

Geneva, April 2nd, 1935.

LEAGUE OF NATIONS

**DRAFT INTERNATIONAL AGREEMENT
FOR THE PURPOSE OF FACILITATING
COMMERCIAL PROPAGANDA**

**DOCUMENT PREPARED FOR THE MEETING CONVENED
AT GENEVA FOR JULY 1ST, 1935.**

CONTENTS.

	Page
<i>Chapter I.</i> — Historical Survey of the Question	3
<i>Chapter II.</i> — Draft Convention establishing Uniform Rules for the Purpose of facilitating Commercial Propaganda	4
<i>Chapter III.</i> — Text of Each of the Articles of the Preliminary Draft submitted for Consideration to the Governments, followed by : (a) a Summary of their Observations ; (b) the Text of the Corresponding Articles as adopted at the Brussels Conference of the States that have remained on the Gold Standard ; and (c) a Statement of the Reasons underlying the Changes made in the New Draft .	9
<i>Annex :</i> Observations from the United States of America concerning the Preliminary Draft on Commercial Propaganda.	22



CHAPTER I. — HISTORICAL SURVEY OF THE QUESTION.

1. In connection with the examination of the various aspects of indirect protectionism, the Economic Committee decided in January 1930 to study certain questions of Customs technique from an essentially practical point of view, recourse being had, wherever thought desirable, to the consultation of experts and interested parties.

These studies referred primarily to :

The Customs treatment of samples without value ;

The Customs treatment of printed matter which is in the nature of advertisement.

2. The experts for whose views on the subject the Economic Committee applied recognised, in the course of their discussions, the importance of these studies, and framed proposals designed to improve the conditions under which samples without value and printed matter at present circulate. They laid down the framework of international agreements prescribing uniform rules for their clearance through the Customs.

3. In August 1931, these proposals were submitted unofficially for consideration to the relevant administrations of a certain number of countries. While on the whole favourable to the general principles laid down by the experts, the replies received nevertheless suggested various changes of detail, additions or omissions which have meant a rather substantial recasting of the original text.

4. The preparatory work had reached this stage when the Monetary and Economic Conference met in London from June 12th to July 27th, 1933. On the proposal of the Sub-Committee on Indirect Protectionism, the Conference authorised the President of the Economic Commission to take all the necessary measures to give effect to any draft provisions on the subject of Customs formalities that were sufficiently advanced.

5. In November 1933, the Economic Committee of the League of Nations proceeded to revise this work. Believing that the experts' proposals did not cover the whole question of commercial propaganda, it amplified them by provisions on the treatment to be given to commercial travellers and their collections of samples and combined them in the form of principal provisions of a draft international agreement. Next, convinced of the utility of following up the initiative taken by the Monetary and Economic Conference, the Committee suggested to the President of the Economic Commission of that Conference that the draft should be forwarded for consideration to a certain number of Governments, who would, at the same time, be invited to send a representative to a meeting the date of which would be fixed later, and which would be asked to make a final study of the draft, with a view to recommending its adoption, if necessary, to the Governments represented.

In a Circular Letter of November 23rd, 1933, the draft was submitted to the Governments of the following countries : Austria, Belgium, United Kingdom, Czechoslovakia, Denmark, France, Germany, Italy, Japan, Netherlands, Poland, Sweden, Switzerland, United States of America. They all stated their acceptance, in principle, of the draft submitted as a basis for further discussion, but Germany expressed the opinion that conditions were not favourable for pursuing such studies. A summary of the observations received by the Secretariat is given in the next chapter.

6. The countries consulted include the six countries belonging to the gold bloc, signatories of the Brussels Protocol of October 20th, 1934. These six countries set up a special Sub-Committee, which, in November 1934, discussed the draft agreement prepared by the Economic Committee of the League of Nations and, after making a number of amendments, recommended its adoption to the Governments represented.

On the basis of the text drawn up at Brussels, and in the light of the observations received from the Governments consulted but not represented at that Conference, the Secretariat has drawn up the text of the preliminary draft which is proposed as a basis of discussion for the Conference convened for July 1st, 1935, at Geneva.

CHAPTER II. — DRAFT CONVENTION ESTABLISHING UNIFORM
RULES FOR THE PURPOSE OF FACILITATING
COMMERCIAL PROPAGANDA.

PREAMBLE.

.....
.....

(List of countries)

.....
.....

Believing that the adoption of uniform regulations designed to facilitate commercial propaganda would be calculated to have a favourable effect on the growth of commercial transactions,

Have decided to conclude a Convention for this purpose.

The High Contracting Parties have consequently appointed as their plenipotentiaries :

.....
.....

Who, having communicated to each other their full powers, found in good and due form, have agreed as follows :

SECTION A. — CUSTOMS TREATMENT OF SAMPLES WITHOUT VALUE.

Article 1.

The High Contracting Parties agree to exempt from Customs duty on importation samples of goods of all kinds, provided they have no commercial value and can only be used for soliciting orders, for demonstrations, experiments or analyses, with the exception, however, of samples of goods which form the subject of a State monopoly, an excise duty or a special regime, or the import or transit of which is prohibited on moral, humanitarian, hygienic, veterinary or phytopathological grounds or on grounds of public safety.

Article 2.

