

TREATY SERIES No. **16**
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INTER-AMERICAN PEACE TREATIES AND CONVENTIONS



**GENERAL SECRETARIAT
ORGANIZATION OF AMERICAN STATES
WASHINGTON, D.C.**

The Governments of Venezuela, Chile, Bolivia, Uruguay, Costa Rica, Peru, Honduras, Guatemala, Haiti, Ecuador, Colombia, Brazil, Panama, 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;

In accordance with the solemn declarations made at said Conference to the effect that the American Republics condemn war as an instrument of national policy and adopt obligatory arbitration as the means for the settlement of their international differences of a juridical character;

Being convinced that the Republics of the New World, governed by the principles, institutions and practices of democracy and bound furthermore by mutual interests, which are increasing each day, have not only the necessity but also the duty of avoiding the disturbance of continental harmony whenever differences which are susceptible of judicial decision arise among them;

Conscious of the great moral and material benefits which peace offers to humanity and that the sentiment and opinion of America demand, without delay, the organization of an arbitral system which shall strengthen the permanent reign of justice and law;

And animated by the purpose of giving conventional form to these postulates and aspirations with the minimum exceptions which they have considered indispensable to safeguard the independence and sover-

eighty of the States and in the most ample manner possible under present international conditions, have resolved to effect the present treaty, and for that purpose have designated the Plenipotentiaries hereinafter named:

Venezuela: Carlos F. Grisanti, Francisco Arroyo Parejo.

Chile: Manuel Foster Recabarren, Antonio Planet.

Bolivia: Eduardo Diez de Medina.

Uruguay: José Pedro Varela.

Costa Rica: Manuel Castro Quesada, José Tibble-Machado.

Peru: Hernán Velarde, Víctor M. Maúrtua.

Honduras: Rómulo Durón, Marcos López Ponce.

Guatemala: Adrián Recinos, José Falla.

Haiti: Auguste Bonamy, Raoul Lizaire.

Ecuador: Gonzalo Zaldumbide.

Colombia: Enrique Olaya Herrera, Carlos Escallón.

Brazil: S. Gurgel do Amaral, A. G. de Araujo-Jorge.

Panama: Ricardo J. Alfaro, Carlos L. López.

Paraguay: Eligio Ayala.

Nicaragua: Máximo H. Zepeda, Adrián Recinos, J. Lisandro Medina.

México: Fernando González Roa, Benito Flores.

El Salvador: Cayetano Ochoa, David Rosales h.

Dominican Republic: Angel Morales, Gustavo A. Díaz.

Cuba: Orestes Ferrara, Gustavo Gutiérrez.

United States of America: Frank B. Kellogg, Charles Evans Hughes.

Who, after having deposited their full powers, found in good and due form by

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the Conference, have agreed upon the following:

ARTICLE 1. The High Contracting Parties bind themselves to submit to arbitration all differences of an international character which have arisen or may arise between them by virtue of a claim of right made by one against the other under treaty or otherwise, 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.

There shall be considered as included among the questions of juridical character:

- (a) The interpretation of a treaty;
- (b) Any question of international law;
- (c) The existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) The nature and extent of the reparation to be made for the breach of an international obligation.

The provisions of this treaty shall not preclude any of the Parties, before resorting to arbitration, from having recourse to procedures of investigation and conciliation established in conventions then in force between them.

ARTICLE 2. There are excepted from the stipulations of this treaty the following controversies:

- (a) Those which are within the domestic jurisdiction of any of the Parties to the dispute and are not controlled by international law; and
- (b) Those which affect the interest or refer to the action of a State not a Party to this treaty.

ARTICLE 3. The arbitrator or tribunal who shall decide the controversy shall be designated by agreement of the Parties.

In the absence of an agreement the following procedure shall be adopted:

Each Party shall nominate two arbitrators, of whom only one may be a national of said Party or selected from the persons whom said Party has designated as members of the Permanent Court of Arbitration at The Hague. The other member may be of any other American nationality. These arbitrators shall in turn select a fifth arbitrator who shall be the president of the court.

