

Conference, of a Code of Public International Law and of a Code of Private International Law, which shall serve as the rules to be observed in the relations between the Nations of America.

Committee Room, January 11, 1902.—(Signed) *F. L. de la Barra*.—*Baltasar Estupinian*.—*Fernando E. Guachaya*.—*Antonio Bermejo*.—*Emilio Bello C.*—*Juan Cuestas*.—*Alejandro Alvarez*, Secretary.

His Excellency Mr. de la Barra.—Messrs. Delegates: The subject matter of the Project which has just been read being obvious, and as it constitutes the complement of a resolution already adopted by the Conference the Committee on International Law has the honor to request the Delegates to dispense with the rules and to take this motion in consideration immediately.

The motion being taken up immediately and put to discussion, it was unanimously adopted, discussion being dispensed with.

Secretary Duret.—The Chair rules that the report as adopted be referred to the Committee on Engrossing.

SESSION OF JANUARY 24 1902.

Secretary Duret.—In compliance with the resolution adopted by the previous session,¹ the reports of the Committee on Engrossing on the following resolutions of the Conference are at the disposition of the Delegates:

III. Codification of International Law.

The report on Codification of International Law referred to reads as follows:

“Committee on Engrossing. The undersigned have the honor to propose the following wording of the project of Convention adopted by the Conference for the formation of the Codes of Public and Private International Law of America:

Article 1. The Secretary of State of the United States of America and the Ministers of the American Republics accredited in Washington shall appoint a Committee of five American and two European jurists, of acknowledged reputation, to be entrusted with the drafting, during the interval from

¹ See page 73.

NUMBER 8.

Patents of Invention, Industrial Drawings and Models and Trade marks of Commerce and Manufacture.

SESSION OF DECEMBER 16 1901.

Secretary Macedo.—The Committee on Patents of Invention and Trade marks has submitted its report, and the Chair rules that it be printed and distributed among Their Excellencies the Delegates, which report reads as follows:

REPORT of the Committee on Patents, Trade Marks and Weights and Measures, relative to Trade Marks.

Messrs. Delegates:

The Treaty relative to commercial trade-marks agreed upon at Montevideo on the 16th. of January 1889, and which has been ratified and perfected by several of the signatory Powers, stipulates in its ar-

the present to the next Conference, and in the shortest possible time, of a Code of Public International Law which will govern the relations between the American Nations.

Article 2. As soon as said Codes have been drafted, the Committee shall cause them to be printed and submit them to the consideration of the respective Governments of the American Nations, in order that they may make such suggestions as they may deem advisable.

Article 3. After said suggestions have been systematically classified, and the Codes have been revised in conformity with them by the Committee which drafted them, they shall be submitted again to the Governments of the American Republics to be adopted by those who desire it, either in the next American International Conference or by means of Treaties negotiated directly.

Article 4. The Committee in charge of the drafting of the Codes shall conduct its work at such European or American capital as the Diplomatic Corps authorized to appoint it may designate, in conformity with Article 1.

Such expense as may be incurred by this Convention shall be defrayed by the Signatory Governments in the same form and proportion as those in force with regard to the Bureau of American Republics.

Article 5. The Governments that may desire to ratify the present Convention shall communicate it to the Secretary of State of the United States of America, within one year counted from the closing of this Conference.

México, January 24, 1902.—(Signed).—*Alberto Elmore*.—*Rosendo Pineda*.

The Convention for the formation of the Codes of Public and Private International Law of America, conceived exactly in the same terms as the foregoing report, was signed on the 27th. of January, 1902 by the Delegates of the Argentine Republic, Bolivia, Colombia, Costa Rica, Chili, Dominican Republic, Ecuador, Salvador, United States, Guatemala, Hayti, Honduras, Mexico, Nicaragua, Paraguay, Peru and Uruguay.

Article 1 the recognition of the right of the person who has been declared owner of a trade-mark in one of those countries, to secure in the other States the same privilege in conformity with the formalities and conditions established by their respective laws. Adulterations or falsifications are to be persecuted likewise, in accordance with the said law, in the country, where the infringement has taken place, as provided for by article 4.

Such clauses, while they guarantee the ownership already legally acquired in one of the contracting nations, do not affect the integrity of the legislation of each country in so far as procedure is concerned, or in so far as the requisites that are demanded for

the acknowledgement of such right, and also to the sanction applicable whenever attacked. Such stipulations are so fundamental that it might be held that they should constitute national laws, as is already the case in various countries, if the convenience of establishing reciprocity between the States should not make it preferable that such regulations be incorporated in an international agreement.