Samples of the following goods, in particular, shall be exempt from Customs duty, save in so far as they are excluded from exemption under the general principles laid down in the above paragraph and, as ascertained by the Customs administration concerned, remain within the limits of these principles :

1. Foodstuffs and beverages, including wine, cider, beer, mineral waters, juice of grapes or other fruits, edible oils, margarine and other edible fats, etc., provided that not more than one sample of each kind or quality is included in every consignment and that the weight or volume of these products does not exceed the limits laid down by the importing country as compatible with the character of samples.

2. Base metals, skins, leather, rubber, wood, cork and similar substances, also materials plaited or spun, in sheets, bundles, collections or individual pieces, of a shape precluding the possibility of any other use than as samples, or in threads, bars, tubes, cables or cords of a maximum length of 10 cm., affixed or not on cards and not capable of any use other than as samples.

3. Collections of papers, envelopes, notepaper and picture postcards, rendered useless by being pasted on sheets, cancelled by a stamp, etc., wallpapers, mounted on stands or not, sent by a foreign supplier to customers and bearing his name or mark, and also single pieces of paper or wallpaper suitable for showing an entire design but not usable for any other purpose.

4. Samples of threads of all kinds arranged on cards in order of size, quality or colour, sent by a supplier to a customer, and not containing more than one sample of each size, quality or colour per card.

5. Woven textiles of all kinds and felt cloths made into collections or bundles, bearing the name or mark of the supplier, or imported in separate pieces, provided they can be used only as samples or are rendered useless for other purposes ; for example, by cuts or perforations.

6. Coloured samples containing patterns of woven textiles, leather or other materials to show the nature and colour effect.

7. Samples of manufactured goods such as shawls, handkerchiefs, ties, stockings, footwear, gloves, gaiters, serviettes, hats, etc., with deep cuts, or forming only half or a quarter of the article and not capable of being used. These cuts may also be required to be made in cases where the articles usually sold in pairs are imported singly.

8. Samples of wood, stone or pottery bearing several kinds of design, sculpture, etc., on one article, which cannot be put to any other use.

9. Screws, rivets, nails, etc., buttons, buckles, hooks and, generally speaking, small articles serving as ornaments or accessories in the ready-made clothing trade, affixed to cards containing a single sample of each size and of each kind and constituting genuine collections of samples. In case of doubt, the Customs authorities may insist that certain articles shall be rendered useless.

10. Small samples of essence of turpentine, colophony, tartar, wax or other products in the raw state.

11. Samples of fruit essences, artificial dyes, etheric oils and chemical products, provided there is only one sample of each kind and quality in every consignment and that the weight or volume of these products does not exceed the limits fixed by the importing country as compatible with the character of samples.

12. Samples of colours and inks for painting and drawing, in small tubes or bottles of such small content that there is no possibility of their being sold.

Annex to Article 2.

In all cases where a Customs administration considers it necessary to make certain articles useless by tearing, perforation or other treatment, this operation must be carried out in such a way that the articles retain their full value as samples.

Annex to Articles 1 and 2.

1. The rules laid down in Articles 1 and 2 shall not apply to samples made up on behalf of merchants or manufacturers in the country of import.

2. The provisions of Articles 1 and 2 shall in no way affect the "allowances" granted by the letter and postal-packet services of certain countries.

SECTION B. — CUSTOMS TREATMENT OF PRINTED MATTER INTENDED FOR
USE AS ADVERTISEMENTS.

Article 3.

1. The High Contracting Parties agree to admit free of import duty catalogues, price-lists and trade notices imported in single copies, of whatever weight, whether accompanying the goods or sent separately.

2. Catalogues, price-lists and trade notices sent separately but simultaneously through the post to different addressees shall be treated as consignments of single copies. They must, however, be sent in this form from the place of origin.

3. The following may be excluded from free admission :

(a) Catalogues, price-lists and trade notices printed abroad on behalf of traders and manufacturers established in the country of destination ;

(b) Catalogues, price-lists and trade notices which do not clearly indicate the foreign firm manufacturing or selling the goods.

Annex to Article 3.

1. Catalogues, price-lists and trade notices, the number of which corresponds to the number of the articles sent separately packed, shall be treated as imported in single copies.

2. Each of the High Contracting Parties shall be entitled to decide whether, and under what conditions, exemption from Customs duty may be granted to consignments of a number of copies of the same catalogue, price-list or trade notice sent to different addressees which are to be posted only in the country of destination and which arrive grouped together at the frontier.

Article 4.

The High Contracting Parties agree to admit free of import duty, without limitation of quantity, printed matter and posters for propaganda (time-tables in book or poster form, guides, pamphlets, folders, etc., illustrated or not, illustrated posters), the essential purpose of which is to induce the public to visit foreign countries or localities, or fairs or exhibitions abroad, or to attend meetings or events abroad of genuine public interest, provided that such documents are intended for distribution free of charge and that they are obviously intended for purposes of general publicity.

SECTION C. — GUARANTEES FOR COMMERCIAL TRAVELLERS AND THEIR COLLECTIONS OF SAMPLES.

Article 5.

1. Persons engaged in industrial or business activities in the territory of any of the High Contracting Parties may—subject, if necessary, to the production of an identity card—in the territory of the other High Contracting Parties, either in person or by representatives or travellers in their employ, purchase the goods in which they deal either from merchants or in places where goods are on sale or from producers. They may take orders from merchants and producers who trade in, or use in their establishments, goods of the same kind as those offered to them.

2. Persons engaged in industrial or business activities and their representatives or commercial travellers shall not need for any of these activities special authorisation which would not in the same circumstances be required of national undertakings or their representatives.

