**Chapter 6: When Politics Met Intellectual Property Cooperation in the Pan-American Union**

**In: *The Silent Peacemaker: Intellectual Property Rights and the Interwar International Legal Order, 1919–1939***

This is an Accepted Manuscript of a chapter contributed to *The Silent Peacemaker: Intellectual Property Rights and the Interwar International Legal Order, 1919–1939*, edited by P. Sean Morris and published by Brill on 28/11/2024, available at: <https://brill.com/display/book/9789004714663/BP000009.xml>

And: <https://doi.org/10.1163/9789004714663_008>

It is deposited under the terms of the Creative Commons Attribution-NonCommercial-NoDerivatives License (<https://creativecommons.org/licenses/by-nc-nd/4.0/>) which permits non-commercial re-use, distribution, and reproduction in any medium, provided the original work is properly cited, and is not altered, transformed, or built upon in any way.

**When Politics Meet Intellectual Property Cooperation in the Pan-American Union**

***Patricia Covarrubia***

# Abstract

Pan-Americanism and the shaping of the Latin American countries towards friendly markets to the United States saw the arrival of harmonisation of intellectual property in the American region. The ties between the United States and the Central and South American states materialised in January 1889. Yet, while the aim of the Pan-American Union was based on the ‘Monroe Doctrine’ it was evident the different conceptions brought to the table by the delegates: the Anglo-Saxon and the Latin.

This chapter evaluates the Pan-American Union conferences between the years 1919 to 1939 seeking to critically examine the build-up of the intellectual property system in Latin America. For instance, early propositions to adhere to the Protocol of Madrid ended with the resolution to call for a special conference of representatives to consider international problems of inter-American trademarks whose members were to be trademarks’ specialists. In general, formalities and prerequisites required by domestic laws were debated to be substituted, aiming to harmonise the law in the region. While the Pan-American Conferences put forward intellectual property treaties and agreements, to what extent they were implemented is a different story.

# The Nature of Latin America Intellectual Property in the Interwar Period, and the Linkage to the Broader International Legal Development

During the late 19th and early 20th centuries, Latin America saw the expansion of the intellectual property system which was linked to the internationalisation of national systems. The national intellectual property systems were based on treaties signed in the regional inter-American system, few sections of which mirrored international intellectual property conventions.[[1]](#footnote-1)

Looking to extend the protection of intellectual property rights at the international level including ‘national treatment’, the adoption of the *Paris Convention* in 1883 was adopted.[[2]](#footnote-2) The convention establishes basic intellectual property principles and while mainly Europe and the United States were engaging in the Convention of Vienna 1873, and its successive ones, few Latin American countries were signatories to the Paris Convention. Before the interwar period, Brazil, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Mexico, and the United States adhered to the Paris Convention, but later Ecuador,[[3]](#footnote-3) El Salvador,[[4]](#footnote-4) and Guatemala[[5]](#footnote-5) departed.[[6]](#footnote-6) During the interwar period (1919-1939) per se, no Latin American country joined the Convention. Nevertheless, the majority of national laws regarding the intellectual property system were developed late in the 19th and at the start of the 20th centuries, but this was not led by any international obligation[[7]](#footnote-7) other than a will and an effort to be part of the ‘civilised nations’.[[8]](#footnote-8) By 2023, most Latin American countries[[9]](#footnote-9) are signatories of the Paris Convention, which has served as a model for the formulation of national laws, even for those that are not part of it.[[10]](#footnote-10)

Locally, during the interwar period, laws seemed to be more open on the rights of exploitation of patents while more restrictive on copyrights, focusing on the rights of the authors, especially in Latin American countries.[[11]](#footnote-11) Although it is observed that as of today there are only 15 Latin American countries that are a signatory of *the Berne Convention* of 1886. The first signatory from the region and the only member during the interwar timeframe was Brazil (signed in 1922). Regarding trademarks, the General Inter-American Convention for Trademark and Commercial Protection 1929 followed the normative structure of the *Paris Convention*. Generally, it seemed that although the region was not fully committing to international intellectual property conventions, indirectly the region was on track to have a harmonised intellectual property system and certainly, observing the relationship between few international intellectual property law.[[12]](#footnote-12) Furthermore, regionally, during the interwar period, there were few Pan-American Conferences where intellectual property engagement was noticeable.

During the interwar period (1919-1939) the following conventions cover the topic of intellectual property, specifically: the *Convention of Santiago de Chile 1923* and the *Convention of* *Washington 1929*, both of which provided harmonised protection in trademarks and commercial names; and the *Treaty of Montevideo on Intellectual Property of 1939*[[13]](#footnote-13) which notes the recognition and force of intellectual property rights and their exercise. Polido and Rosina observe that the letter of the conventions contains a “diversity of instruments that are perceived, even today, as relevant international legal sources within the framework of Inter-American law”.[[14]](#footnote-14)

Aside from these Pan-American intellectual property-specific conventions, there was the *Havana Treaty on Private International Law 1928* (*Bustamante Code*), which has two articles covering intellectual property matters.[[15]](#footnote-15) However, many of the Pan-American Conventions did not enter into force due to a lack of ratification[[16]](#footnote-16) which may seem like a failure, yet it shows the effort made by the region to engage in a harmonised intellectual property system and shape it regionally.

In the region, it is noticeable a division between, on one hand, *industrial property* covering patents, trademarks, and industrial designs; and on the other, authors’ rights, that is *copyright* covering literary and artistic works which was inspired by the separation drawn by the Paris Convention and the Berne Convention.[[17]](#footnote-17)

# The Pan-American **Conventions**: International Relations and Politics

The Pan-American conventions (reconstituted as the Organization of American States since 1948) aimed to bring together the general interests of the American countries. The suggestion made by the United States’ Secretary of the State, Blaine back in 1881, mainly based on preventing war between the nations of the Americas,[[18]](#footnote-18) has brought many conventions in the region into fruitful international law.[[19]](#footnote-19) The first of these conferences took place in Washington, in 1889; the second in Mexico City, in 1901; the third met in Rio de Janeiro, in 1906; the fourth in Buenos Aires, in 1910.

During the beginning of World War I (the Great War), the American Institute of International Law examined two matters: the future of the Pan-American community, and a new basis of international law aiming at compliance.[[20]](#footnote-20) This chapter covers the conferences, meetings, and discussions from the Fifth Conference (Santiago, Chile 1923) onwards. References to early conferences and conventions are noted to establish backgrounds and to document international relations and its politics as well as to examine the changes in intellectual property law.

## The Fifth International Conference of the Pan-American (Santiago, 1923)

The Fifth Conference was expected to be of significance. 13 years have passed since the last, that is, the Buenos Aires Convention 1910, and after World War I, conditions for both, the United States and the Latin American countries were different. In the 20th century, several events made the region change, for instance, generally, it seemed, on the positive side, that there was a social and economic recovery of Latin America as there was a large growth in commerce;[[21]](#footnote-21) but on the negative side, there was the revolution in Mexico (1910-1920) which impinged the relations with the United States. Moreover, Latin American countries were mindful of the many interventions undertaken by the military forces of the United States over any nations in the vicinity that possessed a threat to its economy.[[22]](#footnote-22)

There was always a complexity in the meetings mainly based on different conceptions: on one hand the Anglo-Saxon, and on the other, the Latin; this resulted in a lack of leadership. Moreover, according to scholars such as Scarfi and Preuss, the United States always showed a dominant presence.[[23]](#footnote-23) However, after World War I, the United States was not comfortable engaging in any political debate especially considering any association of American nations, an *American League* *of Nations,* as first proposed by the (Uruguayan) President Brum in 1919.[[24]](#footnote-24) In the international arena, a League of Nations passed on December 1920, which is located in Geneva, Switzerland, and created after World War I, providing a forum for resolving international disputes. The Latin American countries were influencers and great supporters of the League of Nations,[[25]](#footnote-25) and occupied a good position in international affairs, holding, during the years to come, sits as presidents,[[26]](#footnote-26) chairman of the League’s Assembly and, judges at the League’s World Court of Justice.[[27]](#footnote-27) The United States did not join, and this was seen by the Latin American countries as a ‘moral betrayal’.[[28]](#footnote-28) Consequently, in the Fifth Pan-American Conference, they felt equal to the United States.[[29]](#footnote-29) The conference was aimed to enhance ‘friendship and cooperation’[[30]](#footnote-30) where not only commercial debates and agreements over trademarks and patents should take place, but to “settle disputes, to guarantee international justice”.[[31]](#footnote-31) Each government was represented in each sub-committee and some of the committees were held open doors.[[32]](#footnote-32) However, the Fifth Conference is criticised as lacking a ‘common mind’, although it accomplished some of the points in the program as a few of the committees had practical agendas that got results.[[33]](#footnote-33)

A crucial point during the Fifth Conference was the *Monroe Doctrine* which some delegations led by Colombia requested defining the doctrine.[[34]](#footnote-34) The head of the United States delegation observed that such doctrine was unilateral and as such, they were the responsible party.[[35]](#footnote-35) This was not seen lightly by its counterparts, as the policy, although proclaimed by the United States’ President Monroe in 1823, is a principle of American International law. The Monroe Doctrine is based on the right to independence opposing European colonialism in the Americas,[[36]](#footnote-36) or any other attempt from Africa or Asia.[[37]](#footnote-37) It aimed to maintain the independence of the American continent,[[38]](#footnote-38) which, as noted by jurist and scholar Ingenieros, the United States was gradually imposing a right to intervene in Latin American affairs, and had expanded its control and conquest over some of the Latin American countries, impinging on their political independence.[[39]](#footnote-39) This view and sentiment were also explicit in the Sixth Conference (Havana, 1928) where the Argentinian delegation openly challenged the United States’ military intervention in Latin America.[[40]](#footnote-40)

Therefore, one of the mottos of the Fifth Conference was that “American disputes [were] to be settled by Americans”.[[41]](#footnote-41) This was based on policies by the League of Nations that set up that disputes must be settled among themselves, in that case, via the Pan-American conferences.[[42]](#footnote-42) Finally, the discussion of a codification of American International Law and the setup of an American Court of Justice was resumed by a special commission discussed during the Fifth Conference (Santiago, 1923) and finally formed in Rio de Janeiro in 1925. These debates started back in the Second Conference (Mexico, 1901) and continued in the years to come, but were interrupted by World War II. The code was to collate principles of the Monroe Doctrine, the right of foreigners, arbitration, and other principles.[[43]](#footnote-43) Therefore, the Fifth Conference (Santiago, 1923) laid the movement towards American unity;[[44]](#footnote-44) it had the key subject of ‘disarmament’, but did not result in a definitive agreement, yet the idea of inter-American peace was adopted and actioned.[[45]](#footnote-45) Consequently, the *Gondra Treaty* was adopted during the Fifth Conference, framed to prevent and avoid conflicts among the American States. However, the Treaty was limited to investigation with no provisions to report a possible settlement.[[46]](#footnote-46)

Aside, American journalist and scholar George Howland Cox, observed that other resolutions were adopted during the Fifth Conference that helped the region’s relationships; among these resolutions, there were: judicial settlement of disputes, sanitary safeguarding of national frontiers, and arbitration of commercial disputes, upon others.[[47]](#footnote-47) The Fifth Conference reorganised the *International Commission of American Jurists* (the first official body created at the Third International Conference, 1906).[[48]](#footnote-48) This body contributed to the formation of conventions and treaties in the Americas, e.g., the Bustamante Code.

