

International Law Studies – Volume 37

International Law Situations with Solutions and Notes

U.S. Naval War College (Editor)

The thoughts and opinions expressed are those of the authors and not necessarily of the U.S. government, the U.S. Department of the Navy or the Naval War College.

added: "subsequent to the present Convention." The article continues without any other modification.

2. Paragraph (a) of Article II is accepted by the Delegation without the final words which read: "and are not controlled by international law", which should be considered as eliminated.

3. This Treaty does not include controversies or differences with regard to points or questions which, according to the Political Constitution of El Salvador, must not be submitted to arbitration, and

4. Pecuniary claims against the nation shall be decided by its judges and courts, since they have jurisdiction thereof, and recourse shall be had to international arbitration only in the cases provided in the Constitution and laws of El Salvador, that is in cases of denial of justice or unusual delay in the administration thereof.

The Dominican Republic, in signing the General Treaty of Inter-American Arbitration, does so with the understanding that controversies relating to questions which are under the jurisdiction of its courts shall not be referred to arbitral jurisdiction except in accordance with the principles of international law.

---

### III

#### GENERAL CONVENTION OF INTER-AMERICAN CONCILIATION

46 Stat. 2209

The Governments of Venezuela, Chile, Bolivia, Uruguay, Costa Rica, Perú, Honduras, Guatemala, Haiti, Ecuador, Colombia, Brazil, Panamá, Paraguay, Nicaragua, Mexico, El Salvador, the Dominican Republic, Cuba, and the United States of America, represented at the Conference on Conciliation and Arbitration, assembled at Washington, pursuant to the Resolution adopted on February 18, 1928, by the Sixth International Conference of American States held in the City of Habana:

Desiring to demonstrate that the condemnation of war as an instrument of national policy in their mutual relations,

set forth in the above mentioned resolution, constitutes one of the fundamental bases of inter-American relations;

Animated by the purpose of promoting, in every possible way, the development of international methods for the pacific settlement of differences between the States;

Being convinced that the "Treaty to Avoid or Prevent Conflicts between the American States," signed at Santiago de Chile, May 3, 1923, constitutes a notable achievement in inter-American relations, which it is necessary to maintain by giving additional prestige and strength to the action of the commissions established by Articles III and IV of the aforementioned treaty;

Acknowledging the need of giving conventional form to these purposes have agreed to enter into the present Convention, for which purpose they have appointed Plenipotentiaries as follows:

[Here follow names of the Plenipotentiaries.]

Who, after having deposited their full powers, which were found to be in good and due form by the Conference, have agreed as follows:

#### ARTICLE I

The High Contracting Parties agree to submit to the procedure of conciliation established by this convention all controversies of any kind which have arisen or may arise between them for any reason and which it may not have been possible to settle through diplomatic channels.

#### ARTICLE II

The Commission of Inquiry to be established pursuant to the provisions of Article IV of the Treaty signed in Santiago de Chile on May 3, 1923, shall likewise have the character of Commission of Conciliation.

#### ARTICLE III

The Permanent Commissions which have been established by virtue of Article III of the Treaty of Santiago de Chile of May 3, 1923, shall be bound to exercise conciliatory functions, either on their own motion when it appears that there

is a prospect of disturbance of peaceful relations, or at the request of a Party to the dispute, until the Commission referred to in the preceding article is organized.

#### ARTICLE IV

The conciliatory functions of the Commission described in Article II shall be exercised on the occasions hereinafter set forth:

(1) The Commission shall be at liberty to begin its work with an effort to conciliate the differences submitted to its examination with a view to arriving at a settlement between the Parties.

(2) Likewise the same Commission shall be at liberty to endeavor to conciliate the Parties at any time which in the opinion of the Commission may be considered to be favorable in the course of the investigation and within the period of time fixed therefor in Article V of the Treaty of Santiago de Chile of May 3, 1923.

(3) Finally, the Commission shall be bound to carry out its conciliatory function within the period of six months which is referred to in Article VII of the Treaty of Santiago de Chile of May 3, 1923.

The Parties to the controversy may, however, extend this time, if they so agree and notify the Commission in due time.