3. In the cases referred to in paragraph 1, the exercise of the activities in question shall be exempt, on production, if required, of an identity card, from all taxes, duties or charges payable to any public authority whatsoever.

4. The provisions of this article shall not apply to itinerant trading or to hawking or to the soliciting of orders or purchases from persons other than the merchants or producers referred to in paragraph 1, each of the High Contracting Parties reserving full freedom of legislation in this respect.

Annex to Article 5.

1. It is understood that Article 5 refers both to juridical and to natural persons.

2. The identity card referred to in Article 5 shall be that provided for in Article 10 of the International Convention of November 3rd, 1923, relating to the Simplification of Customs Formalities.

3. The provisions of Article 5, paragraph 3, shall not prevent the levying of such stamp duties as may be payable alike by nationals and foreigners, on the issue of the authorisations referred to in Article 5, paragraph 2.

4. Inasmuch as the provisions in Article 5, paragraph 3, do not concord with those contained in their national legislation concerning the taxes or charges payable by foreign traders or manufacturers temporarily carrying on their business in their territory, whether personally or through representatives or commercial travellers in their service, the Governments of . . . have declared that they reserve the right on ratification not to accept Article 5 and do not undertake to apply the said article until after a period of . . . years as from such date.

The other Contracting Parties, while declaring their acceptance of the reservation thus entered, stipulate that they themselves shall not be bound in respect of the States benefiting by such reservation or in respect of the matters forming the subject thereof until the application of the provisions thus suspended is made effective by the States in question.

Article 6.

As regards the temporary exemption from duty of dutiable samples and patterns which manufacturers, traders or commercial travellers import for the purpose of engaging in their occupation, the High Contracting Parties shall observe the stipulations of Article 10 of the International Convention of November 3rd, 1923, relating to the Simplification of Customs Formalities.

FINAL PROVISIONS.

Article 7 (Settlement of Disputes).

1. If there should arise between the High Contracting Parties a dispute of any kind relating to the interpretation or application of the present Convention, and if such dispute cannot be satisfactorily settled by diplomacy, it shall be settled in accordance with the agreements in force between the Parties concerning the settlement of international disputes.

2. If there is no such agreement in force between the Parties, the dispute shall be referred to arbitration or judicial settlement. In the absence of agreement on the choice of another tribunal, the dispute shall, at the request of any one of the Parties, be referred to the Permanent Court of International Justice if all the parties to the dispute are parties to the Protocol of December 16th, 1920, relating to the Statute of that Court and, if any of the parties to the dispute is not a party to that Protocol, to an arbitral tribunal constituted in accordance with the Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes.

Article 8 (Languages and Date).

The present Convention, the English and French texts of which are both authentic, shall bear this day's date.

Article 9 (Signature and Ratification).

1. The present Convention may be signed up to . . . (one year from the date of being opened for signature), on behalf of any Member of the League of Nations or any non-member State to which the Council of the League of Nations shall have communicated a copy of the present Convention for the purpose.

2. The present Convention shall be ratified. The instruments of ratification shall be deposited with the Secretary-General of the League of Nations, who shall notify such deposit to all Members of the League of Nations and to the non-member States referred to in the preceding paragraph.

Article 10 (Accession).

1. On and after . . . any Member of the League of Nations and any non-member State to which the Council of the League of Nations shall have communicated a copy of the present Convention may accede to it.

2. The instruments of accession shall be deposited with the Secretary-General of the League of Nations, who shall notify such deposit to all Members of the League of Nations and to the non-member States referred to in the preceding paragraph.

Article 11 (Entry into Force).

1. The Secretary-General of the League of Nations will draw up a *procès-verbal* when five ratifications or accessions have been received.

2. A certified true copy of such *procès-verbal* shall be transmitted by the Secretary-General of the League of Nations to all the Members of the League of Nations and to all non-member States mentioned in Article 9.

Article 12.

The present Convention shall be registered by the Secretary-General of the League of Nations ninety days after the date of the *procès-verbal* mentioned in Article 11. It shall come into force on that date.

In respect of each Member or non-member State on whose behalf any instrument of ratification or accession is subsequently deposited, the Convention shall come into force ninety days after the date of deposit of such instrument.

Article 13 (Duration and Denunciation).

1. The present Convention shall remain in force for a period of years after its entry into force.
2. It shall remain in force for further successive periods of years in respect of such Contracting Parties as have not denounced it at least six months before the expiry of the period.
3. The denunciation shall be effected by a written notification to the Secretary-General of the League of Nations, who shall inform all Members of the League of Nations and the non-member States referred to in Article 9.

Article 14 (Application to Colonies, Protectorates, etc.).

1. In the absence of a declaration to the contrary by a High Contracting Party at the time of signature, ratification or accession, the provisions of the present Convention shall not apply to colonies, protectorates, oversea territories, territories under such Party's suzerainty or territories in respect of which a mandate has been entrusted to it.
2. Nevertheless, the High Contracting Parties reserve the right to sign the Convention or to accede thereto, in accordance with the provisions of Articles 9 and 10, for their colonies, protectorates, oversea territories, territories under their suzerainty or territories in respect of which a mandate has been confided to them.
3. They further reserve the right to denounce the Convention separately, in accordance with the provisions of Article 13.

Article 15 (Revision).