## The Sixth International Pan-American Conference (Havana, 1928)

The mood at the conference was a desire to settle doubts and to clarify any misunderstanding regarding any political authority that the Union may have. A declaration was adopted that none of the institutions shall exercise functions of a political character.[[49]](#footnote-49) The latter was based on the principles of “cementing the bonds of economic, social, and cultural unions between the nations”.[[50]](#footnote-50) Howland regards the Sixth Conference as stormy and perhaps bitter since at that time the United States marines were stationed in Nicaragua and Haiti.[[51]](#footnote-51) Yet conversations and debates were diverted by tactics while the New York governor (later to become president) Franklin Roosevelt, promised that while he remained president, there would be no ‘interventions’.[[52]](#footnote-52)

The Sixth Conference adopted a resolution on the methods of codification. To this effect, the *National Commission for the Codification of International Law* was created, and its proposals were to be reviewed by three *Permanent Committees* (adopted at the time). One Permanent Committee in Rio de Janeiro on public international law; a Second Permanent Committee in Montevideo on conflict of laws; and a Third Permanent Committee in Havana on comparative legislation.[[53]](#footnote-53) Edwin Borchard (1884-1951), a prominent American jurist and scholar at Yale University, observed that this structure did not work well due to, among other reasons, few countries appointing their National Committees, and in the Permanent Committees, the members did not have the “necessary prestige for continental persuasion”.[[54]](#footnote-54)

Mostly, the Sixth Conference at Havana adopted the projects presented by the American Institute of International Law and codified seven subjects of international law.[[55]](#footnote-55)

## The Seventh International Pan-American Conference (Montevideo, 1933)

According to Sanders, the conference was seen as an “effort to organize and maintain world peace” by eliminating barriers and expanding “international protection of the products of the human mind and spirit”.[[56]](#footnote-56) At the conference, six conventions and one protocol were drafted and the members signed an “intention to subscribe the pacts for the settlement of international conflicts by pacific means”.[[57]](#footnote-57) Multilateral American peace treaties developed up to this year by the Union were: the *Gondra Treaty* (Santiago, 1923);[[58]](#footnote-58) the *Convention of Inter-American Conciliation* (Washington, 1929);[[59]](#footnote-59) the *Inter-American Arbitration Conciliation* (Washington 1929);[[60]](#footnote-60) the latter two supplement the Gondra Treaty.[[61]](#footnote-61) Many of the members had also taken further steps and ratified international pacts of peace such as the *General Treaty for Renunciation of War* 1928 (the Kellogg-Briand Pact or Pact of Paris). Fenwick observed that these agreements and treaties covered “all of the generally accepted procedures, except that of judicial settlement” referring to a permanent court aside from an arbitral tribunal.[[62]](#footnote-62)

During the Seventh Conference, there was pressure on delegates to sign the peace treaties because generally, there was a failure of many to ratify the various treaties and agreements.[[63]](#footnote-63) The pressure to sign such agreements and treaties was based on the conditions in the region: Cuba was under a social revolution; there were still American marines stationed in Haiti; the United States was not recognising El Salvador’s president; Argentina had matters with the United States over tariff restrictions; there were differences between Colombia and Peru; and Bolivia and Paraguay were at war.[[64]](#footnote-64) Therefore, at the conference, the unified voice was that the nations needed to ratify the peace treaties. Moreover, although the *Chaco* conflict between Bolivia and Paraguay was not on the agenda, delegates took the opportunity to address the matter and put forward views to arrive at a solution.[[65]](#footnote-65) Several presidents sent telegrams which were read at the Seventh Conference urging to promote an amicable solution to the Chaco conflict.[[66]](#footnote-66) A truce was signed between Bolivia and Paraguay (19 December 1933), and the League of the Nation Commission formally expressed its gratitude to the Pan-American Conference meeting in Montevideo.[[67]](#footnote-67)

In 1933, U.S. President Roosevelt, addressed the Pan-American Union, on Pan-American Day (April 12). He stated: “This celebration commemorates a movement based upon the policy of fraternal cooperation. In my inaugural address I stated that I would ‘dedicate this nation to the policy of the *good neighbor’*…” [emphasis added]. The American jurist and legal scholar James Brown Scott (1866-1943), an authority in international law, evaluated the speech. He noted the use of the keyword ‘friendship’ as well as the way president Roosevelt defined Pan-Americanism as a quality of ‘mutual understanding’. Accordingly, the speech covered the “fears and criticism at the United States by [the] Latin American countrymen”.[[68]](#footnote-68) There is also the declaration made by Roosevelt that “the definite policy of the United States from now on is one opposed to armed intervention”. However, while the speech and the president’s drive sounded ‘friendly’ and of ‘mutual understanding’, the United States did not sign the *Convention on Rights and Duties of States*[[69]](#footnote-69) during the Seventh Conference.

The referred Convention on Rights and Duties of States contains the following articles:

1. Article 9 “foreigners may not claim rights other or more extensive rights than those of the nationals”, that is, the equality theory.[[70]](#footnote-70) Many Latin American nations’ constitutions based on the Chilean Civil Code (1855 drafted by Andres Bello) granted equality of civil rights.[[71]](#footnote-71) However, this was a contentious issue as Borchard attested, because there are some minimum rights that every country should extend based on the Convention of the Rights of Man (1929).[[72]](#footnote-72)
2. Article 11 incorporated article 2 of the *Anti-War Treaty of Non-aggression and Conciliation* (Rio de Janeiro, October 1933). The Anti-War Treaty incorporated the principles of the *Stimson Doctrin*e based on the principle of the ‘non-recognition’ of states due to aggression.[[73]](#footnote-73) The Anti-War Treaty lay down provisions for the creation of conciliation commissions.[[74]](#footnote-74) However, on the 26th of December 1933, the creation of commissions was abandoned by the Additional Protocol to the General Convention of Inter-American Conciliation – the procedure.

On one hand, the conference adopted important international law prepared by the Executive Council of the America Institute of International Law. These topics, were among others, nationality, extradition, political asylum, the teaching of history, a resolution to establish the Inter-American Labor Institution, the Convention of the Nationality of Women, and as previously noted, the Convention on the Rights and Duties of States.[[75]](#footnote-75) On the other hand, it abolished the three Permanent Committees (Rio de Janeiro, Montevideo, and Havana) and created a Committee of Experts to initiate questionnaires and draft of codes that were to be submitted to the National Commission for comments, and the revised draft to be submitted for adoption to the government at International Conferences.[[76]](#footnote-76) The conference also produced some recommendations which were later drafted as a declaration (Juridical Personality of Foreign Companies, June 1936) and a protocol (Uniformity of Powers of Attorney, February 1940).[[77]](#footnote-77)

Other important steps taken by the conference were: firstly, a resolution authorising the Pan American Union to draft a paper that aimed to contain the ideas voiced by Simón Bolivar, and expressed by congresses, jurisconsults, and others, on the creation of an *American League of Nations* with a *Permanent American Tribunal of International Justice;*[[78]](#footnote-78) secondly, a resolution that established ways for the future work of codifying international law. This latter maintained the *International Commission of American Jurists*;[[79]](#footnote-79) and lastly, the Mexican Delegation introduced a *Peace Code* with novel provisions coordinating in one single instrument all principles and procedures; yet the Peace Code was referred to the American Government for their attention.[[80]](#footnote-80) The awaiting Code of Peace was referred to the Committee of Experts for the Codification of International Law to present to the Lima (Eighth) Conference.[[81]](#footnote-81) Finally, the Seventh Conference re-established the three Permanent Committees and adopted a new method of codification.[[82]](#footnote-82) Consequently, the Seventh Conference is noted as a positive one in international law as it saw the codification of the Convention on Rights and Duties of States and watched the United States president claiming the ‘good neighbour’ policy.