Should the arbitrators be unable to reach an agreement among themselves for the selection of a fifth American arbitrator, or in lieu thereof, of another who is not, each Party shall designate a non-American member of the Permanent Court of Arbitration at The Hague, and the two persons so designated shall select the fifth arbitrator, who may be of any nationality other than that of a Party to the dispute.

ARTICLE 4. The Parties to the dispute shall formulate by common accord, in each case, a special agreement which shall clearly define the particular subject-matter of the controversy, the seat of the court, the rules which will be observed in the proceedings, and the other conditions to which the Parties may agree.

If an accord has not been reached with regard to the agreement within three months reckoned from the date of the installation of the court, the agreement shall be formulated by the court.

ARTICLE 5. In case of death, resignation or incapacity of one or more of the arbitrators the vacancy shall be filled in the same manner as the original appointment.

ARTICLE 6. When there are more than two States directly interested in the same controversy, and the interests of two or more of them are similar, the State or States who are on the same side of the question may increase the number of arbitrators on the court, provided that

in all cases the Parties on each side of the controversy shall appoint an equal number of arbitrators. There shall also be a presiding arbitrator selected in the same manner as that provided in the last paragraph of Article 3, the Parties on each side of the controversy being regarded as a single Party for the purpose of making the designation therein described.

ARTICLE 7. The award, duly pronounced and notified to the Parties, settles the dispute definitively and without appeal.

Differences which arise with regard to its interpretation or execution shall be submitted to the decision of the court which rendered the award.

ARTICLE 8. The reservations made by one of the High Contracting Parties shall have the effect that the other Contracting Parties are not bound with respect to the Party making the reservations except to the same extent as that expressed therein.

ARTICLE 9. The present treaty shall be ratified by the High Contracting Parties in conformity with their respective constitutional procedures.

The original treaty and the instruments of ratification shall be deposited in the Department of State of the United States of America which shall give notice of the ratifications through diplomatic channels to the other signatory Governments and the treaty shall enter into effect for the High Contracting Parties in the order that they deposit their ratifications.

This treaty shall remain in force indefinitely, but it may be denounced by means of one year's previous notice 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 regards the other signatories. Notice of the denunciation shall be addressed to the Department of State of the United States

of America which will transmit it for appropriate action to the other signatory Governments.

Any American State not a signatory of this treaty may adhere to the same by transmitting the official instrument setting forth such adherence to the Department of State of the United States of America which will notify the other High Contracting Parties thereof in the manner heretofore mentioned.

IN WITNESS WHEREOF, the above-mentioned Plenipotentiaries have signed this treaty in English, Spanish, Portuguese, and French and hereunto affix their respective seals.

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

RESERVATIONS MADE BY THE DELEGATIONS

Venezuela:

The Delegation of Venezuela signs the present treaty of arbitration with the following reservations:

First: There shall be excepted from this Treaty those matters which, according to the Constitution or the laws of Venezuela, are under the jurisdiction of its courts; and especially those matters relating to pecuniary claims of foreigners. In such matters arbitration shall not be resorted to except when legal remedies having been exhausted by the claimant it shall appear that there has been a denial of justice.

Second: There shall also be excepted those matters controlled by international agreements now in force.

Chile:

Chile does not accept obligatory arbitration for questions which have their origin in situations or acts antedating the present treaty nor does it accept obligatory arbitration for those questions which, being under the exclusive competency of the national jurisdiction, the interested

parties claim the right to withdraw from the cognizance of the established judicial authorities, unless said authorities decline to pass judgment on any action or exception which any natural or juridical foreign person may present to them in the form established by the laws of the country.

Bolivia:

The Delegation of Bolivia in accordance with the doctrine and policy invariably maintained by Bolivia in the field of international jurisprudence, gives full adherence to and signs the General Treaty of Inter-American Arbitration which the Republics of America are to sanction, formulating the following express reservations:

First: There may be excepted from the provisions of the present agreement, questions arising from acts occurring or conventions concluded before the said treaty goes into effect, as well as those which, in conformity with international law, are under the exclusive jurisdiction of the state.

Second: It is also understood that, for the submission to arbitration of a territorial controversy or dispute, the zone to which the said arbitration is to apply must be previously determined in the arbitral agreement.