1. Conferences for the revision of the present Convention may be called with a view to making such changes therein as experience may have shown to be useful.
2. A conference for the revision of the present Convention shall be called by the Secretary-General of the League of Nations whenever so requested by not less than five of the High Contracting Parties. The latter shall indicate summarily the changes they propose and the reasons for such changes.
3. In default of the unanimous consent of the High Contracting Parties, no demand for the calling of a conference for the revision of the present Convention within less than two years from the entry into force of the Convention or four years from the end of a previous conference for its revision shall be admissible.
4. The Secretary-General of the League of Nations shall prepare the work of conferences for the revision of the present Convention with the co-operation of the Economic Committee.

IN FAITH WHEREOF the above-mentioned plenipotentiaries have signed the present Convention.

DONE at Geneva this . . . in a single copy, which shall be kept in the archives of the Secretariat of the League of Nations and a certified true copy of which shall be delivered to all the Members of the League and to the non-member States referred to in Article 9.

ANNEXED DECLARATION.

On proceeding to sign the Convention for the Purpose of facilitating Commercial Propaganda, the High Contracting Parties, being anxious to reduce as far as possible the charges leviable upon manufacturers, traders or commercial travellers temporarily entering the territory of one of the High Contracting Parties with their collections of samples or specimens by the obligation to effect provisional payment of the duties and charges leviable or to make a deposit as security for the payment thereof, undertake to agree to the introduction of a simplified form of Customs procedure.

To this end, the High Contracting Parties declare themselves prepared in principle to agree, *inter alia*, that the use of triptychs and pass-bill books shall be extended to cover the collections of samples and patterns referred to in Article 6 of the present Convention, always provided that the organisations guaranteeing the payment of duty where required offer adequate financial security and have made previous arrangements with the Customs authorities effectively simplifying the formalities hitherto in force.

CHAPTER III. — TEXT OF EACH OF THE ARTICLES OF THE
PRELIMINARY DRAFT SUBMITTED FOR CONSIDERATION TO THE
GOVERNMENTS, FOLLOWED BY :

- (a) A summary of their observations ;¹
 - (b) The text of the corresponding articles as adopted at the Brussels Conference of the States that have remained on the gold standard ; and
 - (c) A statement of the reasons underlying the changes made in the new draft.
-

SECTION A. — CUSTOMS TREATMENT OF SAMPLES WITHOUT VALUE.

Article 1.

The preliminary draft read as follows :

The High Contracting Parties agree to exempt from Customs duty on importation samples of goods of all kinds, provided they have no commercial value or a quite trifling commercial value, and can only be used for soliciting orders, for demonstrations, experiments or analyses, with the exception, however, of those which form the subject of a State monopoly.

This article has given rise to the following observations :

United Kingdom. — It is not possible to give unqualified acceptance to the general proposal as thus stated, but it could be rendered generally acceptable if the following modifications were made :

1. The proposals should be definitely limited to *bona-fide* trade samples, and the words “ *bona-fide* trade samples ” should therefore be substituted for the word “ samples ” in line 2 of Article 1.

2. At the end of the same article, after the words “ of a State monopoly ”, it is essential to reinstate the words “ or excise duty ”, which occurred in one earlier Economic Committee draft. It would also appear necessary to include an exception in respect of goods which are subject to import prohibitions.

3. The words “ or a quite trifling commercial value ” should be omitted, as the allowances in respect of samples granted in the United Kingdom are limited to *bona-fide* trade samples of *no* commercial value. The words which it is asked should be deleted would be likely to give rise in practice to considerable difficulties of interpretation and to disputes with importers.

4. The words “ and can only be used for soliciting orders, for demonstrations, experiments or analyses ” should also be omitted. They appear to constitute an attempt to define the expression “ of no commercial value ”, but no useful purpose is served by such an attempt, as the expression in question has been long in use in many countries and is sufficiently well understood. Moreover, disputes might arise between importers and Customs authorities as to the meaning to be attached in particular cases to the proposed explanatory words.

Japan. — It may be considered that the purpose of this article is already achieved in Japan.

In a word, these observations aim at :

(1) *Deleting*, after “ of no commercial value ”, the words : (a) “ or a quite trifling commercial value ” (observation of the United Kingdom Government) ; (b) “ and can only be used for soliciting orders, for demonstrations, experiments or analyses ” (observation of the United Kingdom Government) ;

(2) *Substituting* for “ samples ” the words “ *bona-fide* trade samples ” (observation of the United Kingdom Government) ;

(3) *Adding*, after “ of a State monopoly ”, the words “ or excise duty ” (observation of the United Kingdom Government).

¹ In the case of the countries represented at the Brussels Conference (gold bloc), their observations made prior to that Conference have not been reproduced, as the Secretariat considers them obsolete in view of the unanimous adoption of the new texts by the representatives of those countries in November 1934.

The observations of the United States Government reached the Secretariat after the present document was sent to the printer. They are therefore given as an annex (page 22).

The *Brussels Conference* adopted the following text :

Article 1.

The High Contracting Parties agree to exempt from Customs duty on importation samples of goods of all kinds, provided they have no commercial value and can only be used for soliciting orders, for demonstrations, experiments or analyses, with the exception, however, of samples of goods forming the subject of a State monopoly *or the import or transit of which is prohibited or subject to special regulations on moral, humanitarian, hygienic, veterinary or phytopathological grounds or on grounds of public safety.*¹

COMMENTS.