In the interim to the next conference, there was a Special Conference for the Maintenance of Peace (Buenos Aires Conference of 1936),[[83]](#footnote-83) where the Mexican delegation presented a revised text which adopted the *Treaty of* *Prevention of Controversies* presented by the Chilean Delegation;[[84]](#footnote-84) the *Convention for the Maintenance, Preservation and Re-establishment of Peace*; the *Convention to Coordinate, Extend and Assure the Fulfilment of the Existing Treaties*; the *Inter-American Treaty on Goods Offices and Mediation;* and the *Declaration of Principles of Inter-American Solidarity and Cooperation*. [[85]](#footnote-85)

## The Eight International Pan-American Conference (Lima, 1938)

All delegates of the American Nations attended the conference. The agenda envisioned guaranteeing the maintenance of peace on the American continent apart from studying political, juridical, and economic matters.[[86]](#footnote-86) This vision was stated by the Peruvian Minister of Foreign Affairs in his letter of invitation to all Governments of the American nations. In the reply to the invite, the United States’ Secretary of State remarked on the recent problems of the world and the importance of the Eight Conference as it would be seen as “an opportunity to set an example to the world through the creation of new bonds of solidarity and friendship”.[[87]](#footnote-87) Accepting the invitation, he asserted that this was an opportunity to collaborate for the ‘common good’ based on ‘respect’ for each other “independence, sovereignty and political equality”.[[88]](#footnote-88) There was, according to George Finch, who was member of the advisory committee research in international law at Harvard Law School (1928-1940), a determination “to keep the ravages of war away from the shores of the Western Hemisphere”.[[89]](#footnote-89)

The agenda focused on the six topics referred by the Committee of Experts who met in the Buenos Aires Conference for the Maintenance of Peace, 1936, plus a topic on Methods of Codification.[[90]](#footnote-90) However, no treaties or conventions were adopted but declarations, resolutions, and recommendations were abundant. Resolutions were on the topics of reduction of barriers to international trade; defence of human rights; non-recognition of the acquisition of territory by force; on foreign minorities; the political activities of foreigners; to revise the procedure for the codification of international law;[[91]](#footnote-91) and a resolution providing for the establishment of a Permanent Committee of Jurists represented by both Anglo-Saxon and Latin juridical systems.[[92]](#footnote-92) Declarations were on the topic of solidarity and cooperation aka the Declaration of Lima; improvements in the procedure of consultation; the firm purpose of establishing an Inter-American Court of International Justice; condemning persecution for racial or religious motives.[[93]](#footnote-93) A report on the matter of sanctions and the definition of ‘aggressor’, which was prepared by the Committee of Experts, was left to the International Conference of American Jurists that were to meet in Rio de Janeiro in 1942.[[94]](#footnote-94)

Aside from the Peace Code, the conference also discussed the *Treaty of Consolidation of American Peace* Agreements presented by the United States delegation. However, there was no conclusion upon the general substance on the Code of Peace or any other submission introduced on the same topic, and the matter was referred to the International Conference of American Jurists who were instructed to present a report on the matter and to submit to the next conference.[[95]](#footnote-95) Additionally, the Inter-American Judicial Committee was called upon to prepare and submit a ‘coordinated peace agreement’ to the American Governments for observation and comments before the Conference of American Jurists.[[96]](#footnote-96) The conference also reemphasised that all existing agencies were active including the Permanent Committees (which were enlarged) and resurrected the International Commission of Jurists which was to be called the *International Conference of American Jurists.*[[97]](#footnote-97) The latter body was to be composed of two delegates from each country which would have one vote.[[98]](#footnote-98) Other facts during the Eight Conference were that it permanently established the *Inter-American Commission of Women*. By 1939 and closing the interwar period, there was the creation of the *Inter-American Neutrality Committee,*[[99]](#footnote-99) which has been servicing around the codification of international law (public and private). [[100]](#footnote-100)

To close this section, the discussion of all conferences and several meetings between conferences saw the collaboration between nations and how their own political, then economic, and cultural agenda were transferred into the discussion. However, one needs to recognise that some of the drafts that were later codified (public and private international law) were prepared (by request from the Pan-American Union and or by the Pan-American Conference), in the interim of conferences, by private organisations, professional associations, and individuals who did so voluntarily.[[101]](#footnote-101) They all assisted in the shape of international treaties.

# The Work of the Fifth, Sixth, Seven, and Eight Pan-American Conferences in the Intellectual Property Field

During the interwar period (1919-1939), there were several meetings of the American States and Pan-American Conferences, but only a few covered intellectual property rights. Around the patent system, no regional development occurred during the interwar period and the main regional conventions which were signed before the interwar period are in place even today. These are the *Inter-American Convention for the Protection of Inventions, Designs, and Industrial Models,* signed in Buenos Aires on the 20th of August 1910 and ratified by many countries, including the United States.[[102]](#footnote-102) It adopted the principles of national treatment, right of priority, and independence of patents, and defines what a patentable invention is. Argentina and Peru did not sign therefore the *Montevideo Convention on Patents* (1889) remains in effect between these two countries.[[103]](#footnote-103) There is also the *Bolivia Patent Convention* (Agreement on Patents and Privileges of Invention), signed at Caracas on 18th July 1911 between Bolivia, Colombia, Ecuador, Peru, and Venezuela. Furthermore, the section in the intellectual property field will be examined by intellectual property subject matter, excluding patents, and follows a chronological structure.

## Fifth Conference (Santiago, 1923)

The conference was scheduled to be in 1914, but because of World War I, it was postponed.[[104]](#footnote-104) Mexico was absent as its government refused to attend as a consequence of not being recognised by the United States and were considered to have no voice in the Pan-American Union.[[105]](#footnote-105)

The Fifth Conference contained eight committees: political, juridical, hygiene, communications, commerce, agriculture, limitation of armaments, and education.[[106]](#footnote-106) Inman noted that the commerce committee was the one with the most progress, especially around trademarks.[[107]](#footnote-107) In fact, during the conference, there were four conventions signed, one of which refers to intellectual property, specifically trademarks.[[108]](#footnote-108)

The Fifth Conference and the previous one, in 1910, suggested a separate Pan-American Treaty on matters of intellectual property. This was never approved, and some delegates as well as the International Chamber of Commerce suggested adhering to the *Paris Convention* and the *Protocol of Madrid*. Specifically, the Argentinian delegate recommended abandoning the idea of a Pan-America Treaty making recommendations that nations should adhere to the Paris Convention and the Protocol of Madrid instead. Additionally, a proposed draft convention for the protection of trademarks and commercial names was introduced by the United States and drafted by the Inter-American High Commission’s Central Executive Council assisted by United States’ trademarks experts before the Fifth Conference.[[109]](#footnote-109) Ladas reports that while the Latin American counterpart did not provide any assistance with the drafting, all signed such convention apart from Bolivia, Mexico, and Peru.[[110]](#footnote-110) In the end, only eight countries ratified the *Convention for the Protection of Trademarks and Commercial Names 1923*. In principle, the convention was divided into two parts: a Protocol for the Inter-American Registration of Trademarks, and the General Inter-American Convention for Trademarks and Commercial Protection. While it is considered more like a revision of the one adopted at the Fourth Conference (Buenos Aires, 1910), there were some changes to previous conventions such as removing the wording ‘all persons’ as set up in the Convention of 1910 which permitted everyone to benefit from it. On the contrary, the Convention 1923 noted that only “persons domiciled in any of the contracting countries” could benefit from it.[[111]](#footnote-111) This is partly in line with the Madrid Agreement of 1891 as it applies to a person or business that has a connection with the contracting party, be it by nationality or domicile.

Another change established is that once an application is received by the Bureau, each country determines, per its domestic law, if the application is granted.[[112]](#footnote-112) Moreover, once registration is granted in one country, it provides a right over the mark for all other countries, that is, a ‘priority right’, without a fixed period.[[113]](#footnote-113) Regarding the time frame for the process, it only referred to the wording “as soon as possible”[[114]](#footnote-114) which differentiates from the Madrid Agreement as the latter requires a period of 12 to 18 months.[[115]](#footnote-115)

Additionally, it notes the ‘cancellation right’, granting such right just to proprietors of a mark claiming recognition and seeking cancelation of previously registered marks in some circumstances.[[116]](#footnote-116) This was taken from the previous convention but added a numeral which, according to Ladas, seemed to specify that “the good faith of [an applicant] is immaterial”; this is applicable only in cases where the marks registered by another is identical, rather than the mark making any resembling or creating confusion.[[117]](#footnote-117) Additionally, no uniform term of protection was granted,[[118]](#footnote-118) while the Madrid Agreement sets up that marks will be registered for a period of 10 years. Regarding the protection of trade names (article I section 4), it followed the previous convention, and mirrored article 8 of the Paris Convention, that is, they are protected whether or not they form part of a trademark in accordance with the domestic law of each state.

Finally, in the matter of trademarks, the Inter-American Trademark Registration Bureau of Havana started to fully operate in 1919. In its first year, the United States was the only country that used it with 80 registrations in total.[[119]](#footnote-119) Regarding copyright, the committee of education did not have much (or any at all) development in the topic, but just a recommendation to the members (even if they had not signed the Buenos Aires Convention 1910) to incorporate in their legislation, arrangements to register authors' rights in the respective offices and to adopt effective legal procedures in cases of infringements.[[120]](#footnote-120)

## Sixth Conference (Havana, 1928)

A resolution, proposed by the Argentine delegation, was passed. It recommended to the Governing Body of the Pan-American Union to call a special conference to only deal with the topic of industrial property. This special conference took place in Washington in 1929 and which results were to be considered by the different governments without the need to present them to the Seventh International Conference of American States.[[121]](#footnote-121) The results of this special conference were the drafting of two instruments: a Protocol for the Inter-American Registration of Trademarks, and the General Inter-American Convention for Trademarks and Commercial Protection. Previous conventions on trademarks covered both registration and subject matter in one instrument. The departure from this practice was based on providing the choice to the countries to independently sign and ratify the General Convention, and not the inter-American registrations which many were hesitant to do.[[122]](#footnote-122)

The Sixth Conference revisited the Pan-American Trademark Treaty set up in Santiago in 1923. The matter led by the Argentinian delegate, presented a report on trademarks, noting that this topic has been on the agenda for the last 40 years. Previous conferences focused on political matters and in attendance were diplomats instead of trademark experts who were competent in the topic. The delegate called for a conference dedicated to trademarks and attended by delegates who were trademark experts.[[123]](#footnote-123) Consequently, the Sixth Conference determined that there shall be a ‘special conference’ attended by trademark representatives of all American nations and that they should consider international problems of inter-American trademarks.[[124]](#footnote-124) This recommendation was passed to the Governing Board of the Pan-American Union which was to meet in 1929 in Washington. Of substance, during the conference amendments to the drafting were proposed:

1. To strike out *article 1*, section 1. This section sets up the formalities and conditions required to register a trademark which was to be governed by the domestic law of each American nation. Likewise, amendments to paragraph b) were proposed.[[125]](#footnote-125) This section referred to fees, in which one part was to be retained by the Inter-American Bureau and the other part to be distributed among the signatory nations. Section 2 was to be revised noting the term of protection to be established by domestic law but not to exceed 20 years.[[126]](#footnote-126)
2. Amendments were proposed to *article 2* regarding ownership of a mark. This extended to protect not only marks where ownership is acquired through registration but also provide full protection to trademark *users* in any of the signatory nations.[[127]](#footnote-127) The article also touches upon the date of filling, clarifying that it is the date of “filling of the application for registration” in the country of origin.[[128]](#footnote-128)
3. *Article 3*, section 1, was to be included, adding grounds of refusal and or invalidation including marks contrary to morality or public policy. In section 3, a new disclaimer was noted covering the time frame for processes. It refers to a speedy response to acknowledge the application and to be considered registered if a response is not given within four months.[[129]](#footnote-129)
4. *Article 4* amendments were on the table to cover the ‘equal recognition’ in each of the signatories’ states of a mark registered or deposited in any of the countries and registered in any of the Inter-American Bureau.[[130]](#footnote-130)
5. *Article 5* presides over unfair competition. The wording mirrors the Paris Convention article 10bis, that is, that all contracting parties shall assure, all nationals of the signatory states, protection against unfair competition.[[131]](#footnote-131)

