of conduct in expressing its ideas in the Conference at Washington in 1889 with respect to the matter of arbitration. And if it is true that the vote of its representative found itself alone in that Assembly, it its also true that the posterior resolutions of all the foreign departments were in accord with the position of Chili, inasmuch as they did not ratify the treaty to which Chili refused her assent.

Our diplomatic history is full of examples which prove the constancy with which the Chilian Foreign Department has faithfully practiced the policy indicated.

Therefore, in declaring ourselves, both in the Conference of 1899 and in the present one, as decided partisans of optional arbitration, though combating it in its compulsory character, we do not assert a new theory in our diplomacy, but we rather support the rule of conduct which our country has invariably followed since 1823 in its relations with the other states.

VII.

The Hague Conference did not limit its work to the principle of optional arbitration. It further recommended and formulated other measures which are very efficacious to prevent armed conflicts, such as good offices and mediation; it therefore resolved, once again, that Nations cannot bind themselves beforehand to resolve all their differences by specific methods.

These methods are free from the objetions of arbitration and therefore their superiority is obvious in many cases where they may have to settle international questions.

In fact, these measures, are by their nature always susceptible of application. By reason of their simplicity and efficacy they usually put a stop to all controversies, even to those of a political character when, as we have said, arbitration is not applicable.

Good offices and meditation begin their conciliatory effects from the moment they are put into practice, thus taking away from á question the sharp acrimonious character with which it might be presented or which it might assume later on, and lead in a more or less rapid manner to a solution satisfactory for the contending parties.

The action of these measures is further intended not to decide a contest as does arbitration, in a sententious manner, but in adapting itself to circumstances and trying to obtain an advantage in every case, arriving at definitive solutions which meet the assent of both parties, and cause the conflict to radically disappear. The solution is in this manner the more efficacious, as it is not the result of an irrevocable decision, bnt of the conviction it produces in the respective governments that the settlement which is proposed to them is one which is best calculated for the interest of each one.

Actual occurences have contributed, during a long series of years, to confirm the efficacy of good offices and of mediation for the purpose of solving the gravest international questions. The recurrence to this method of deciding disputes has been stipulated in numerous treaties, among them deserving to be mentioned: The Treaty of Paris of the 30th. of March, 1856, and the General Act of the Conference de Berlin of the 25th. of February, 1885. The former in its articles 11th. and 12th. have established the importance of these measures, and have accorded to them the place of preference among those that can be employed for the deciding of disputes.

The Russian project submitted to the Conference of The Hague, in its articles 1st. to 7th. and the Convention which resulted from the labors of that Conference, in its articles 2nd. to 9th. are also examples which should be cited in this strain of ideas, of which we believe it useless to enter upon further consideration.

***

The Delegation of Chili relying on the above considerations, believes that the Conference of Peace held at The Hague are the surest and most advanced measure known to the science of International Law, and has the honor of proposing to the Second International American Conference, the following.

BASES FOR A CONVENTION.

The States represented in the Second International American Conference, resolve:

1st. To adhere to the Conventions signed at The Hague by the Powers, which formed part of the International Peace Conference, for «the peaceful settlement of international conflicts;» for the «application of the principles of the Convention of Geneva, of the 22nd. of August, 1864, relating to Maritime Wars;» and «Relating to the Laws and Usages of Wars on Land.»

2nd. To recommend for that purpose, to the action of the Governments of the United States of America and of the United States of Mexico, the steps that are to be taken with regard to the adherence of the Powers who have not signed this Treaty.

Mexico, January 14, 1900.—*Alberto Blest Gana.—Augusto Matte.—J. Walker Martinez.—Emilio Bello Codecido.*

OBLIGATORY ARBITRATION.

SESSION OF JANUARY 17, 1902.

