

PROVISIONAL ADMINISTRATION OF EUROPEAN
COLONIES AND POSSESSIONS IN THE AMERICAS
(CONVENTION)

Convention signed at Havana July 30, 1940

Senate advice and consent to ratification September 27, 1940

Ratified by the President of the United States October 10, 1940

*Ratification of the United States deposited with the Pan American
Union October 24, 1940*

Entered into force January 8, 1942

Proclaimed by the President of the United States February 12, 1942

56 Stat. 1273; Treaty Series 977

CONVENTION ON THE PROVISIONAL ADMINISTRATION OF EUROPEAN
COLONIES AND POSSESSIONS IN THE AMERICAS

The Governments represented at the Second Meeting of Ministers of
Foreign Affairs of the American Republics,

CONSIDERING :

One. That the American Republics have formulated at the Second Con-
sultative Meeting the Act of Habana ¹ with regard to the destiny of colonies
of non-American countries located in this hemisphere as well as with respect
to the provisional administration of such colonies;

Two. That as a result of the events which are taking place in the European
continent situations may develop in the territories of the possessions which
some of the belligerent nations have in the Americas which may extinguish
or materially impair the sovereignty which they exercise over them, or leave
their government without a leader, thus creating a state of danger to the
peace of the continent and a state of affairs in which the rule of law, order,
and respect for life, liberty and the property of inhabitants may disappear;

Three. That the American Republics consider that force cannot con-
stitute the basis of rights, and they condemn all violence whether under the
form of conquest, of stipulations which may have been imposed by the
belligerents in the clauses of treaty, or by any other process;

¹ EAS 199, *ante*, p. 619.

Four. That any transfer, or attempted transfer, of the sovereignty, jurisdiction, possession or any interest in or control over any such region to another non-American State, would be regarded by the American Republics as against American sentiments and principles and the rights of American States to maintain their security and political independence;

Five. That no such transfer or attempt to transfer or acquire any interest or right in any such region, directly or indirectly, would be recognized or accepted by the American Republics no matter what form was employed to attain such purposes;

Six. That by virtue of a principle of American international law, recognized by various conferences, the acquisition of territories by force cannot be permitted;

Seven. That the American Republics, through their respective government agencies, reserve the right to judge whether any transfer or attempted transfer of sovereignty, jurisdiction, cession or incorporation of geographic regions in the Americas, possessed by European countries up to September 1, 1939, has the effect of impairing their political independence even though no formal transfer or change in the status of such region or regions shall have taken place;

Eight. That in the cases foreseen, as well as any others which might leave the government of such regions without a leader, it is, therefore, necessary to establish a provisional administrative regime for such regions until such time as their definitive regime is established by the free determination of their people;

Nine. That the American Republics, as an international community which acts strongly and integrally, using as a basis political and juridical principles which they have applied for more than a century, have the unquestionable right, in order to preserve their unity and security, to take such regions under their administration and to deliberate as to their destinies, in accordance with their respective degrees of political and economic development;

Ten. That the provisional and transitory character of the measures agreed to does not imply an oversight or abrogation of the principle of non-intervention which regulates inter-American life, a principle proclaimed by the American Institute, recognized by the meeting of jurists held at Rio de Janeiro and fully reaffirmed at the Seventh International American Conference held at Montevideo;

Eleven. That this community has therefore international juridical capacity to act in this manner;

Twelve. That in this case, the most appropriate regime is that of a provisional administration; and that this system entails no danger because the American Republics do not entertain any purpose whatsoever of territorial aggrandizement;

Thirteen. That the establishment of a special provisional regime in the present convention and in the Act of Habana concerning the provisional administration of European colonies and possessions in the Americas does not eliminate or modify the system of consultation agreed upon at Buenos Aires, confirmed at Lima, and practiced at Panama and Habana.

Fourteen. Being desirous of protecting their peace and safety and of promoting the interests of any of the regions herein referred to which may fall within the purview of the foregoing recitations, have resolved to conclude the following convention:

I

If a non-American State shall directly or indirectly attempt to replace another non-American State in the sovereignty or control which it exercised over any territory located in the Americas, thus threatening the peace of the continent, such territory shall automatically come under the provisions of this convention and shall be submitted to a provisional administrative regime.

II

The administration shall be exercised, as may be considered advisable in each case, by one or more American States, with their previous approval.

III

When the administration shall have been established for any region it shall be exercised in the interest of the security of the Americas and for the benefit of the region under administration, with a view to its welfare and progress, until such time as the region is in a position to govern itself or is restored to its former status, whenever the latter is compatible with the security of the American Republics.

IV

The administration of the region shall be exercised under conditions which shall guarantee freedom of conscience and of worship, subject to the regulations which public order and good habits may demand.

V

The administration shall enforce the local laws coordinating them with the purposes of this convention, but it may furthermore adopt such measures as may be necessary to meet situations in which such laws do not exist.

VI

In all that concerns commerce and industry, the American nations shall enjoy the same situation and benefits, and the administrator is forbidden to establish a privileged position for itself or its nationals or for certain states. Open economic relations shall be maintained with all countries on a reciprocity basis.

VII

Natives of the region shall participate, as citizens, in public administration and in the courts of justice without further qualification than their capacity so to do.

VIII

To the extent that it may be practicable, rights of every sort shall be governed by local law and custom, and vested rights shall be protected in accordance with such law.

IX

Forced labor shall be abolished in the regions where it exists.