The rationale of the amendments and additions were based on the reservation expressed by the United States at the Fifth Conference.[[132]](#footnote-132) The drafting, according to Farley, mirrors the Madrid Agreement, although it neither covers the principle of ‘national treatment’ nor the ‘priority right’.[[133]](#footnote-133)

Concerning copyright, and thus involving literary and artistic works, the Pan-American conferences and meetings develop six copyright conventions in total. Yet, during the interwar period (1919-1939) there was none on copyright.[[134]](#footnote-134) Therefore, during the conference, the United States delegates invited the governments which had not ratified the Convention on Literary and Artistic Copyright 1910 (signed at the Fourth Conference) to become members.[[135]](#footnote-135) Scholars regard the Buenos Aires Convention as the most important and successful as it was signed by the majority of the Union members including the United States.[[136]](#footnote-136) Towards the end of the Sixth Conference, the Buenos Aires Convention was amended but was only ratified by a few.[[137]](#footnote-137)

Ladas noted that some matters dealt with by the Havana Convention that amended the Buenos Aires Convention were:

1. The retention of the ‘notice of copyright’; to be affixed to each copy of the work, reserving the author’s rights, including foreign works. The Havana Convention added to the ‘All Rights Reserved’ requirement, to complement with the name of the person in whose favour the right is registered, the country of origin, and the year of first publication.
2. The ‘deposit and registration’; a condition that remained from the Buenos Aires Convention. These formalities or any other at all, are not present in the International Berne Convention which provides for automatic protection, in the countries’ party, on the creation of the work.[[138]](#footnote-138) Some of the earlier Pan-American Conventions did not mention the requirement of formalities.[[139]](#footnote-139) While the Havana Convention extended the definition noted in the Buenos Aires Convention, adding other works and including “arts applied to any human activity”,[[140]](#footnote-140) but yet, did not protect unpublished works.[[141]](#footnote-141)
3. The author’s rights;[[142]](#footnote-142) retains the principle ‘lex fori’ (law of the country where the protection is sought) but uses the principle of ‘lex loci’ (law of the country of origin) for the rights not covered under the convention.[[143]](#footnote-143) For the first time, it recognises the moral right of integrity where an author has the right to oppose the reproduction or public exhibition of the work in an “altered, mutilated or revised form”; moral rights were set up to be inalienable.[[144]](#footnote-144)
4. The term of protection; to fifty years from the death of the creator but if not, all countries were to adopt it, lex fori applies.[[145]](#footnote-145)

At the time, the American nations were acquainted with the Berne Convention, which did not and does not provide a definition of ‘author’; this gave flexibility to both sides, the Latin American countries based on the concept of the ‘author’s right’ (droit d’auteur’), the works of the mind which is seen as an expression of the personality of its creator, and the Anglo-Saxon based on ‘copyright’. Although early Pan-American legislation followed the Anglo-Saxon regarding authorship granted by the state, it seems that the system was to be a hybrid one.

In 1928 the delegation of Brazil (the only member of the Berne Convention at the time) together with the French delegation discussed, at the Berne Revision Conference in Rome, the desire to merge the Berne Convention with the inter-American copyright’s agreements in existence.[[146]](#footnote-146) The International Committee on Intellectual Cooperation created by the General Assembly of the League of Nations, took responsibility to harmonise both: the Berne Convention and the Pan-American Union agreements in copyright.[[147]](#footnote-147)

Concerning the whole intellectual property system, the Havana Treaty on Private International Law 1928 (Bustamante Code) was signed during the conference.[[148]](#footnote-148) This Treaty included two intellectual property provisions as follows:

1. Chapter I, titled ‘classification of goods’, article 108 sets the applicable law, that is the ‘law of the place’ for industrial and intellectual property, asserting that it is where such property has been registered.
2. The Chapter titled ‘of property’, article 115 sets that industrial and intellectual property shall be governed by the existing (or adopted in the future) international conventions. In absence of these rules, it sets that the law that shall govern is the national law where the right has been granted.

## The General Inter-American Convention for Trademark and Commercial Protection 1929 (the Washington Convention)

The Washington Convention was ratified by 10 nations, although signed by 19 countries and was adopted following the Sixth Conference. According to Farley, the focus of the Pan-American Conventions was to “provide national treatment” within the region and to “create a uniform system for the protection of foreign trademarks”.[[149]](#footnote-149)

The Washington Convention remains valid and in force today in the contracting parties[[150]](#footnote-150) and replaces, as between contracting parties, the Convention 1910, and the Convention 1923.[[151]](#footnote-151) Some of the matters covered in the Washington Convention are:[[152]](#footnote-152)

1. The ‘national treatment’ and ‘priority right’ which follows the normative structure of the Paris Convention.[[153]](#footnote-153) Consequently, the convention establishes a set of substantive rights for trademark owners.[[154]](#footnote-154) Additionally, the Washington Convention regulates the ‘principle of independence’ of filings and registrations. Note that the ‘dependency rule’ noted in the Madrid Agreement is not followed by the Washington Convention, nor that it needed to.[[155]](#footnote-155)
2. The addition of the ‘ground of refusal’ (article 3). This is mentioned in both, the Paris Convention, and the Madrid Agreement.
3. A discussion on ‘ownership’ continued to be discussed. Yet, based on the foundations, it vastly differs between the United States and its counterparts. On one hand, the United States is based on common law which created the right of the mark ‘by use’, while the Latin American counterpart is based on the principle of registration.[[156]](#footnote-156) The Washington Convention, therefore, merges the two practices, on one hand, the common law of unfair competition, and on the other, the Latin American registration-based system.[[157]](#footnote-157)
4. The priority right (article 7). This ‘priority right’ negotiated by the United States is without limitation in time (distinct from the Paris Convention) and is seen as a ‘novel’ and ‘unique’ in international trademark. This involves the right to challenge the use, registration, or deposit of a mark in another contracting country upon proof that such a third party knew of the existence and continued use of the mark in compliance with the domestic legislation in the country where the action takes place.[[158]](#footnote-158) This entailed asserting four matters, two made by the claimant and the remaining by the defendant. They are the claimant is the owner of a mark which is protected and, it has complied with the domestic law in both countries; the defendant is using, or to register an “interfering mark”; and, has knowledge of the use of the prior mark in the same class.[[159]](#footnote-159)
5. The ‘right to cancel’ (article 8). Cancelling a conflicting registration consequently extends the ‘priority right’. Both require ‘knowledge’ which differs from the Paris Convention which does not require so for the priority right, protecting the ‘unaware’ applicant or user.[[160]](#footnote-160) This part of the Washington Convention was debated as the Cuban delegate believed that the Latin American states were at a ‘great stretch’ first to recognise the ‘use’ as a right and then to require ‘knowledge’ to avoid liabilities upon them.[[161]](#footnote-161)
6. Article 12 covers the ‘right of the owner’, whose right has been acquired in another contracting party, to cancel or refuse any registration or pending application by a third party.
7. The protection of ‘trade names or commercial names’, be it the surname of individuals or name of business, without the need for registration and whether the name forms part of the trademarks as such.[[162]](#footnote-162)

Aside from the topic of trademarks and trade names, the Washington Convention for the first time covered the topic of *geographical indications* (GI). This was seen as pioneering because before 1929 there were no plurilateral agreements that protected GIs as extensively as this convention. For instance, the Paris Convention of 1883 acknowledges indications of source and appellation of origin but does not define the terms, just the fact that they are protected areas of intellectual property. On the same topic, there is also the Madrid Agreement of 1891 which refers to ‘indication of sources’ and its protection against false indication and or deceptive indications, but no definition is provided. Therefore, Washington Convention was a pioneer by presenting a broad GI chapter setting up extensive protection.[[163]](#footnote-163)

Chapter V titled ‘Repression of false indications of geographical origin or source’ contains six articles. It uses the term ‘indication of geographical origin or source’ and prohibits the use of them when false (but not when misleading) and extends to indirect protection not only to protect when used as a trademark or in labels, but also used in “packing or wrapping”.[[164]](#footnote-164) It notes, in article 25, that GIs are not subject to individual appropriation, and article 26 demands for GI to be used “exactly to the place in which the product” comes from. Another original article is article 28 which addresses directly remedies “in the absence of” the nation not having a GI system in their domestic law.[[165]](#footnote-165)

To sum up, while there were just a few countries signatory to the Paris Convention, indirectly the region was on track to have not only a harmonised intellectual property system among itself but also internationally.

##  Seventh Conference (Montevideo, 1933)

The governments of the American countries were to appoint representatives to serve at the Inter-American Commission on Industrial Property. This Commission was to elaborate a project of a convention on this specific topic, that is, intellectual property. The Committee IV on Economic and Financial Problems annotated in the program the ‘Inter-American Protection of Patents of Invention’. However, many of the agenda topics annotated under this committee were thought to be ‘highly technical’ and needed study by experts beforehand and thus, not to be considered during the conference. For instance, the Cuban delegation presented a draft convention on patents which was not discussed.[[166]](#footnote-166) Therefore, the conference required establishing special conferences and congresses and to appoint technical commissions.[[167]](#footnote-167) The terms of the resolution urged to appoint representatives for the coming Inter-American Commission on Industrial Property and for the latter to draw up a project to be submitted to the Third Pan-American Financial Conference or a special one called for this subject.[[168]](#footnote-168) Added to this, there was a call for the creation of a commission to prepare a preliminary draft convention on copyright.[[169]](#footnote-169)

At the Seventh Conference at Montevideo in 1933, the program pinned the “possibility of reconciling the Buenos-Havana and Berne-Rome Conventions”.[[170]](#footnote-170) The proposal was to adopt an *Additional Protocol to the Conciliation Convention* having the good practices of Havana and removing any discrepancies and ambiguities of the same.[[171]](#footnote-171)

## Eight Conference (Lima, 1938)

The Eight Conference at Lima in 1938 considered the project drafted in Montevideo which was resolute to send delegates to the Diplomatic Conference in 1939 and for the delegates to consider the Montevideo draft.[[172]](#footnote-172) This was followed by a draft resolution and a draft protocol to the Buenos Aires Convention by the United States to be submitted to the governments of the Pan-American Union, and for the Pan-American Union to prepare a definite draft once the governments replied to the protocol.[[173]](#footnote-173) This final draft was to be discussed during the Ninth Conference.[[174]](#footnote-174) Resolution XXXIX ‘Inter-American Copyright’ was put forward which provided a convocation of the Conference of Experts on Copyright with 48 delegates from all members states. The Conference of Experts took place in 1946 in Washington as the war disrupted the aspirations to have it earlier.[[175]](#footnote-175)

The Eight Conference in Lima did not adopt any resolution or protocol, and it was taken as the time for the American nations to come together and reemphasise the importance of working together under the same ethos.