1. By omitting the words " or a quite trifling commercial value ", and by adding at the end of the text proposed " or the import or transit of which is prohibited or subject to a special regime on moral . . . public safety ", the Brussels text partly complies with the observations of Governments as summarised above.

2. The text differs however on three points from the observations submitted by the United Kingdom Government :

(a) It does not include the idea of *bona fide* ;

(b) It does not omit the list of uses to which non-dutiable samples should be confined ;

(c) It does not include excise among the exceptions.

3. As regards the idea of *bona fide*, it may be pointed out that Article 2, paragraph 1, as amended at Brussels gives Customs administrations the right to refuse duty-free entry in cases where their investigations lead them to consider that the samples submitted do not comply with the general principles laid down in Article 1.

It would therefore seem that the principle thus laid down meets the views of the United Kingdom as expressed in its observation on this point.

4. The detailed provisions regarding the use of samples admitted duty free—to be employed only for soliciting orders, for demonstrations, experiments or analyses—inserted in the text by the authors of the draft are taken from several national laws. In view of the new text of the first paragraph of Article 2, there would seem to be no likelihood of their giving rise to disputes between importers and Customs authorities.

5. The insertion among the exceptions of samples liable to *excise duty* should not create any difficulty, as it is the same kind of exception as those already specified.

Article 2.

The preliminary draft read as follows :

The following, in particular, shall be exempt from Customs duty, save in so far as they are excluded from exemption under the general principles in the above paragraph and remain within the limits of these principles :

1. Foodstuffs and drinks, including wines, cider, beer, mineral waters, juice of grapes of other fruits, edible oils, margarine and other edible fats, etc., provided that not more than one sample of each kind or quality is included in the consignment, and that the weight or volume of these products does not exceed the limits laid down by the importing country as compatible with the character of samples.

2. Base metals, skins, leather, rubber, wood, cork and similar substances, also materials plaited or spun, in sheets, bundles, collections or individual pieces, of a shape excluding the possibility of any other use than that of samples, or in threads, bars, tubes, cables, cords of a maximum length of 10 cm., affixed or not on cards and not capable of any use other than as samples.

3. Collections of papers, envelopes, notepaper and illustrated postcards, rendered useless by pasting or affixing a moist stamp, wallpapers including easels, sent by a foreign supplier to customers and bearing his name or mark, and also single pieces of paper or wallpaper suitable for showing an entire design but excluding any other use.

4. Samples of threads of all kinds arranged on cards in order of size, quality or colour, sent by a supplier to a customer, and not containing more than one sample of each size, quality or colour per card, together with coloured samples containing patterns of woven textiles, leather or other materials to show the nature and effect of the colour.

5. Woven textiles of all kinds and felt cloths made into collections or bundles, bearing the name or mark of the supplier, or imported in separate pieces, with (as a rule) a maximum length of 30 cm. across the entire width of the piece (from one selvedge to the other) or rendered useless by deep cuts at distances of 30 cm. along the length.

¹ The words underlined in the text adopted at Brussels (shown in italics throughout the present document) are those added to the wording of the preliminary draft.

Nevertheless, having regard to the fact that samples of greater length are in current trade use in the case of certain qualities of woven textiles, such samples may be exceptionally admitted as samples without value :

(a) If they are accompanied by a declaration by a Chamber of Commerce, to the effect that they are solely for use as samples, or

(b) If they are rendered useless for any other purpose by a special perforation making holes in them on each side at distances of 30 cm.

6. Samples of manufactured goods such as shawls, handkerchiefs, ties, stockings, shoes, gloves, gaiters, serviettes, hats, etc., with deep cuts, or forming only half or a quarter of the object, and not capable of being used. These cuts shall also be made in cases where the objects usually sold in pairs are imported singly.

7. Samples of wood, stone or pottery bearing several kinds of design, sculpture, etc., on one object, which cannot be put to any other use.

8. Screws, rivets, nails, buttons, buckles, hooks and, generally speaking, small objects serving as ornaments or accessories in the ready-made clothing trade, affixed on cards, with a single sample of each size and of each kind and being genuine collections of samples.

In case of doubt, the Customs authorities may insist that certain articles shall be rendered useless. This, however, shall be done in such a way that they retain their value as samples.

9. Small samples of essence of turpentine, colophony, tartar, wax and other products in the raw stage.

10. Samples of fruit essences, artificial dyes, etheric oils and chemical products in containers not exceeding 20 c.c., not being suitable for direct consumption and having the character of genuine samples.

11. Samples of colours and inks for painting and drawing, in small tubes or bottles of such small content that there is no possibility of their sale.

Observations.

(a) This rule does not apply to samples made up on behalf of merchants or manufacturers in the country of import.

(b) This rule does not affect the "allowances" granted by the letter and postal packet service of certain countries.

Protocol ad Article 2.

In the list enumerating samples admissible as having no commercial value under 5 (b), the reference is to samples of cotton or linen tissues of a length of about 70 cm. out of the entire width of the piece, with marks distinctive of the quality printed thereon.

This article has given rise to the following observations :

United Kingdom. — It is no doubt intended that the various goods enumerated in this article should be admitted duty free, provided they come within the category of "bona-fide trade samples of no commercial value", but this is not clear from the present wording. It would therefore be advisable to add after the words "Customs duty" the words "if they are bona-fide trade samples of no commercial value and . . ."