Secretary Macedo.—A note has been received addressed to His Excellency the President of the Conference, by the delegations of the Argentine Republic, Bolivia, Dominican Republic, Guatemala, Salvador, Mexico, Paraguay, Peru, Uruguay and Venezuela, which form a majority of those represented in the Conference, in which they communicate having celebrated a treaty of obligatory arbitration, in addition to another of adhesion to the conventions of The Hague, and they remit the said Treaty to the Conference, so that, once informed of its contents, the same may be forwarded to the Department of Foreign Affairs, in order that it may be perfected. The note and the Treaty of Arbitration read as follows:

Mexico, January 14th., 1902.—To the President of the Second International Conference:

As the Committee on Arbitration has failed to arrive at an agreement on the matter entrusted to it, the undersigned Delegations, forming the majority of those represented at the Conference, have entered into the annexed treaty of Compulsory Arbitration.

Without affecting in any manner the said Treaty and in conformity with the principle established in art. 19 of the Convention of The Hague on Arbitration, the same Delegations have entered into a treaty with those others who do not accept the principle of Compulsory Arbitration, in order that they may adhere to the aforesaid Convention and to the others pertaining to The Hague Congress, and which Treaty is herewith presented.

The undersigned Delegations have therefore the honor of presenting to the Conference said Treaty of Compulsory Arbitration, in order that, after taking due note thereof, it may be sent to the Department of Foreign Affairs so as to be perfected.

(Signed).—Delegation of the Argentine Republic, *Antonio Bermejo, Lorenzo Anadon.*—Delegation of Bolivia, *Fernando E. Guachalla.*—Dominican Delegation, *Federico Henriquez i Carbajal, Quintin Gutierrez.—M. M. Galavis*, Delegate for Venezuela.—*Cecilio Baez*, Delegate for Paraguay.—Delegation of Guatemala, *Antonio Lazo Arriaga, Francisco Orla.*—Delegation of Mexico, *Pablo Macedo, Jose Lopez Portillo y Rojas, F. L. de la Barra, E. Pardo*, Jr., *M. Sanchez Marmol, Rosendo Pineda.*—Delegate for Uruguay, *Juan Cuestas.*—Delegation of Salvador, *F. A. Reyes, Baltasar Estupinian.*—Delegation of Peru, *Isaac Alzamora, Manuel Alvarez Calderon, Alberto Elmore.*

PROJECT OF TREATY.

Art. 1. The High Contracting Parties obligate themselves to submit to the decision of arbitrators all controversies that exist, or may arise, among them and which diplomacy cannot settle, provided that in the exclusive judgment of any of the interested Nations said controversies affect neither the independence nor the national honor.

Art. 2. Independence or national honor shall not be considered as involved in controversies with regard to diplomatic privileges, boundaries, rights of navigation and validity, construction and enforcement of treaties.

Art. 3. By virtue of the power established in the art. 26 of the Convention for the peaceful adjustment of international differences signed at The Hague on July 29th., 1899, the High Contracting Parties agree to submit to the decision of the Permanent Court of Arbitration, created by such Convention, all the controversies referred to in the present Treaty, unless either of the parties prefers the establishment of a special tribunal.

In the event that the High Contracting Parties should submit to the jurisdiction of the Permanent Court of The Hague, they accept the precepts of said Convention, both with respect to the organization of the Tribunal as to its procedure.

Art. 4. Whenever a special Tribunal should be organized on any account, whether it is so desired by any of the parties, or because the Permanent Court of Arbitration of The Hague should not be opened to them, the procedure to be followed shall be established at the time the arbitration agreement is signed. The Court shall determine the date and place of its sessions and the language to be used, and shall, in every case be invested with the authority to decide all questions relating to its own jurisdiction and even those referring to the procedure of points not considered in the arbitration agreement.

Art. 5. If upon organizing a special Tribunal the High Contracting Parties should not agree upon the designation of the arbitrator, the Tribunal shall consist of three judges. Each State shall appoint an arbitrator who will designate an umpire. Should the arbitrators fail to agree on this appointee, it shall be made by the Government of a third State to be designated by the arbitrators appointed by the parties. If no agreement is reached with regard to this last appointment, each of the parties shall name a different Power and the election of the third arbitrator shall be made by the two Powers so designated.

Art. 6. The High Contracting Parties hereby stipulate that, in case of a serious disagreement or conflict between two or more of them, which may render war imminent, they will have recourse as far as circumstances allow, to the good offices or the mediation of one or more friendly Powers.