## Treaty of Montevideo on Intellectual Property of 1939

 The conference was organised by the government of Argentina and Uruguay and few countries attended with their delegates.[[176]](#footnote-176) The aim was a re-examination of the treaties of Montevideo and the results were the introduction of eight treaties and a protocol, ratified by Paraguay and Uruguay only. One of the said treaties was the Treaty on Intellectual Property of August 1939 which improved the protection of literary and artistic property and specified the categories of protected rights. Although it is named with a broad title, the treaty covers only copyright; no other intellectual property rights such as trademarks, patents, and designs are stated.[[177]](#footnote-177)

The treaty contains 19 articles; article 2 provides a non-exhaustive list of works e.g., books, brochures, conferences, school or university lessons, speeches, addresses, sermons; musical compositions, with or without words, dramatic, dramatic-musical, choreographic, pantomimic, drawings, painting, sculpture, architectural composition, engraving, lithography, photography; cartographic, among others. In general, “an intellectual creation that is likely to be published or reproduced by any means”. A missed opportunity to harmonise the term of protection is seen in article 7, as it regulates that time is delimited by the country of origin and as such, “[no] State shall be obliged to recognize the right to literary or artistic property for a longer period than it applies to authors who obtain that right within.” Besides, article 9 asserts that speeches that are delivered at assemblies in front of the Courts of Justice or public meetings do not need authorisation to be published by the press. While the treaty recognises the rights and limitations of copyright, article 14 goes further as to set up that for works that are considered contrary to ordre public or morality, a state can prohibit the publication, reproduction, and circulation of such work. Finally, another article that goes in line with the Berne Convention is the recognition of moral rights. Consequently, article 15 sets up that regardless of the economic rights, authors retain moral rights including the paternity right, and the right to oppose mutilation or any kind of modification or deformation that may be considered harmful to the author’s honour or reputation. The Treaty provides amendments that give clear protection to literal and artistic works.

1. **A Dream that Did (not) Come True**

Latin America was looking for common aims in the region and the Pan-American Union launched in 1889 started this initiative. Within the Union, intellectual property negotiations were led by the United States which was seeking the recognition of its intellectual property rights. Mainly, during 1919-1939 the national intellectual property legislation in the region was based on both, continental European intellectual property laws due to their influence in their old colonies, and regional intellectual property system based on the Pan-American conventions examined in this chapter. [[178]](#footnote-178)

According to Polido and Rosina, the old Pan-American conventions failed due to firstly, the costs of running the centralised Inter-American Bureaus (one in Havana for northern countries, and the other in Rio de Janeiro for the southern countries) set up at the Third Conference (Rio de Janeiro, 1906); secondly, no authentic IP system; and, thirdly, being nationalist bias.[[179]](#footnote-179) Other scholars such as Ladas, considers that one of the causes could have been that the United States was the only developing industry while the other nations were mainly raw material producers.[[180]](#footnote-180) Therefore, it seems that the United States aimed to promote innovation and development and focus on protecting and granting privileges to authors and inventors, while the other nations aimed to attract foreign investment.[[181]](#footnote-181) Additionally, the conventions neither offer consistency in the minimum rights granted, nor uniformity in intellectual property principles.[[182]](#footnote-182) Nevertheless, the conferences during the interwar period promoted peace in the region and a sense of ‘good neighbour’ for some countries. The Monroe Doctrine was always flagged, and the ideas and thoughts of Simon Bolivar persisted, that is, the unification of Latin America.[[183]](#footnote-183)

# The Re-alignment of Intellectual Property Rights

The relevant inter-American and international conventions regarding intellectual property applicable in the region during the interwar period (1919-1939) are in table 1. This shows that the Pan-American Conferences developed a few conventions, treaties, resolutions, and protocols, trying to harmonise the law with the international intellectual property conventions which where yet to be signed by most states. Yet, it is noticeable that only few Pan-American Union members ratified and implemented the Pan-American conventions and treaties.

*[Insert table here]*

# Conclusion

The interwar period (1919-1939) in the American nations was active by seeing the wealth of efforts that the nations were committed to arrive at harmonised and codified international law (public and private). The Pan-American Union and the correspondent conferences provided a forum to discuss internal matters which were affecting many and were used as a good practice to learn about each other experiences while establishing common policy. There was an intent to produce and develop uniformity of common issues such as commercial arbitration, women’s rights, treatment of foreigners, among others, finding a standard conduct that improved relations among the American nations. Consequently, the American nations during the inter-war period had an active role in the unification of private law and uniformity of legislation, that is, the codification of international law. From the Fifth to the Eight International Pan-American Conferences together with the interim meetings between conferences, the American nations built closer relations. While there were some heated discussions and an interest to preserve own political agendas, the Pan-American forum provided a place to strengthen relations, aside from the attempt to create an American League of Nations. The cooperation and collaboration, however, were not only seen between governments, that is, an intergovernmental relationship, but also saw the participation of professional associations and experts as well as private organisations. One of the fields of legislation was focused on intellectual property as there was the need to address cross-border trade in commerce; for copyright, the aim was to align with the Berne Convention and to join its initiatives.

As a final remark, the Pan-American Union can be said to have been a political infrastructure for international cooperation that was continuous and reliable. The continuous conferences and the revision of projects as well as the interim meetings guaranteed the permanency of the Pan-American Union during the years.

**Bibliography**

Alvarez Alejandro. ‘Latin America and International Law’ (1909) 3 (2) American Journal of International Law 269-353

-- ‘Pan-Americanism as a Working Program’ (1917) 7(2) Proceedings of the Academy of Political Science in the City of New York 303 - 309

Borchard, Edwin. ‘The Committee of Experts at the Lima Conference’ (1939) 33(2) American Journal of International Law 269 - 282

Canyes, Manuel S. ‘The Pan American Union and Comparative Law Studies in the Americas’ (1942) 76(12) Bulletin of the Pan American Union 681-689

-- ‘Inter-American Conference of Experts on Copyright’ (1946) 80(9) Bulletin of the Pan American Union 501-506

Covarrubia, Patricia. ‘The Madrid Protocol in Latin America: Is Colombia Changing Business Strategies or Acting as a Guinea Pig? (2013) 35(1) European Intellectual Property Review 1,

Cox, George Howland. ‘Was the Seventh Pan American Conference a Success?’ (1934) 97(1) World Affairs 38-44

Cutler, John Ward. ‘The Treatment of Foreigners: in Relation to the Draft Convention and Conference of 1929’ (1933) 27(2) The American Journal of International Law 225

Delić, Ana. ‘The Birth of Modern Private International Law: The Treaties of Montevideo (1889, amended 1940)’ in *Oxford Public International Law* (online resource) at <https://opil.ouplaw.com/page/Treaties-Montevideo>

Duggan, Stephen P. ‘Latin America, the League, and the United States’ (1934) 12(2) Foreign Affairs 281

Farley, Christine Haight. ‘The Pan-American Trademark Convention of 1929: a bold vision of extraterritorial meets current realities’ in Irene Calboli and Edward Lee (eds), *Trademark Protection and Territoriality Challenges in a Global Economy* (EE 2014) 57-76

-- ‘The Protection of Geographical Indications in the Inter-American Convention’ (2014) 6(1) The WIPO Journal 52-62

Herrick, Arthur D. ‘Denunciation of the Protocol for Inter-American Registration of Trade-Marks’ (1945) 35 Trademark Report 39 - 43

Fenning, Karl. ‘Trade Marks in Pan America as affected by the Havana Conference 1928’ (1928) 10 Journal of the Patent Office Society 483-489

Fenwick, Charles G. ‘The Coordination of Inter-American Peace Agreements’ (1944) 38(1) American Journal of International Law 4-19

Finch, George A. ‘Eighth International Conference of American States’ (1940) 34(4) American Journal of International Law 714

Henn, Harry G. ‘Interrelation between the Universal Copyright Convention and the Pan-American Copyright Convention’ (1955) 2(4) Bulleting of the Copyright Society of the U.S.A. 110-112

Inman, Samuel G. ‘Obstacles to Pan-American Concord’ (1923) 17(5) Current History 789-799

-- ‘Pan American Conference and their Results’ (1924) 4 The Southwestern Political and Social Science Quarterly 341-373

Ladas, Stephen*. The International Protection of Industrial Property* (Harvard University Press 1930)

-- ‘Pan American Conventions on Industrial Property’ (1928) 22(4) American Journal of International Law 803 - 821

-- ‘Inter-American Copyright’ (1941) 7(4) University of Pittsburgh Law Review 283-297

Löhr, Isabella. ‘Intellectual Cooperation in Transnational Networks: The League of Nations and the Globalization of Intellectual Property Rights’ in Mathias Albert et al (eds), *Transnational Political Spaces: Agents – Structures – Encounters (History of Political Communication)* (University of Chicago Press, 2nd edn, 2009) 58-88

Manger, William. ‘The Pan American Union at the Sixth International Conference of American States’ (1928) 22(4) American Journal of International Law 764-775

-- ‘The Pan American Union and the Conclusions of the Seventh International Conference of American States’ (1935) 669(2) Bulletin of the Pan American Union 77-94

Morris, P Sean. ‘Innovation Diplomacy: International Exhibitions and the Rise of Innovation in the Law of Nations’ in P Sean Morris (eds), *Intellectual Property and the Law of Nations, 1860-1920* (Brill Nijhoff 2022*)* 115