As regards sub-section 1 (foodstuffs and drinks, including wines, etc.), the admission of wine samples into the United Kingdom duty-free is restricted to those conveyed by post. To avoid any conflict between this restriction on the method of transporting samples eligible for duty-free admission and the present proposal, it would be necessary to adopt an overriding provision covering the entire article to the effect that "the Administration may, in the case of particular duties, indicate the channels through which duty-free samples must be imported where this is considered necessary in the Revenue or other interests".

Sub-section 4. — The words "per card" (line 4) should be omitted. Further, the coloured samples of textiles referred to in this sub-section should be subject to the same rules as other samples of textiles.

Sub-section 5. — Here, as in sub-section 4, duty-free importation should be limited to one sample only of each type, description, range and colour ; further, a maximum length, such as 1 metre, should be fixed in cases where cuts are allowed for pieces of more than 30 cm. in length.

The two provisos, (a) and (b), in the second paragraph of this sub-section are open to serious objection, since (a) would require the Customs Administration to accept the decision of a foreign Chamber of Commerce as to what samples may be imported free of duty, while, as regards (b), it should be pointed out that the mere perforation of occasional holes in the edge of samples would not necessarily make them useless.

Sub-section 6. — The United Kingdom Government must reserve its attitude in regard to this proposal. The practice of the United Kingdom regarding duties on textiles is to admit duty-free samples of yarns and tissues subject to the qualifications above mentioned, but to require payment of duty on all samples of made-up articles.

Sub-section 8. — The words “ in the ready-made clothing trade ” should be replaced by “ in the clothing trade ”; otherwise considerable difficulties in administration might arise.

Sub-section 10. — Generally speaking, samples of fine chemicals would possess a commercial value, and it is presumed that, in consequence, they would not enjoy the exemptions from duty enumerated in this sub-section.

Denmark. — As regards the samples of woven textiles referred to in Article 2, sub-section 5, the length of which exceeds the usual size of samples, it should be mentioned that Danish Customs legislation does not, as provided for in this sub-section, allow such articles to be admitted as samples on the basis of a declaration by a Chamber of Commerce to the effect that they are intended for use solely as samples, since, according to Danish law, the character of the goods as a sample is the sole factor determining exemption from duty.

As regards the Customs exemption for samples of fruit essences referred to in sub-section 10 of the same article, such exemption will, under Danish law, be granted only on the condition laid down in sub-section 1 of the same article—*viz.*, that the consignment does not include more than one sample of each kind or quality.

Japan. — The system proposed in Article 2 corresponds to Japanese practice.

Sweden. — The enumeration in this article should, it is thought, also include machinery models in *papier-mâché*, plaster or other similar material.

The procedure described in sub-section 5, paragraph 2 (a), regarding a declaration concerning samples of tissues, etc., is open to serious objection, as the arrangement proposed might easily give rise to abuse. Whether it is retained or not, it would seem essential to re-insert in the wording of the draft, which does not contain it, the additional provision of the former draft which gave Customs authorities the right to insist on special measures designed to render the samples of tissues unusable. The provisions of the experts' draft on the subject should probably be retained unchanged, if necessary, with an additional proviso authorising the procedure as described in the present wording of sub-section 5, paragraph 2 (b).

In the case of sub-section 10, it should be borne in mind that some of the articles there referred to, such as fruit essences, to which are assimilated certain essences for liqueurs, are sometimes sold, more particularly for private consumption, in quantities less than the maximum fixed in the draft, so that it is questionable whether they should be quoted as examples. Furthermore, the condition mentioned in the text of the draft “ not being suitable for direct consumption ” is also open to objection, as each of the articles in question can in its usual form be so consumed, even in small quantities.

Briefly, the trend of these observations is:

(a) To insert in the opening paragraph, after “ Customs duty ”, the following conditional phrase: “ if they are *bona-fide* trade samples of no commercial value ” (observation of the United Kingdom Government);

(b) To add in sub-section 1 a clause formally recognising the right of a Customs administration to confine duty-free admission to samples imported through specific channels (observation of the United Kingdom Government);

(c) To omit in sub-section 4 (line 4) the words “ per card ” (observation of the United Kingdom Government);

(d) To limit, in sub-section 5, the exemption granted to one sample only of each type, description, range and colour, and to fix a maximum length of 1 metre in cases where cuts are allowed for pieces more than 30 cm. long;

To omit also all the rest of this sub-section, starting from and including the second paragraph and, in addition, the Protocol *ad* Article 2 (observations of the United Kingdom, Danish and Swedish Governments);

(e) To reconsider sub-section 6 (observation of the United Kingdom Government);

(f) To substitute the words “ in the clothing trade ” for the words “ in the ready-made clothing trade ” in sub-section 8, line 3 (observation of the United Kingdom Government);

(g) To reconsider sub-section 10 (observations of the United Kingdom, Danish and Swedish Governments);

(h) To add to the enumeration a new paragraph reading as follows:

“ Machinery models in *papier-mâché*, plaster or other similar material ” (observation of the Swedish Government).

The *Brussels Conference* adopted the following text :

Article 2.