#### ARTICLE V

The present convention does not preclude the High Contracting Parties, or one or more of them, from tendering their good offices or their mediation, jointly or severally, on their own motion or at the request of one or more of the Parties to the controversy; but the High Contracting Parties agree not to make use of those means of pacific settlement from the moment that the Commission described in Article II is organized until the final act referred to in Article XI of this convention is signed.

#### ARTICLE VI

The function of the Commission, as an organ of conciliation, in all cases specified in Article II of this convention, is to procure the conciliation of the differences subject to its

examination by endeavoring to effect a settlement between the Parties.

When the Commission finds itself to be within the case foreseen in paragraph 3 of Article IV of this convention, it shall undertake a conscientious and impartial examination of the questions which are the subject of the controversy, shall set forth in a report the results of its proceedings, and shall propose to the Parties the bases of a settlement for the equitable solution of the controversy.

#### ARTICLE VII

Except when the Parties agree otherwise, the decisions and recommendations of any Commission of Conciliation shall be made by a majority vote.

#### ARTICLE VIII

The Commission described in Article 2 of this convention shall establish its rules of procedure. In the absence of agreement to the contrary, the procedure indicated in Article IV of the Treaty of Santiago de Chile of May 3, 1923, shall be followed.

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

#### ARTICLE IX

The report and the recommendations of the Commission, insofar as it may be acting as an organ of conciliation, shall not have the character of a decision nor an arbitral award, and shall not be binding on the Parties either as regards the exposition or interpretation of the facts or as regards questions of law.

#### ARTICLE X

As soon as possible after the termination of its labors the Commission shall transmit to the Parties a certified copy of the report and of the bases of settlement which it may propose.

The Commission in transmitting the report and the recommendations to the Parties shall fix a period of time,

which shall not exceed six months, within which the Parties shall pass upon the bases of settlement above referred to.

## ARTICLE XI

Once the period of time fixed by the Commission for the Parties to make their decisions has expired, the Commission shall set forth in a final act the decision of the Parties, and if the conciliation has been effected, the terms of the settlement.

## ARTICLE XII

The obligations set forth in the second sentence of the first paragraph of Article I of the Treaty of Santiago de Chile of May 3, 1923, shall extend to the time when the final act referred to in the preceding article is signed.

## ARTICLE XIII

Once the procedure of conciliation is under way it shall be interrupted only by a direct settlement between the Parties or by their agreement to accept absolutely the decision *ex aequo et bono* of an American Chief of State or to submit the controversy to arbitration or to an international court.

## ARTICLE XIV

Whenever for any reason the Treaty of Santiago de Chile of May 3, 1923, does not apply, the Commission referred to in Article II of this convention shall be organized to the end that it may exercise the conciliatory functions stipulated in this convention; the Commission shall be organized in the same manner as that prescribed in Article IV of said treaty.

In such cases, the Commission thus organized shall be governed in its operation by the provisions, relative to conciliation, of this convention.

## ARTICLE XV

The provisions of the preceding article shall also apply with regard to the Permanent Commissions constituted by

the aforementioned Treaty of Santiago de Chile, to the end that said Commissions may exercise the conciliatory functions prescribed in Article III of this convention.

## ARTICLE XVI

The present convention shall be ratified by the High Contracting Parties in conformity with their respective constitutional procedures, provided that they have previously ratified the Treaty of Santiago, Chile, of May 3, 1923.

The original convention and the instruments of ratification shall be deposited in the Ministry for Foreign Affairs of the Republic of Chile which shall give notice of the ratifications through diplomatic channels to the other signatory Governments and the convention shall enter into effect for the High Contracting Parties in the order that they deposit their ratifications.

This convention shall remain in force indefinitely, but it may be denounced by means of notice given one year in advance at the expiration of which it shall cease to be in force as regards the Party denouncing the same, but shall remain in force as regard the other signatories. Notice of the denunciation shall be addressed to the Ministry for Foreign Affairs of the Republic of Chile which will transmit it for appropriate action to the other signatory Governments.

Any American State not a signatory of this convention may adhere to the same by transmitting the official instrument setting forth such adherence, to the Ministry for Foreign Affairs of the Republic of Chile which will notify the other High Contracting Parties thereof in the manner heretofore mentioned.

In witness whereof the aboved mentioned Plenipotentiaries have signed this convention in English, Spanish, Portugese, and French and hereunto affix their respective seals.

Done at the city of Washington, on this fifth day of January 1929.