Pizarro Cortés, Carolina. ‘The Decentring of the Historical Subject in the Contemporary Imaginary of the Independence Process’ (2011) 20(4) Journal of Latin American Cultural Studies 323-342

Preuss, Ori and Scarfi, Juan Pablo. ‘Relaciones Internacionales, Identidades Colectivas y Vida Intellectual en Sudamérica, 1810-1945’ (2013) 39 Revista Complutense de Historia de América 15-21

Polido F B P and Rosina M S G. ‘The Emergence and Development of Intellectual property Law in South America’ in Rochelle Dreyfuss and Justine Pila (eds), *The Oxford Handbook of Intellectual property Law* (OUP 2018)

*Report of the Delegates of the United States of America to the Fifth International Conference of American States*, Santiago, Chile, March 25 to May 3, 1923 (U.S. Government Printing Office 1923)

*Report of the Delegates of the United States of America to the Seventh International Conference of American States*, Montevideo, Uruguay, December 3-26, 1933 (U.S. Government Printing Office, 1934)

Ritch Jr, James E. ‘Codification of the Private International Law of the American Countries’ (1965) 7(2) Inter-American Law Review 395-418

Rinaldo Jr, Alfred L. ‘Scope of Copyright Protection in the United States under Existing Inter-American Relations: Abrogation of the Need for U.S. Protection under the Buenos Aires Convention by Reliance upon the UCC’ (1975) 22(6) Bulletin of the Copyright Society of the U.S.A. 417-436

Rowe, Leo Stanton. ‘The Significance of the Seventh International Conference of American States’ (1934) 28 American Society of International Law Proceedings 34-40

-- ‘The Eighth International Conference of American States’ (1938) 72(11) Bulletin of the Pan American Union 617, 618-619

Roffe, Pedro. ‘Evolución e importancia del Sistema de la propiedad intelectual’ (1985) 37(12) Comercio Exterior 1039-1045

Scott, James Brown. ‘Editorial Comment: The Fifth International Conference of American States’ (1923) 17(3) American Journal of International Law 518-521

-- ‘The Seventh International Conference of American States’ (1934) 28(2) American Journal of International Law 219-230

Trindade, A A Cançado. The Inter-American Juridical Committee; an overview’ (1982) 38(11) The World Today 437-442

Trone, John. ‘The Stimson Doctrine of Non-recognitions of Territorial Conquest’ (1996) 19(1) The University of Queensland Law Journal 160-164

Sanders, William. ‘International Copyright Protection: The Present Status’ (1939) 73(7) Bulletin of the Pan American Union 418-428

Sheinin, Daniel. ‘Argentina and the United States at the Sixth Pan American Conference (Havana 1928)’ (1991) ISA Research Papers 1

Union of American Republics, ‘The Eighth International Conference of American States’ (1938) 72(11) Bulletin of the Pan American Union 617-619

Vasyliev, Ie O. ‘The Beginning of International Legal Protection of Intellectual Property in the XIX Century’ (2021) BBC 94 Z 40 95-107

Wright, Herbert . ‘The Montevideo conference and organization for peace’ (1934) 97(2) World Affairs 100-103

1. \* I would like to thank Professor Christine H Farley for the helpful comments received on the draft chapter.