Art. 7. Independently of this recourse, the High Contracting Parties consider it useful, that one or more powers, strangers to the dispute, should, on their own initiative, as far as circumstances will allow, offer their good offices or mediation to the States at variance.

The right to offer the good offices or mediation belongs to Powers who are strangers to the conflict, even during the course of hostilities.

The exercise of this right shall never be regarded by either of the contending parties as an unfriendly act.

Art. 8. The part of the mediator consists in reconciling the opposing claims and appeasing the feelings of resentment which may have arisen between the States at variance.

Art. 9. The functions of the mediator are at an end when once it is declared, either by one of the parties to the dispute or by the mediator himself, that the methods of conciliation proposed by him are not accepted.

Art. 10. Good offices and mediation, whether at the request of the parties at variance or upon the initiative of Powers, who are strangers to the dispute, have exclusively the character of advice, and never have binding force.

Art. 11. The acceptance of mediation cannot, unless there be an agreement to the contrary, have the effect of interrupting, delaying or hindering mobilization, or other measures of preparation for war. If mediation occurs after the commencement of hostilities, it causes no interruption to the military operations in progress, unless there be an agreement to the contrary.

Art. 12. In case of serious difference endangering peace, and whenever the interested Powers cannot agree in electing or accepting as mediator a friendly Power, it is to be recommended to the States in dispute, the election of a Power to whom they shall respectively intrust the mission of entering into direct negotiation with the Power elected by the other interested party, with the object of preventing the rupture of pacific relations.

For the period of this mandate, the term of which, unless otherwise stipulated, cannot exceed thirty days, the contending Powers shall cease all direct communication on the subject of the dispute, which is regarded as referred exclusively to the mediating Powers.

If these friendly Powers do not succeed in agreeing on a solution that would be acceptable to those in conflict, they shall designate a third that is to act

as mediator. This third Power, in case of a definite rupture of pacific relations, shall at all times be instructed with the task of taking advantage of any opportunity to restore peace.

Art. 13th. In controversies of an international nature arising from a difference of opinion on points of fact, the signatory Powers consider it useful that the parties who have not been able to come to an agreement by means of diplomacy, shauld so far as circumstances allow, institute an International Commission of Inquiry, to facilitate a solution of those differences elucidating the facts by means of an impartial and concientious investigation.

Art. 14th. The International Commissions of Inquiry are constituted by special agreement between the parties in dispute. The agreement defines the facts to be examined, and the extent ot the Commissioner's powers, and settless the procedure to which they must limit themselves. On the inquiry both sides shall be heard, and the form and periods to be observed, if not stipulated by the agreement, shall be determined by the Commission itself.

Art. 15th. The International Commission of Inquiry are constituted, unless otherwise stipulated, in the same manner as the Tribunal of Arbitration.

Art. 16th. The Powers in dispute engage to supply the International Commission of Inquiry, as fully as they may think possible, with all means and facilities necessary to enable it to be completely acquainted with and to accurately understand the facts in question.

Art. 17th. The above mentioned Commissioners shall limit themselves to ascertain the truth of the facts alleged, without entering into any other appreciations than those merely technical.

Art. 18th. The International Commission of Inquiry shall present its report to the Powers which constituted it, signed by all its members. This report, limited to the investigation of facts, has in no manner the character of an arbitral award, and it leaves the contending parties at liberty to give it the value they may think proper.

Art. 19th. The constitution of Commissions of Inquiry may be included in the Arbitration Bonds, as a previous proceeding, to the end of determining the facts which are to be the subject of the Inquiry.

Art. 20th. The present Treaty does not abrogate any previous existing ones, between two or more of the Contracting Parties, in so far as they give greater extension to Compulsory Arbitration. Neither does it alter the stipulations regarding Arbitration, relating to specific questions which have already arisen, nor the course of arbitration proceedings which may be pending by reason of the same.

Art. 21st. Without the necessity of exchanging ratifications, this Treaty shall take effect so soon as three States at least, of those signing it, express their approval to the Government of the United States of Mexico, which shall communicate it to the other Governments.

Art. 22th. The nations which do not sign the present Treaty, may adhere to it at any time. If any of the signatory nations should desire to free itself from its obligations, it shall denounce the Treaty; but such denouncement shall not produce any effect except with respect to the nation which may denounce it, and only one year after the notification of the same has been made.