Uruguay:

I vote in favor of the Treaty of Arbitration, with the reservation formulated by the Delegation of Uruguay at the Fifth Pan American Conference, favoring broad arbitration; and with the understanding that arbitration will be resorted to only in case of denial of justice, when the national tribunals have jurisdiction, according to the legislation of their own country.

Costa Rica:

(a) The obligations contracted under this Treaty do not annul, abrogate, or

restrict the arbitration conventions which are now in force between Costa Rica and another or others of the high contracting parties and do not involve arbitration, disavowal, or renewed discussion of questions which may have already been settled by arbitral awards.

(b) The obligations contracted under this Treaty do not involve the arbitration of judgments handed down by the courts of Costa Rica in civil cases which may be submitted to them and with regard to which the interested parties have recognized the jurisdiction of said courts.

Honduras:

The Delegation of Honduras, in signing the present Treaty, formulates an express reservation making it a matter of record that the provisions thereof shall not be applicable to pending international questions or controversies or to those which may arise in the future relative to acts prior to the date on which the said Treaty goes into effect.

Guatemala:

The Delegation of Guatemala makes the following reservations:

1. In order to submit to arbitration any questions relating to the boundaries of the nation, the approval of the Legislative Assembly must first be given, in each case, in conformity with the Constitution of the Republic.

2. The provisions of the present Convention do not alter or modify the conventions and treaties previously entered into by the Republic of Guatemala.

Ecuador:

The Delegation of Ecuador, pursuant to instructions of its Government, reserves from the jurisdiction of the obligatory arbitration agreed upon in the present Treaty:

1. Questions at present governed by conventions or treaties now in effect;

2. Those which may arise from previous causes or may result from acts preceding the signature of this treaty;

3. Pecuniary claims of foreigners who may not have previously exhausted all legal remedies before the courts of justice of the country, it being understood that such is the interpretation and the extent of the application which the Government of Ecuador has always given to the Buenos Aires Convention of August 11, 1910.

Colombia:

The Delegation of Colombia signs the foregoing Convention with the following two declarations or reservations:

First: The obligations which the Republic of Colombia may contract thereby refer to the differences which may arise from acts subsequent to the ratification of the Convention;

Second: Except in the case of a denial of justice, the arbitration provided for in this convention is not applicable to the questions which may have arisen or which may arise between a citizen, an association or a corporation of one of the parties and the other contracting state when the judges or courts of the latter state are, in accordance with its legislation, competent to settle the controversy.

Paraguay:

I sign this treaty with the reservation that Paraguay excludes from its application questions which directly or indirectly affect the integrity of the national territory and are not merely questions of frontiers or boundaries.

Mexico:

Mexico makes the reservation that differences, which fall under the jurisdiction of the courts, shall not form a subject of the procedure provided for by the Convention, except in case of denial of justice, and until after the judgment passed by

the competent national authority has been placed in the class of *res judicata*.

El Salvador:

The Delegation of El Salvador to the Conference on Conciliation and Arbitration assembled in Washington accepts and signs the General Treaty of Inter-American Arbitration concluded this day by said Conference, with the following reservations or restrictions:

1. After the words of paragraph 1 of Article 1 reading: "under treaty or otherwise", the following words are to be added: "subsequent to the present Convention." The article continues without any other modification.

2. Paragraph (a) of Article 2 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.

Dominican Republic:

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.

Venezuela: CARLOS F. GRISANTI, FR.
ARROYO PAREJO.

Chile: MANUEL FOSTER, A. PLANET.

Bolivia: E. DIEZ DE MEDINA.

Uruguay: JOSÉ PEDRO VARELA.

Costa Rica: MANUEL CASTRO QUESADA,
JOSÉ TIBLE-MACHADO.

Peru: HERNÁN VELARDE, VÍCTOR M.
MAÚRTUA.

Honduras: RÓMULO E. DURÓN, M. LÓPEZ
PONCE.

Guatemala: ADRIÁN RECINOS, JOSÉ
FALLA.

Haiti: A. BONAMY, RAOUL LIZAIRE.

Ecuador: GONZALO ZALDUMBIDE.

Colombia: ENRIQUE OLAYA HERRERA,
C. ESCALLÓN.

Brazil: S. GURGEL DO AMARAL, A.
ARAÚJO-JORGE.

Panama: R. J. ALFARO, CARLOS L. LÓPEZ.