 Pedro Roffe, ‘Evolución e Importancia del Sistema de la Propiedad Intelectual’ (1985) 37(12) Comercio Exterior 1039, 1042. [↑](#footnote-ref-1)
2. ibid1043. [↑](#footnote-ref-2)
3. Accession to the Paris Convention: 21 December 1883; entry into force: 07 July 1884; denunciation: 26 December 1886; accession: 22 March 1999; entry into force: 22 June 1999. [↑](#footnote-ref-3)
4. Signature of the Paris Convention: 20 March 1883; ratification: 06 June 1884; entry into force: 07 July 1884; denunciation: 17 August 1887; accession: 18 November 1993; entry into force: 19 February 1994. [↑](#footnote-ref-4)
5. Signature of the Paris Convention: 20 March 1883; ratification: 06 June 1884; entry into force: 07 July 1884; denunciation: 08 November 1895; accession: 18 May 1998; entry into force: 18 August 1998. [↑](#footnote-ref-5)
6. See Roffe (n 1) 1041; Stephen P Ladas, ‘Pan American Conventions on Industrial Property’ (1928) 22(4) American Journal of International Law 803, 820. [↑](#footnote-ref-6)
7. ibid; Fabrício Bertini Pasquot Polido and Mônica Steffen Guide Rosina, ‘The Emergence and Development of Intellectual Property Law in South America’ in Rochelle Dreyfuss and Justine Pila (eds), *The Oxford Handbook of Intellectual property Law* (OUP 2018) 432. [↑](#footnote-ref-7)
8. For further observations, see P Sean Morris, ‘Innovation Diplomacy: International Exhibitions and the Rise of Innovation in the Law of Nations’ in P Sean Morris (eds), *Intellectual Property and the Law of Nations, 1860-1920* (Brill Nijhoff 2022) 115. [↑](#footnote-ref-8)
9. It includes Mexico, Central America, the Caribbean, and South America. World Atlas, ‘Latin American Countries’ (World Atlas) <<https://www.worldatlas.com/geography/latin-american-countries.html>> accessed 18 April 2023. [↑](#footnote-ref-9)
10. Roffe (n 1) 1041. [↑](#footnote-ref-10)
11. ibid. [↑](#footnote-ref-11)
12. Polido and Rosina (n 7) 432. [↑](#footnote-ref-12)
13. Roffe (n 1) 1042; Polido and Rosina (n 7) 434. [↑](#footnote-ref-13)
14. Polido and Rosina (n 7) 435. [↑](#footnote-ref-14)
15. The Treaty is known as the *Bustamante Code* as Juris Dr Antonio Sánchez de Bustamante y Sirvén drafted this project of a Code of Private International Law, aiming to regulate the relations among the ‘Republics of America’. [↑](#footnote-ref-15)
16. Polido and Rosina (n 7) 434. [↑](#footnote-ref-16)
17. ibid 436-437. [↑](#footnote-ref-17)
18. James Brown Scott, ‘Editorial Comment: The Fifth International Conference of American States’ (1923) 17(3) American Journal of International Law 518, 519. [↑](#footnote-ref-18)
19. Alejandro Alvarez, ‘Latin America and International Law’ (1909) 3 (2) American Journal of International Law 269. [↑](#footnote-ref-19)
20. Alejandro Alvarez, ‘Pan-Americanism as a Working Program’ (1917) 7(2) Proceedings of the Academy of Political Science in the City of New York 303, 307. [↑](#footnote-ref-20)
21. Demand for food and raw materials due to the war placed Latin America in the world economy. See Stephen P Duggan, ‘Latin America, the League, and the United States’ (1934) 12(2) Foreign Affairs 281, 281. [↑](#footnote-ref-21)
22. The United States controlled Haiti (1915-1934), Dominic Republic (1916-1924), and Central America. See Samuel G Inman, ‘Obstacles to Pan-American Concord’ (1923) 17(5) Current History 789, 789. [↑](#footnote-ref-22)
23. Ori Preuss and Juan Pablo Scarfi, ‘Relaciones Internacionales, Identidades Colectivas y Vida Intellectual en Sudamérica, 1810-1945’ (2013) 39 Revista Complutense de Historia de América 15, 16. [↑](#footnote-ref-23)
24. Samuel Guy Inman, ‘Pan American Conferences and their Results’ (1924) 4 The Southwestern Political and Social Science Quarterly 341, 354; Duggan (n 21) 291. [↑](#footnote-ref-24)
25. 18 Latin American countries joined which represented one-third of the total membership. See Duggan (n 21) 283; Inman, ‘Pan American Conferences and their Results’ (n 24) 342. [↑](#footnote-ref-25)
26. During the interwar period, there were Chile (1922-1923), Cuba (1923-1924), El Salvador (1929-1930), Mexico (1934-1935), Argentina (1936-1937). [↑](#footnote-ref-26)
27. Inman, ‘Obstacles to Pan-American Concord’ (n 22) 791. Note that the League of Nations and its Court, ceased to exist in 1946. They were replaced by the United Nations and the International Court of Justice respectively. [↑](#footnote-ref-27)
28. Duggan (n 21) 282. [↑](#footnote-ref-28)
29. Inman, ‘Pan American Conferences and their Results’ (n 24) 343. [↑](#footnote-ref-29)
30. ibid. [↑](#footnote-ref-30)
31. Inman, ‘Obstacles to Pan-American Concord’ (n 22) 789. [↑](#footnote-ref-31)
32. Education, political, juridical and disbarment committees were closed doors. See Inman, ‘Pan American Conferences and their Results’ (n 24) 344. [↑](#footnote-ref-32)
33. ibid 345. [↑](#footnote-ref-33)
34. ibid 354. [↑](#footnote-ref-34)
35. ibid. [↑](#footnote-ref-35)
36. Alvarez, ‘Pan-Americanism as a Working Program’ (n 20) 304; Duggan (n 21) 282. [↑](#footnote-ref-36)
37. James Brown Scott, ‘The Seventh International Conference of American States’ (1934) 28(2) American Journal of International Law 219, 224. [↑](#footnote-ref-37)
38. Scott, ‘Editorial Comment: The Fifth International Conference of American States’ (n 18) 518. [↑](#footnote-ref-38)
39. Inman citing Dr Jose Ingenieros in Inman, ‘Obstacles to Pan-American Concord’ (n 22) 798. [↑](#footnote-ref-39)
40. Daniel Sheinin, ‘Argentina and the United States at the Sixth Pan American Conference (Havana 1928)’ (1991) ISA Research Papers 1. [↑](#footnote-ref-40)
41. Scott, ‘Editorial Comment: The Fifth International Conference of American States’ (n 18) 519. [↑](#footnote-ref-41)
42. Duggan (n 21) 284, 291. For instance, this is noticeable in the Chaco case, where a dispute over territory between Bolivia and Paraguay arose. [↑](#footnote-ref-42)
43. Inman, ‘Pan American Conferences and their Results’ (n 24) 355. [↑](#footnote-ref-43)
44. ibid 356. The codification of international law has been one of the important topics acknowledged in the Americas since the Congress of Panama (1826) called by Simon Bolivar. See Manuel S Canyes, ‘The Pan American Union and Comparative Law Studies in the Americas’ (1942) 76(12) Bulletin of the Pan American Union 681, 682. [↑](#footnote-ref-44)
45. See Inman, ‘Pan American Conferences and their Results’ (n 24) 356. [↑](#footnote-ref-45)
46. Charles G Fenwick, ‘The Coordination of Inter-American Peace Agreements’ (1944) 38(1) American Journal of International Law 4,9. [↑](#footnote-ref-46)
47. George Howland Cox, ‘Was the Seventh Pan American Conference a Success?’ (1934) 97(1) World Affairs 38, 40. [↑](#footnote-ref-47)
48. Canyes, ‘The Pan American Union and Comparative Law Studies in the Americas’ (n 44) 682. [↑](#footnote-ref-48)
49. William Manger, ‘The Pan American Union at the Sixth International Conference of American States’ (1928) 22(4) American Journal of International Law 764, 769. [↑](#footnote-ref-49)
50. ibid 764. [↑](#footnote-ref-50)
51. Cox (n 47) 40. [↑](#footnote-ref-51)
52. ibid. [↑](#footnote-ref-52)
53. Canyes, ‘The Pan American Union and Comparative Law Studies in the Americas’ (n 44) 683; Edwin Borchard, ‘The Committee of Experts at the Lima Conference’ (1939) 33(2) American Journal of International Law 269, 269-270. [↑](#footnote-ref-53)
54. Borchard (n 53) 269-270. [↑](#footnote-ref-54)
55. Manger (n 49) 775. [↑](#footnote-ref-55)
56. William Sanders, ‘International Copyright Protection: The Present Status’ (1939) 73(7) Bulletin of the Pan American Union 419, 428. [↑](#footnote-ref-56)
57. There were a few multilateral American peace treaties that were still not ratified by some of the members. Report of the Delegates of the United States of America to the Seventh International Conference of American States, Montevideo, Uruguay, December 3-26, 1933 (U.S. Government Printing Office, 1934) 6. [↑](#footnote-ref-57)
58. Unratified by Argentina and Bolivia. [↑](#footnote-ref-58)
59. Unratified by Argentina, Bolivia, Colombia, Costa Rica, Honduras, Paraguay, Perú, Uruguay, and Venezuela. [↑](#footnote-ref-59)
60. Unratified by Argentina, Bolivia, Colombia, Costa Rica, Ecuador, Honduras, Paraguay, Perú, and Uruguay. The United States ratified it, in 1935. The General Convention of Inter-American Conciliation 1929 supplements the Gondra Treaty by giving the commission of inquiry a ‘conciliatory function’ rather than just doing a mere investigation. Fenwick (n 46) 9. [↑](#footnote-ref-60)
61. Leo Stanton Rowe, ‘The Significance of the Seventh International Conference of American States’ (1934) 28 America Society of International Law Proceedings 34, 36. [↑](#footnote-ref-61)
62. Fenwick (n 46) 4. [↑](#footnote-ref-62)
63. ibid. [↑](#footnote-ref-63)
64. George Howland Cox, ‘Was the Seventh Pan American Conference a Success?’ (1934) 97(1) World Affairs 38, 41; Rowe (n 61) 34. [↑](#footnote-ref-64)
65. Report of the Delegates of the United States of America to the Seventh International Conference of American States, Montevideo, Uruguay, December 3-26, 1933 (U.S. Government Printing Office, 1934) 12; Rowe (n 61) 35. [↑](#footnote-ref-65)
66. Report of the Delegates of the United States of America to the Seventh International Conference of American States (n 65) 13. [↑](#footnote-ref-66)
67. ibid. [↑](#footnote-ref-67)
68. Scott, ‘The Seventh International Conference of American States’ (n 37) 225. [↑](#footnote-ref-68)
69. It was signed and ratified by 10 countries: Brazil, Costa Rica, Ecuador, Haiti, Honduras, Mexico, Nicaragua, Panama, and Venezuela. The Convention on Rights and Duties of States addresses the definition of ‘state’ (article 1); and the primary ‘interest’ of state (article 3). [↑](#footnote-ref-69)
70. Article 9 Convention on Rights and Duties of States. See Borchard (n 53) 269-277. [↑](#footnote-ref-70)
71. John Ward Cutler, ‘The Treatment of Foreigners: in Relation to the Draft Convention and Conference of 1929’ (1933) 27(2) The American Journal of International Law 225, 229. [↑](#footnote-ref-71)
72. See Borchard (n 53) 278. [↑](#footnote-ref-72)
73. Article 11 Convention on Rights and Duties of States reads: ‘The contracting States definitely establish as the rule of their conduct the precise obligation not to recognize territorial acquisitions or special advantages which have been obtained by force …’. See John Trone, ‘The Stimson Doctrine of Non-recognitions of Territorial Conquest’ 160, 161-162. [↑](#footnote-ref-73)
74. Fenwick (n 46) 15. [↑](#footnote-ref-74)
75. See Rowe (n 61) 37-38; Herbert Wright, ‘The Montevideo conference and organization for peace’ (1934) 97(2) World Affairs 100-103, 101. [↑](#footnote-ref-75)
76. Numeral 1 and 2 Seventh International Conference of American States resolution No XLVIII. See Borchard (n 53) 270. [↑](#footnote-ref-76)
77. The Seventh International Conference of American States resolution No XLVIII. See Canyes, ‘The Pan American Union and Comparative Law Studies in the Americas’ (n 44) 685. [↑](#footnote-ref-77)
78. *Las Ideas de Bolívar* (Séptima Conferencia Internacional Americana, Montevideo 1933) approved 22 December 1933. See William Manger, ‘The Pan American Union and the Conclusions of the Seventh International Conference of American States’ (1935) 669(2) Bulletin of the Pan American Union 77,90. [↑](#footnote-ref-78)
79. ibid 90. [↑](#footnote-ref-79)
80. Fenwick (n 46) 5. [↑](#footnote-ref-80)
81. *Métodos de Codificación del Derecho Internacional* (Séptima Conferencia Internacional Americana, Montevideo, 1933). See Fenwick (n 46) 5. [↑](#footnote-ref-81)
82. Borchard (n 53) 270. [↑](#footnote-ref-82)
83. Fenwick (n 46) 5. [↑](#footnote-ref-83)
84. The Treaty was signed on 23rd December 1936. It was ratified by Colombia, Chile, Dominica Republic, Ecuador, El Salvador, Guatemala, Honduras, and Mexico and with reservations from Costa Rica, Haiti, Nicaragua, and Panama. See United Nations, *United Nations – Treaty Series* (UN-iLibrary, 1994) 413-414. [↑](#footnote-ref-84)
85. The conventions can be found at the Organization of American States (OAS) <https://www.oas.org/en/> accessed 19 September 2023. See also Borchard (n 53) footnote 12. [↑](#footnote-ref-85)