The following samples of goods, in particular, shall be exempt from Customs duty, save in so far as they are excluded from exemption under the general principles laid down in the above article and, *as ascertained by the Customs administration concerned*, remain within the limits of these principles :

1. Foodstuffs and drinks, including wine, cider, beer, mineral waters, juice of grapes or other fruits, edible oils, margarine and other edible fats, etc., provided that not more than one sample of each kind or quality is included in the consignment, and that the weight or volume of these products does not exceed the limits laid down by the importing country as compatible with the character of samples.
2. Base metals, skins, leather, rubber, wood, cork and similar substances, also materials, plaited or spun, in sheets, bundles, collections or individual pieces, of a shape excluding the possibility of any other use than that of samples, or in threads, bars, tubes, cables, cords of a maximum length of 10 cm., affixed or not on cards and not capable of any use other than as samples.
3. Collections of papers, envelopes, notepaper and illustrated postcards, rendered useless by pasting or affixing a moist stamp, wallpapers including easels, sent by a foreign supplier to customers and bearing his name or mark ; single pieces of paper or wallpaper suitable for showing an entire design but excluding any other use.
4. Samples of threads of all kinds arranged on cards in order of size, quality or colour, sent by a supplier to a customer, and not containing more than one sample of each size, quality or colour per card.
5. Woven textiles of all kinds and felt cloths made into collections or bundles, bearing the name or mark of the supplier, or imported in separate pieces, *provided they can only be used as samples or are rendered useless for other purposes by, for instance, cuts or perforations.*
6. Coloured samples containing patterns of woven textiles, leather or other materials to show the nature and effect of the colour.
7. Samples of manufactured goods such as shawls, handkerchiefs, ties, stockings, shoes, gloves, gaiters, serviettes, hats, etc., with deep cuts, or forming only half or a quarter of the object, and not capable of being used. *These cuts may also be required* in cases where the objects usually sold in pairs are imported singly.
8. Samples of wood, stone or pottery bearing several kinds of design, sculpture, etc., on one object, which cannot be put to any other use.
9. Screws, rivets, nails, buttons, buckles, hooks and, generally speaking, small objects serving as ornaments or accessories in the ready-made clothing trade, affixed on cards with a single sample of each size and of each kind and being genuine collections of samples. In case of doubt, the Customs authorities may insist that certain articles shall be rendered useless.
10. Small samples of essence of turpentine, colophony, tartar, wax and other products in the raw state.
11. Samples of fruit essences, artificial dyes, etheric oils and chemical products, *provided there is only one sample of each kind and quality in every consignment and that the weight or volume of the products does not exceed the limits fixed by the importing country as compatible with the character of samples.*
12. Samples of colours and inks for painting and drawing, in small tubes or bottles of such small content that there is no possibility of their sale.

Protocol ad Articles 1 and 2.

1. The rules laid down in Articles 1 and 2 shall not apply to samples made up on behalf of merchants or manufacturers in the country of import.
2. The provisions of Articles 1 and 2 shall not affect the "allowances" granted by the letter and postal-packet service of certain countries.

Ad Article 2.

In all cases where the Customs administration considers it necessary to render certain articles useless by tearing, perforation or other treatment, this operation must be carried out in such a way that the articles retain their full value as samples.¹

COMMENTS.

1. The text adopted at Brussels agrees in most points with the observations of Governments as summarised above.

¹ The words underlined in the text adopted at Brussels represent changes in the text of the preliminary draft.

2. The only differences relate to the United Kingdom observations regarding :
- (a) The insertion in the opening paragraph of the idea of *bona-fide* samples ;
 - (b) Minor changes of wording ;
- and the Swedish Government's observation regarding the insertion in the enumeration of a paragraph concerning machinery models in *papiermâché*, etc.

3. Remarks :

- (a) On possible points of dispute the introductory paragraph of Article 2, as now worded, expressly reserves the right of a Customs administration to decide to grant or refuse exemption from duty and, therefore, to judge whether samples are *bona fide* ;
- (b) The detailed list of samples without value is not exhaustive.

SECTION B. — CUSTOMS TREATMENT OF PRINTED MATTER INTENDED FOR USE AS ADVERTISEMENTS.

Article 3.

The preliminary draft read as follows :

The High Contracting Parties agree to admit free of import duty catalogues, price-lists and trade notices imported in single copies, of whatever weight, whether accompanying the goods or sent separately.

Catalogues, price-lists and trade notices sent separately but simultaneously through the post to different addressees shall be treated as consignments of single copies. They must, however, be sent in this form from the place of origin. Consignments of several copies of the same catalogue, price-list or trade notice, sent to different addresses but to be posted only in the country of destination and arriving in mass at the frontier, shall be excluded from free admission.

N.B. — The exemption from import duty shall not, however, apply to catalogues, price-lists and trade notices printed abroad on behalf of traders and manufacturers established in the country.

Catalogues, price-lists and trade notices referring to merchants or manufacturers established in the country as suppliers shall also be excluded from free admission.

The following observations have been made on this article :

United Kingdom. — In the United Kingdom, under an Order made on March 7th, 1934, in pursuance of recommendations of the Import Duties Advisory Committee (Additional Import Duties Order No. 6, of 1934), catalogues, trade lists and advertising materials are admitted free of duty if imported by post in a packet not exceeding 8 oz. gross weight. It would be impossible, from the point of view of administration, to accord duty-free admission to the above articles without specifying a limit of weight.

Japan. — Article 3 is already carried into effect in Japan.

Sweden. — It would be very desirable if the Customs exemption advocated in this article could be extended to despatches of a number of copies of printed propaganda matter for distribution to interested parties in the country of import.

The trend of these observations is, briefly :

- (a) To fix limits to the weight and the mode of transport in the case of commercial propaganda material admitted free of duty (observation of the United Kingdom Government).