Paraguay: ELIGIO AYALA.

Nicaragua: MÁXIMO H. ZEPEDA, ADRIÁN
RECINOS, J. LISANDRO MEDINA.

Mexico: FERNANDO GONZÁLEZ ROA, BE-
NITO FLORES.

El Salvador: DAVID ROSALES, HIJO,
CAYETANO OCHOA.

Dominican Republic: A. MORALES, G. A.
DÍAZ.

Cuba: ORESTES FERRARA, GUSTAVO GU-
TIÉRREZ.

United States of America: FRANK B.
KELLOGG, CHARLES EVANS HUGHES.

RESERVATIONS MADE AT THE TIME OF
RATIFICATION

Chile:

With the reservations made at the time
of signature.

Colombia:

With the reservations made at the time
of signature.

Dominican Republic:

With the reservations made at the time
of signature.

Ecuador [Translation]:

With the purpose of seeking more ade-
quate means of generalizing and making
effective the American instruments of
peace, the Republic of Ecuador abandons
the First and Second Reservations made
by the representative of Ecuador upon
signing the said General Treaty of Inter-
American Arbitration, in accordance with
Article 1 of the Protocol of Progressive
Arbitration of January 5, 1929; which
reservations were made in this manner:

The Delegation of Ecuador, pur-
suant to instructions of its Govern-
ment, reserves from the jurisdiction
of the obligatory arbitration agreed
upon in the present Treaty: 1. Questions
at present governed by
conventions or treaties now in effect;
2. Those which may arise from previ-
ous causes or may result from acts
preceding the signature of this treaty.

The Republic of Ecuador upon ratify-
ing the present Treaty maintains in effect
the Third Reservation made by the Pleni-
potentiary, Mr. Gonzalo Zaldumbide, the
text of which reads as follows:

3. Pecuniary claims of foreigners
who may not have previously ex-
hausted all legal remedies before the
courts of justice of the country, it
being understood that such is the
interpretation and the extent of the
application which the Government
of Ecuador has always given to the
Buenos Aires Convention of August
11, 1910.

El Salvador:

With the reservations made at the time
of signature:

Guatemala:

With the reservations made at the time
of signature.

Honduras:
With the reservations made at the time of signature.

México:
With the reservations made at the time of signature.

United States of America:
This Government ratified the Treaty "with the understanding, made a part of

such ratification, that the special agreement in each case shall be made only by the President, and then only by and with the advice and consent of the Senate, provided two thirds of the Senators present concur."

Venezuela:
With the reservations made at the time of signature.

GENERAL TREATY OF INTER-AMERICAN ARBITRATION

Signed at Washington, January 5, 1929, at the International Conference of American States on Conciliation and Arbitration

SIGNATORY COUNTRIES	DATE OF DEPOSIT OF THE INSTRUMENT OF RATIFICATION
Bolivia ¹	
Brazil	January 25, 1932
Chile ¹	February 27, 1930 ¹
Colombia ¹	July 12, 1938 ¹
Costa Rica ¹	
Cuba	November 8, 1930
Dominican Republic ¹	September 17, 1929 ¹
Ecuador ¹	November 3, 1937 ²
El Salvador ¹	December 28, 1929 ¹
Guatemala ¹	October 28, 1929 ¹
Haiti	April 4, 1933
Honduras ¹	February 9, 1937 ¹
Mexico ¹	January 6, 1930 ¹
Nicaragua	June 15, 1932
Panama	January 20, 1933
Paraguay ¹	
Peru	May 23, 1934
United States	April 16, 1935 ¹
Uruguay ¹	
Venezuela ¹	September 1, 1932 ¹

1. With reservations.

2. Upon ratifying, Ecuador abandoned the first and second reservations formulated at the time of signature.

The original instrument is deposited with the Department of State of the United States, which is also the depository of the instruments of ratification. The Treaty entered into force on October 28, 1929, when the second ratification was deposited by Guatemala. It has been superseded by the American Treaty on Pacific Settlement (Pact of Bogotá), 1948, but continues in effect between the States that have not ratified the latter.

See also the Treaty on Compulsory Arbitration of Mexico, 1902, and the Protocol of Progressive Arbitration.