Whenever the denouncing nation shall have any arbitration negotiations pending at the expiration of the year, the denouncement shall not have any effect with reference to the case not yet decided.

Transitory article. This agreement shall be raised to the category of a Treaty, and shall be signed so as to be incorporated in the final minutes of the Conference.

Mexico, December 26th. 1901.

(Signed).—*Antonio Lazo Arriaga*, *Francisco Orla*, for the Delegation of Guatemala.—*G. Raigosa*, *E. Pardo* (jr.), *Joaquin D. Casasus*, *Pablo Macedo*, *Alfredo Chavero*, *M. Sanchez Marmol*, *F. L. de la Barra*, *Rosendo Pineda*, *Jose Lopez Portillo y Rojas*, Delegates for Mexico.—*Antonio Bermejo*, *Lorenzo Anadon*, for the Delegation of the Argentine Republic.—*Isaac Alzamora*, *Manuel Alvarez Calderon*, *Alberto Elmore*, for the Delegation of Peru.—*Juan Cuestas*, for the Delegation of Uruguay.—The Delegate for Venezuela, who signs *ad referendum*, makes the following reserve: His country accepts the doctrine that rivers form an integral part of a territory through which they run, and therefore their control corresponds solely and exclusively to the Sovereign of the same country; that the question of navigation on rivers and interior lakes implies those of sovereignty, which are some times identified with the latter; and as the latter cannot be submitted to Arbitration, so is the case with the former. That, for such reasons, and as far as Venezuela is concerned, the questions of navigation on the rivers and on the intertor lakes were not included in this Treaty.—*M. M. Galavis*, for the Delegation of Venezuela.—*Cecilio Baez*, Delegate for Paraguay.—*Quintin Gutierrez*, Delegate for Dominican Republic.—*Fernando E. Guachalla*, Delegate for Bolivia. We sign, excepting pending matters: *Francisco A. Reyes*, *Baltasar Estupinian*, Delegates for El Salvador.

The Transitory Article of the Project of the Treaty of Compulsory Arbitration, signed December 26th. last by the Delegations who sign the present one, is hereby modified as follows, by reason ot the suppression of Artiele 25th. of the Regulations of the Conference: «This agreement shall be raised to the category of a Treaty, of which a single copy shall be signed, which shall be deposited in the Department of Foreign Affairs of the United States of Mexico, and from which copy other certified copies shall be made for the purpose of sending them, through diplomatic channels, to each one of the Signatory Powers.

Mexico, January 14, 1902.—(Signed.) Delegation of the Argentine Republic, *Antonio Bermejo*, *Lorenzo Anadon*.—Delegation of Bolivia, *Fernando E. Guachalla*.—Delegation of the Dominican Republic, *Federico Henriquez i Carbajal*, *Quintin Gutierrez*.—Delegate of Venezuela, *M. M. Galavis*.—Delegation of Paraguay, *Cecilio Baez*.—Delegation of Mexico, *Genaro Raigosa*, *E. Pardo* (jr.), *Joaquin D. Casasus*, *Pablo Macedo*, *Alfredo Chavero*, *F. L. de la Barra*, *Rosendo Pineda*, *M. Sanchez Marmol*, *Jose Lopez Portillo y Rojas*.—Delegation of Peru, *Isaac Alzamora*, *Manuel Alvarez Calderon*, *Alberto Elmore*.—Delegation of Salvador, *F. A. Reyes*, *Baltasar Estupinian*.—Delegation of Uruguay, *Juan Cuestas*.—Delegation of Guatemala, *Antonio Lazo Arriaga*, *Francisco Orla*.

Secretary Macedo.—The Chair has dictated the following order: «Remit to the Ministry of Foreign Relations of the Republic of Mexico, throu the Secretary General of the Conference, the Treaty of Obligatory Arbitration, signed by the majority of the Delegations, for the purposes expressed in the statement prepared by the Delegations that subscribe it.

SESSION OF JANUARY 22, 1902.

Secretary Duret.—A note has been received from the Peruvian Delegation and accompanying it an exposition regarding the policy of that country in regard to arbitration. The said note and exposition are as follows:

NOTE from the Peruvian Delegation accompanying a statement about Peru's policy on Arbitration.