Article 2. of that treaty established the requisites and powers which are inherent to the ownership of a trade-mark, so that it may be used, transferred or sold.

Article 3. defines a trade mark as a distinctive sign of merchandise or products, and it considers the manner in which the models and drawing of the manufactures are so protected in the same identical manner.

Such are the substantial terms of the said treaty.

Articles 6 and 7 provide that it be enacted for an indefinite time, and that its abrogation can only take effect two years after receipt of proper notification to that effect.

Article 5. substitutes the act of ratification by the mere exchange of communications, and the 6th. permits other States to agree to the terms of said treaty.

As the object of an international convention is not intended to recognize only certain rights, but also to facilitate their application, the reporting Committee proposes the following addition to the Treaty of Montevideo, under reference.

“That the transmission of the application, and of the models, from one nation to the other, and the compliance of all other regulations established in that State wherein the acknowledgement is demanded to the recognition of proprietary rights granted in another signatory State, may be secured through the latter's Consuls, the applicant paying all expenses which are caused by his demand. In that manner, while the local legislation is duly observed, facilities are granted for the foreign owner of the trade-mark, diminishing his expenses and freeing him from the necessity of making use of private agents who are not always available in other countries. Such was the vote of the International Congress of 1878 on Industrial Property.

In view of the foregoing, while rendering a report on the proposition of the Honorable Delegate for Uruguay on the adoption by this Conference of the said Treaty of Montevideo, the undersigned Committee offers the following conclusions:

1. The International Conference at Mexico accepts the principles of the Treaty of Montevideo on trade-marks signed on the 16th. of January 1889.

2. The person who may have secured in any of the States that have signed the Treaty, the exclusive right to any trade-mark, may apply to the respective Consuls of the said countries for the procurement of the same privileges; These functionaries shall transmit to their Governments the applications and corresponding models, as well as sufficient funds, in order that the necessary steps be taken for the carrying on of such proceedings.

3. The Delegates who shall approve of this report, and who shall be properly authorized by their Governments, or who may be so authorized before this Conference closes its labors shall sign this treaty under the terms now proposed.

4. The communications addressed by the Gov-

ernments ratifying this Treaty, to that of Mexico, in order that the latter may so inform the other contracting States, shall be considered as the proper exchange of ratifications of such treaty. The Mexican Government will communicate in like manner its own ratification, if it decides to give its acquiescence.

5. The acquiescence of the other Nations of America that may not have signed originally the said treaty, shall be made known in the same manner.

Mexico, December 3, 1901.—*Alberto Elmore*.—*Cecilio Baez*.—*Alfredo Chavero*.

TREATY of Montevideo to which reference is made in the foregoing report.

Art. 1. Every person to whom any one of the Signatory Powers has granted the right to the exclusive use of trade or factory mark, shall enjoy the same privilege in the other states, subject to the formalities and conditions established by their laws.

Art. 2. The ownership of trade mark comprises the right to use, transfer and sell the same.

Art. 3. There shall be considered as a trade manufacture mark the sign, emblem or external name, which the manufacturer may adopt and apply to his wares and products, in order to distinguish them from those of other manufacturers or merchants who deal in articles of the same kind.

To this class of marks belong also the so-called factory drawings or patterns which by the means of the texture or by impressions are stamped on the very product which is put on sale.

Art. 4. Falsifications and adulterations of trade or factory marks, shall be prosecuted before the courts, in conformity with the laws of the State in whose territory the fraud may have been committed.

Art. 5. It is not indispensable that this treaty be ratified simultaneously by all the Signatory Powers in order that it be in force. The nation that may approve it, will so inform the Governments of the Republics of Uruguay and Argentine, in order that they may make it known to the other contracting nations. Such procedure shall serve in lieu of exchange of ratifications.

Art. 6. As soon as the exchange in the form prescribed by the preceding article is effected, this treaty shall remain in force indefinitely from the time of such act.

Art. 7. If any of the Signatory Powers should think it proper to withdraw from this treaty, or to introduce modifications to the same, it shall so inform the others, but such withdrawal shall take effect only two years after such denouncement, during which time an endeavor shall be made to enter into a new agreement.

Art. 8. Article 5 may be extended to those nations who, although they have not taken part in this Congress, may desire to join in the present treaty.

SESSION OF DECEMBER 23, 1901.

Secretary Duret.—The report of the Committee on Patents, Trade marks and Weights and Measures is now under discussion as a whole.

His Excellency Mr. Casaus, Delegate from Mexico.—Messrs. Delegates: I had no desire to take part in the debate of the Project of the Treaty on Trade marks; not only, because I did not wish to appear as disagreeing with the Committee, but also