X

The administration shall provide facilities for education of all kinds with the two-fold purpose of developing the wealth of the region and improving the living conditions of the population, especially as regards public and individual hygiene and preparation for the exercise of political autonomy as soon as possible.

XI

The natives of a region under administration shall have their own Organic Act which the administration shall establish, consulting the people in whatever manner is possible.

XII

The administration shall submit an annual report to the inter-American organization entrusted with the control of the regions under administration, of the manner in which it has fulfilled its functions, attaching thereto copies of its accounts and of the measures adopted in the region during the year.

XIII

The organization referred to in the preceding article shall be competent to take cognizance of the petitions submitted by inhabitants of the region through the medium of the administration, with reference to the exercise of the provisional administration. The administration shall transmit, with this petition, such observations as it may deem proper.

XIV

The first administration shall be granted for a period of three years; at the end of this period, if necessary, it shall be renewed for successive periods not longer than ten years.

XV

The expenses incurred in the exercise of the administration shall be defrayed with the revenues of the region under administration but in case they

are insufficient the deficit shall be met by the State or States which act as administrators.

XVI

A commission to be known as the "Inter-American Commission for Territorial Administration" is hereby established, to be composed of a representative from each one of the States which ratifies this convention; it shall be the international organization to which this convention refers. Once this convention has become effective, any country which ratifies it may convoke the first meeting proposing the city in which it is to be held. The Commission shall elect its chairman, complete its organization and fix its definitive seat. Two-thirds of the members of the Commission shall constitute a quorum and two-thirds of the members present may adopt decisions.

XVII

The Commission is authorized to establish a provisional administration in the regions to which the present convention refers; allow such administration to be exercised by the number of States which it may determine in each case, and supervise its exercise under the term of the preceding articles.

XVIII

None of the provisions contained in the present convention refers to territories or possessions which are the subject of dispute or claims between European powers and one or more of the Republics of the Americas.

XIX

The present convention is open for signature by the American Republics at the City of Habana and shall be ratified by the High Contracting Parties in conformity with their constitutional procedures. The Secretary of State of the Republic of Cuba shall transmit at the earliest possible date authentic certified copies to the governments for the aforementioned purpose of ratification. The instrument of ratification shall be deposited in the archives of the Pan American Union in Washington, which shall notify the signatory governments of said deposit. Such notification shall be considered as an exchange of ratifications.

The present convention shall enter into force when two-thirds of the American Republics have deposited their respective instruments of ratification.

In witness whereof, the undersigned Plenipotentiaries, having deposited their powers found to be in due and proper form, sign this convention on behalf of their respective Governments and affix thereto their seals on the dates appearing opposite their signatures.²

² The convention was signed on July 30, 1940: dates do not appear opposite the signatures.

Reservation of the Chilean Delegation:

The Chilean Delegation, convinced of the necessity of effecting practically the continental solidarity, approves the resolution, making clear that Chile shall only acquire commitments and responsibilities when the said resolution shall have been ratified by its constitutional organisms.

Reservation of the Argentine Delegation:

The Delegate of the Argentine Republic in signing this Act places on record that it does not refer to or include the Malvinas Islands, because the latter do not constitute a colony or possession of any European nation, since they are a part of the Argentine territory and are included within its dominion and sovereignty, as was stated at the Panama meeting, which statement he considers reiterated hereby in its entirety, and also with reference to other southern Argentine regions as he has stated in the deliberations of this Commission. He likewise states that the signing of this Act and Resolution does not affect and leaves intact his Government's powers established in the constitutional norms which obtain in Argentina, with respect to the procedure applicable in order that this Act and Resolution may acquire validity, force and effectiveness.

Reservation of the Colombian Delegation:

I vote in the affirmative with the suggestion that I shall sign the Convention, subject to the approval by my Government and the constitutional standards of my country.

Reservation of the Venezuelan Delegation:

The Venezuelan Delegation signs with the understanding that the Convention concerning the colonial possessions remains subject to the public powers of the nation, in accordance with its constitutional provisions.

Additional Reservation of the Chilean Delegation:

The Chilean Delegation, at the time of signing this Convention, in addition to the reservation set forth at yesterday's meeting, makes reservation of Chile's rights in Antarctica.

Honduras:		Argentina:	
SILVERIO LAINEZ	[SEAL]	With the explanation and reservation formulated in the Act [translation].	
Haiti:		LEOPOLDO MELO	[SEAL]
LEON LALEAU	[SEAL]	Uruguay:	
Costa Rica:		P. MANINI RIOS	[SEAL]
LUIS ANDERSON	[SEAL]	Ecuador:	
Mexico:		J. TOBAR DONOSO	[SEAL]
EDUARDO SUAREZ	[SEAL]		

Bolivia:		Venezuela:	
ENRIQUE FINOT	[SEAL]	DIóGENES ESCALANTE	[SEAL]
Chile:		El Salvador:	
SCHNAKE	[SEAL]	H. ESCOBAR SERRANO	[SEAL]
Brazil:		Dominican Republic:	
M. NABUGO	[SEAL]	EMILIO GARCIA GODOY	[SEAL]
Cuba:		Peru:	
MIGUÉL ANGEL CAMPA	[SEAL]	LINO CORNEJO	[SEAL]
Paraguay:		Nicaragua:	
TOMÁS SALOMONI	[SEAL]	MARIANO ARGÜELLO	[SEAL]
Panama:		Guatemala:	
NARCISO GARAY	[SEAL]	CARLOS SALAZAR	[SEAL]
Colombia:		United States of America:	
LUIS LOPEZ DE MESA	[SEAL]	CORDELL HULL	[SEAL]