86. Union of American Republics, ‘The Eighth International Conference of American States’ (1938) 72(11) Bulletin of the Pan American Union 617, 618-619. See also, George A Finch, ‘Eighth International Conference of American States’ (1940) 34(4) American Journal of International Law 714, 714. [↑](#footnote-ref-86)
87. Union of American Republics, ‘The Eighth International Conference of American States’ (n 86) 617-618. [↑](#footnote-ref-87)
88. ibid 619. [↑](#footnote-ref-88)
89. Finch (n 86) 714. [↑](#footnote-ref-89)
90. The six topics covered were: pecuniary claims; coordination of peace instruments aka the Peace Code; definition of the ‘sanctions and aggressor’; coordination of investigation, conciliation, and arbitration treaties; immunity of government-owned vessels; and nationality. See Borchard (n 53) 269. [↑](#footnote-ref-90)
91. Finch (n 86) 716. [↑](#footnote-ref-91)
92. Canyes, ‘The Pan American Union and Comparative Law Studies in the Americas’ (n 44) 685 [↑](#footnote-ref-92)
93. Finch (n 86) 716. [↑](#footnote-ref-93)
94. ibid 715. [↑](#footnote-ref-94)
95. Some of the provisions contained in the code were controversial. See Fenwick (n 46) 5. The next meeting was organised in Rio de Janeiro, Brazil, on January 1942 due to the United States’ entry into World War II. [↑](#footnote-ref-95)
96. Fenwick (n 46) 6. [↑](#footnote-ref-96)
97. Borchard (n 53) 269-271; Canyes, ‘The Pan American Union and Comparative Law Studies in the Americas’ (n 44) 682. [↑](#footnote-ref-97)
98. Borchard (n 53) 269-272. [↑](#footnote-ref-98)
99. This body was transformed in 1942 into the Inter-American Juridical Committee which still exists (2023). See A A Cançado Trindade, ‘The Inter-American Juridical Committee: an overview’ (1982) 38(11) The World Today 437, 437. [↑](#footnote-ref-99)
100. Canyes, ‘The Pan American Union and Comparative Law Studies in the Americas’ (n 44) 683. [↑](#footnote-ref-100)
101. ibid 681. [↑](#footnote-ref-101)
102. Ladas, ‘Pan American Conventions on Industrial Property’ (n 6) 808. [↑](#footnote-ref-102)
103. ibid 817. [↑](#footnote-ref-103)
104. Inman, ‘Pan American Conferences and their Results’ (n 24) 342. [↑](#footnote-ref-104)
105. ibid 350. [↑](#footnote-ref-105)
106. *Acta General* (Quinta Conferencia Internacional Americana, Santiago 1923). See Inman, ‘Pan American Conferences and their Results’ (n 24) 343. [↑](#footnote-ref-106)
107. ibid 346. [↑](#footnote-ref-107)
108. *Convención para la Protección de Marcas de Fábrica, Comercio y Agricultura y Nombres Comerciales* (Quinta Conferencia Internacional Americana, Santiago 1923). [↑](#footnote-ref-108)
109. Ladas, ‘Pan American Conventions on Industrial Property’ (n 6) 811. [↑](#footnote-ref-109)
110. ibid. [↑](#footnote-ref-110)
111. Article I section 1 Convention for the Protection of Trademarks and Commercial Names 1923. [↑](#footnote-ref-111)
112. ibid. [↑](#footnote-ref-112)
113. Article II Convention for the Protection of Trademarks and Commercial Names 1923. [↑](#footnote-ref-113)
114. Article III Convention for the Protection of Trademarks and Commercial Names 1923. [↑](#footnote-ref-114)
115. Patricia Covarrubia, ‘The Madrid Protocol in Latin America: Is Colombia Changing Business Strategies or Acting as a Guinea Pig? (2013) 35(1) European Intellectual Property Review 1, 19. [↑](#footnote-ref-115)
116. Article V section 2 Convention for the Protection of Trademarks and Commercial Names 1923. [↑](#footnote-ref-116)
117. Ladas, ‘Pan American Conventions on Industrial Property’ (n 6) 814-815. [↑](#footnote-ref-117)
118. Article V section 2 Convention for the Protection of Trademarks and Commercial Names 1923 [↑](#footnote-ref-118)
119. See Ladas, ‘Pan American Conventions on Industrial Property’ (n 6) 811. According to Article IX Convention for the Protection of Trademarks and Commercial Names 1923, there were 12 countries to use the Havana Bureau. [↑](#footnote-ref-119)
120. Propiedad Literaria y Artística (Quinta Conferencia Internacional Americana, Santiago – 1923), numeral 1 and 2. [↑](#footnote-ref-120)
121. Ladas, ‘Pan American Conventions on Industrial Property’ (n 6) 804. [↑](#footnote-ref-121)
122. Arthur D Herrick, ‘Denunciation of the Protocol for Inter-American Registration of Trade-Marks’ (1945) 35 Trademark Report 39, 39. [↑](#footnote-ref-122)
123. Karl Fenning, ‘Trade Marks in Pan America as Affected by the Havana Conference 1928’ (1928) 10 Journal of the Patent Office Society 483. [↑](#footnote-ref-123)
124. ibid 484. [↑](#footnote-ref-124)
125. ibid. [↑](#footnote-ref-125)
126. ibid 485. [↑](#footnote-ref-126)
127. See the Report of the Delegates of the United States of America to the Fifth International Conference of American States, held at Santiago, Chile, March 25 to May 3, 1923 (U.S. Government Printing Office 1923) 17 at <https://archive.org/details/reportofdelegate00unit_0/page/n3/mode/2up?ref=ol&view=theater> assessed 26 August 2022. [↑](#footnote-ref-127)
128. ladas (n 123) 486. [↑](#footnote-ref-128)
129. ibid 487. [↑](#footnote-ref-129)
130. ibid. [↑](#footnote-ref-130)
131. ibid. [↑](#footnote-ref-131)
132. ibid 489. [↑](#footnote-ref-132)
133. Christine Haight Farley, ‘The Pan-American Trademark Convention of 1929: a bold vision of extraterritorial meets current realities’ in Irene Calboli and Edward Lee (eds), *Trademark Protection and Territoriality Challenges in a Global Economy* (EE 2014) 60. [↑](#footnote-ref-133)
134. Harry G Henn, ‘Interrelation between the Universal Copyright Convention and the Pan-American Copyright Convention’ (1955) 2(4) Bulleting of the Copyright Society of the U.S.A. 110, 110. [↑](#footnote-ref-134)
135. See the *Report of the Delegates of the United States of America to the Fifth International Conference of American States*, held at Santiago, Chile, March 25 to May 3, 1923 (U.S. Government Printing Office 1923) 27. [↑](#footnote-ref-135)
136. Henn (n 134) 111; Stephen P Ladas, ‘Inter-American Copyright’ (1941) 7(4) University of Pittsburgh Law Review 283, 285. [↑](#footnote-ref-136)
137. ibid. [↑](#footnote-ref-137)
138. Stephen P Ladas, ‘Inter-American Copyright’ (n 136) 288. [↑](#footnote-ref-138)
139. Sanders (n 56) 421. [↑](#footnote-ref-139)
140. Article 2 Havana Convention. Ladas, ‘Inter-American Copyright’ (n 136) 288. [↑](#footnote-ref-140)
141. Alfred L Rinaldo Jr, ‘Scope of Copyright Protection in the United States under Existing Inter-American Relations: Abrogation of the Need for U.S. Protection under the Buenos Aires Convention by Reliance upon the UCC’ (1975) 22(6) Bulletin of the Copyright Society of the U.S.A. 417, 423. [↑](#footnote-ref-141)
142. ibid 419; Stephen P Ladas, ‘Inter-American Copyright’ (n 136) 293. [↑](#footnote-ref-142)
143. Sanders (n 56) 422; Rinaldo (n 141) 422. [↑](#footnote-ref-143)
144. Article 13 Havana Convention. [↑](#footnote-ref-144)
145. Article 6 Havana Convention. [↑](#footnote-ref-145)
146. Isabella Löhr, ‘Intellectual Cooperation in Transnational Networks: The League of Nations and the Globalization of Intellectual Property Rights’ in Mathias Albert et al (eds), *Transnational Political Spaces: Agents – Structures – Encounters (History of Political Communication)* (University of Chicago Press, 2nd edn, 2009) 66. [↑](#footnote-ref-146)
147. ibid 69-71. [↑](#footnote-ref-147)
148. The Code was ratified without reservations by six Latin American countries and in part, by nine others. [↑](#footnote-ref-148)
149. Farley, ‘The Pan-American Trademark Convention of 1929: a bold vision of extraterritorial meets current realities’ (n 133) 59. [↑](#footnote-ref-149)
150. WIPO, ‘IP Treaties Collection: General Inter-American Convention for Trade Mark and Commercial Protection’ (WIPO) accessed at <https://www.wipo.int/wipolex/en/treaties/parties/353> accessed 02 June 2023 [↑](#footnote-ref-150)
151. The United States Department of State, ‘Treaties in Force’ (2020) at <https://www.state.gov/treaties-in-force/> accessed 05 September 2022. Brazil, Dominican Republic, and Uruguay are not parties but ratified the Convention 1923. Likewise, Bolivia and Ecuador neither signed the Convention 1923, nor the Convention 1929 but are a party of the Convention 1920. [↑](#footnote-ref-151)
152. For more information, see Chapter ‘Furthering Interest Abroad: Advancing Trademark Rights in the Americas in the First Decades of the Twentieth Century’ by Christine Haight Farley, in this volume. [↑](#footnote-ref-152)
153. Farley, ‘The Pan-American Trademark Convention of 1929: a bold vision of extraterritorial meets current realities’ (n 133) 60. [↑](#footnote-ref-153)
154. Polido and Rosina (n 7) 43. [↑](#footnote-ref-154)
155. Article 6(3) Madrid Agreement. See Covarrubia (n 113) 21. [↑](#footnote-ref-155)
156. Farley, ‘The Pan-American Trademark Convention of 1929: a bold vision of extraterritorial meets current realities’ (n 133) 61. [↑](#footnote-ref-156)
157. Christine Haight Farley, ‘The Protection of Geographical Indications in the Inter-American Convention’ (2014) 6(1) The WIPO Journal 52, 53. [↑](#footnote-ref-157)
158. Article 7, General Inter-American Convention for Trademark and Commercial Protection 1929. [↑](#footnote-ref-158)
159. Farley, ‘The Pan-American Trademark Convention of 1929: a bold vision of extraterritorial meets current realities’ (n 133) 64. [↑](#footnote-ref-159)
160. ibid 66. [↑](#footnote-ref-160)
161. ibid 76. [↑](#footnote-ref-161)
162. Chapter III Protection of Commercial Names General Inter-American Convention for Trademark and Commercial Protection. [↑](#footnote-ref-162)
163. Farley, ‘The Protection of Geographical Indications in the Inter-American Convention’ (n 157) 54. [↑](#footnote-ref-163)
164. Articles 23 and 24 General Inter-American Convention for Trademark and Commercial Protection. See Farley, ‘The Protection of Geographical Indications in the Inter-American Convention’ (n 157) 58 [↑](#footnote-ref-164)
165. Article 28 General Inter-American Convention for Trademark and Commercial Protection notes that the laws “dealing with misbranding and the laws relating to trade marks or trade names” in their domestic law, shall apply instead. [↑](#footnote-ref-165)
166. *Report of the Delegates of the United States of America to the Seventh International Conference of American States*, Montevideo, Uruguay, December 3-26, 1933 (U.S. Government Printing Office, 1934) 33 [↑](#footnote-ref-166)
167. Manger, ‘The Pan American Union and the Conclusions of the Seventh International Conference of American States’ (n 78) 79. [↑](#footnote-ref-167)
168. ibid 83. [↑](#footnote-ref-168)
169. ibid 84. See numeral 1 Inter-American Protection of Intellectual Property (Seventh Conference, Montevideo 1933). [↑](#footnote-ref-169)
170. See Sanders (n 56). [↑](#footnote-ref-170)
171. ibid 426. [↑](#footnote-ref-171)
172. ibid 419. [↑](#footnote-ref-172)
173. Article 1 and 2 Inter-American Intellectual Property (Eighth Conference, Lima 1938). [↑](#footnote-ref-173)
174. Article 3 Inter-American Intellectual Property (Eighth Conference, Lima 1938). [↑](#footnote-ref-174)
175. Manuel S Canyes, ‘Inter-American Conference of Experts on Copyright’ (1946) 80(9) Bulletin of the Pan American Union 501, 501. [↑](#footnote-ref-175)
176. Argentina, Bolivia, Chile, Paraguay, Perú, and Uruguay. See further Ana Delić, ‘The Birth of Modern Private International Law: The Treaties of Montevideo (1889, amended 1940)’ in *Oxford Public International Law* (online resources) at <https://opil.ouplaw.com/page/Treaties-Montevideo> accessed 13 October 2022. [↑](#footnote-ref-176)
177. James E Ritch Jr, ‘Codification of the Private International Law of the American Countries’ (1965) 7(2) Inter-American Law Review 395, 401. [↑](#footnote-ref-177)
178. Polido and Rosina (n 7) 433-434. [↑](#footnote-ref-178)
179. ibid 441. [↑](#footnote-ref-179)
180. Stephen Ladas, *The International Protection of Industrial Property* (Harvard University Press 1930) 80. [↑](#footnote-ref-180)
181. Polido and Rosina (n 7) 444. [↑](#footnote-ref-181)
182. ibid 441. [↑](#footnote-ref-182)
183. Carolina Pizarro Cortés, ‘The Decentring of the Historical Subject in the Contemporary Imaginary of the Independence Process’ (2011) 20(4) Journal of Latin American Cultural Studies 323. [↑](#footnote-ref-183)