Mexico, January 21, 1902.

To the President of the International Conference of Mexico.

As several of the Delegations have presented to this Assembly statements supported by arguments on the policy followed by their respective countries in the matter of arbitration, we take pleasure in presenting also the annexed document on the policy followed by Peru on such a transcendental matter, at all times and with all the States, regardless of their respective strength.

That document contains at the same time an exposition of reasons of the Peruvian Delegates, with regard to the Treaty of Compulsory Arbitration, which they have signed aud which has been transmitted to the Department of Foreign Affairs of Mexico.

We will be under obligations if Your Excellency would be good enough to send said Memorandum to the above Department, in accordance with paragraph 7 of art. 10 of the Regulations, as an annex of the Treaty in question, and to order that a copy thereof be added to the respective minutes.

We avail ourselves of this opportunity to subscribe ourselves, Your Excellency's, obedient servants.

(Signed): *Isaac Alzamora.—Manuel Alvarez Calderon.—Alberto Elmore.*

REPORT on the Motives Presented by the Delegation of Peru, with regard to the Treaty of Compulsory Arbitration.

The stability of institutions and peace among the American Republics constitute the two principal requirements in this portion of the world. Nothing can be done to promote the material improvements of our countries, nothing of a permanent and eficacious character can be suggested to closely unite us in the great pathway of civilization, if, above all, we do not endeavor to insure the internal order of our young American Nations; if we do not frankly and energetically eliminate the causes of disagreements, animosities, restlessness, and dormant and active strugges existing, or which may exist among them. There is no possible solution outside of this ample basis of interior stability and of international peace. In the history of nations, as well as in social life, there is a period characterized by the exalted principle of defense, in which all energies are joined together to insure what is esteemed to be self-preservation. Such period is not, doubtless, the most appropriate to utilize the active strength of the country. When nations devote their existence to avoid the attack of others, or to prepare attacks, all their factors of vitality are wasted. all their future civilization is lost, and they fatally fall into militarism, which means a diminishing of political liberties, the exhaustion of economic forces and an initiation of international regime of latent war, so much the more harmful, since it cannot be defined.

*
* *

The Delegates of America, assembled here, have therefore sought, as a supreme aspiration and have considered as an indispensable pledge, that the labors of the Conference shall not be apparent, but real, the realization of this idea: the resolution of the Second International American Conference, shall have, as a solid foundation, the promulgation of a system of equity and right among the Republics, which may suppress as far as possible, permanent rivalries, impassioned disagreements, hereditary rancors, ambition for predominance, which maintain armed peace and active wars.

*
* *

We shall not, indeed, attain the reign of harmony and happiness, as imagined by Kant in his plans for perpetual peace. We shall not invoke the many other attempts and noble doctrines that in that direction have been made. Nothing of the kind. Those doctrines and attempts had their place and effect. They have displayed an ideal, and have led humanity to the partial conquests that have been realized.

Our aim now is to simply examine how far certain juridical methods which, through their frequent or general application, have been thoroughly understood, or in other words, how far they have penetrated into the national intelligence of the American Republics, in order that their sanction may be approved by this Conference.

*
* *

What we may call the juridical organization of international relations, has, in America, ample traditions, which on account of their not being well known it is not so useful to quote. The Congress of Panama in 1826, that of Lima in 1847, the Continental Treaty of 1856, and the Second Congress of Lima in 1864, originated from the intensity ot the feeling of defense in the presence of common danger; but at the same time, they sought to regulate the relations of our countries then on strictly juridical reasons. All these international acts resulted in stipulations, more or less extensive and effective, to decide our external conflicts by means of arbitration, established by compulsion. After the anxieties of those times had passed, our desire to normalize our reciprocal relations by means of Compulsory Arbitration, remained alive. To this affirmation correspond the first Conference at Washington in 1889–1890, the Central American Congress of Peace, the Congress of Mexico in 1896, the Spanish–American Congress of Madrid in 1900 and the Congress of Montevideo in 1901. Arbitration established as a compulsory rule, has been the subject of the deliberations in all the cases mentioned.