original Convention and the instruments of ratification shall be deposited with the Ministry of Foreign Affairs of the Argentine Republic, which shall communicate the ratifications to the other signatory States. It shall come into effect when ratifications have been deposited by not less than eleven of the signatory States.

The Convention shall remain in force indefinitely, but it may be denounced by any of the High Contracting Parties, such denunciation to be effective one year after the date upon which such notification has been given. Notice of denunciation shall be communicated to the Ministry of Foreign Affairs of the Argentine Republic, which shall transmit copies

thereof to the other signatory States. Denunciation shall not be regarded as valid if the Party making such denunciation shall be actually in a state of war, or shall be engaged in hostilities without fulfilling the provisions established by this Convention.

In witness whereof, the Plenipotentiaries above mentioned have signed this Treaty in English, Spanish, Portuguese, and French and have affixed thereto their respective seals, in the City of Buenos Aires, Capital of the Argentine Republic, this twenty-third day of December, of the year 1936.

RESERVATIONS

Reservation of the Argentine Delegation

In no case, under Article VI, can foodstuffs or raw materials destined for the civil populations of belligerent countries be considered as contraband of war, nor shall there exist any duty to prohibit credits for the acquisition of said foodstuffs or raw materials which have the destination indicated.

With reference to the embargo on arms, each Nation may reserve freedom of action in the face of a war of aggression.

Reservation of the Delegation of Paraguay

In no case, under Article VI, can foodstuffs or raw materials destined for the civil populations of belligerent countries be considered as contraband of war, nor shall there exist any duty to prohibit credits for the acquisition of said foodstuffs or raw materials which have the destination indicated.

With reference to the embargo on arms, each Nation may reserve freedom of action in the face of a war of aggression.

Reservation of the Delegation of El Salvador

With reservation with respect to the idea of continental solidarity when confronted by foreign aggression.

Reservation of the Delegation of Colombia

In signing this Convention, the Delegation of Colombia understands that the phrase "in their character as neutrals," which appears in Articles V and VI, implies a new concept

of international law which allows a distinction to be drawn between the aggressor and the attacked, and to treat them differently. At the same time, the Delegation of Colombia consider it necessary, in order to assure the full and effective application of this Pact, to set down in writing the following definition of the aggressor:

That State shall be considered as an aggressor which becomes responsible for one or several of the following acts:

(a) That its armed forces, to whatever branch they may belong, illegally cross the land, sea or air frontiers of other States. When the violation of the territory of a State has been effected by irresponsible bands organized within or outside of its territory and which have received direct or indirect help from another State, such violation shall be considered equivalent, for the purposes of the present Article, to that effected by the regular forces of the State responsible for the aggression;

(b) That it has intervened in a unilateral or illegal way in the internal or external affairs of another State;

(c) That it has refused to fulfill a legally given arbitral decision or sentence of international justice.

No consideration of any kind, whether political, military, economic or of any other kind, may serve as an excuse or justification for the aggression here anticipated.

VIII

ADDITIONAL PROTOCOL RELATIVE TO NON-INTERVENTION

(U. S. Treaty Series, No. 923)

The Governments represented at the Inter-American Conference for the Maintenance of Peace,

Desiring to assure the benefits of peace in their mutual relations and in their relations with all the nations of the earth, and to abolish the practice of intervention; and

Taking into account that the Convention on Rights and Duties of States, signed at the Seventh International Conference of American States, December 26, 1933, solemnly