- (b) To extend Customs exemption, on the other hand, to printed propaganda matter intended for distribution, even when imported in large quantities (observation of the Swedish Government).

The *Brussels Conference* adopted the following text :

1. The High Contracting Parties agree to admit free of import duty catalogues, price-lists and trade notices imported in single copies, of whatever weight, whether accompanying the goods or sent separately.

2. Catalogues, price-lists and trade notices sent separately but simultaneously through the post to different addresses shall be treated as consignments of single copies. They must, however, be sent in this form from the place of origin.

3. *The following may be excluded from free admission :*

- (a) *Catalogues, price-lists and trade notices printed abroad on behalf of traders and manufacturers established in the country of destination ;*

- (b) *Catalogues, price-lists and trade notices which do not clearly indicate the foreign firm manufacturing or selling the goods.*

Protocol ad Article 3.

1. *Catalogues, price-lists and trade notices, the number of which corresponds to the number of articles sent separately packed, shall be treated as imported in single copies.*

2. *Each of the High Contracting Parties shall be entitled to decide whether and under what conditions exemption from Customs duty may be granted to consignments of several copies of the same catalogue, price-list or trade notice sent to different addresses which are to be posted only in the country of destination and which arrive in bulk at the frontier.*¹

COMMENTS.

The Brussels Conference itself tried to reconcile the divergent points of view. The text adopted, which in some way is an improvement on the original draft, may also be regarded as an attempt at a compromise between the observations of Governments summarised above.

Article 4.

The preliminary draft read as follows:

The High Contracting Parties agree to admit free of import duty, without limitation of quantity, printed matter and posters for propaganda, the essential purpose of which is to induce the public to visit foreign countries or localities and fairs and exhibitions abroad, and to attend meetings and events of really public interest, provided that these documents are intended for distribution free of charge and that they are obviously intended for purposes of general publicity.

The following observations have been made on this article:

United Kingdom. — Printed matter, whether illustrated or not, the primary purpose of which is to advertise travel or exhibitions outside the United Kingdom has been exempted from duty in the United Kingdom by the Import Duties (Exemptions) Order No. 9, of June 28th, 1934, and this provision appears to fulfil the intentions of the authors of Article 4.

Japan. — The illustrations referred to in Article 4 are subject to an import duty of 50 per cent *ad valorem* under No. 392 of the import tariff annexed to the Japanese Customs Law. To exempt these articles from import duty would create certain difficulties as regards the protection of the Japanese printing industry.

The Brussels Conference adopted the following text :

Article 4.

The High Contracting Parties agree to admit free of import duty, without limitation of quantity, printed matter and posters for propaganda (*time-tables in book or poster form; guides, pamphlets, folders, etc., whether illustrated or not, illustrated posters*) the essential purpose of which is to induce the public to visit foreign countries or localities, and fairs and exhibitions abroad, and to attend meetings and events of really public interest, provided that these documents are intended for distribution free of charge and that they are obviously intended for purposes of general publicity.²

COMMENTS.

The Brussels text, which makes the original text clearer, has been reproduced in full in the new draft. According to the Japanese Government's observation, it conflicts with the Customs treatment applied by that country to illustrated printed propaganda matter as described in Article 4.

The purpose of this article being to promote international tourist traffic, in the development of which the Japanese Government is at present interested, it would be desirable if that Government would reconsider the text of the draft.

SECTION C. — GUARANTEES FOR COMMERCIAL TRAVELLERS AND THEIR COLLECTIONS OF SAMPLES.

Article 5.

The preliminary draft read as follows:

Persons engaged in industrial or business activities in the territory of any of the High Contracting Parties may—subject, if necessary, to the presentation of an identity card—in the territory of the other High Contracting Parties, either in person or by travellers in their employ, purchase from merchants

¹ The words underlined in the text adopted at Brussels represent changes in or additions to the text of the preliminary draft.

² The words underlined in the text adopted at Brussels are those inserted in the text of the preliminary draft.

or in places where goods are on sale, as well as from producers, the goods in which they deal. They may take orders from merchants and producers, who trade in, or use in their establishments, goods of the same kind as those offered. Persons engaged in industrial or business activities and their commercial travellers shall not require special authorisation for any of these activities, nor shall they be obliged to pay on account of these activities any special taxes or duties not payable by national undertakings or their representatives.

Nevertheless, if the commercial traveller stays only a short time in the country, he shall be liable as regards any special tax or licence fee payable by national commercial travellers for one year, only in respect of an amount corresponding generally to the number of months which he actually spends in the country.

The provisions of this article shall not apply to itinerant trading or to hawking or to the soliciting of orders or purchases from persons not engaged in trade or industry, on which subject each of the High Contracting Parties reserves full freedom of legislation.

Protocol ad Article 5.

It is understood that no fee of the nature of those provided in the two first paragraphs shall be levied in the case of manufacturers, traders or their travellers who have no intention of soliciting orders or making purchases.

The following observations have been made on this article :

United Kingdom. — It is assumed that the concluding words of the first paragraph ("nor shall they be obliged to pay . . . any special taxes or duties not payable by national undertakings or their representatives") and the whole of the second paragraph apply to the special fees levied on commercial travellers as such and not to other charges—such as, *e.g.*, excise licence duties which may be imposed in respect of their activities. In order, however, to avoid any possible ambiguity on this point, an explanation to this effect should be included in the Protocol *ad* Article 5.

Denmark. — These provisions are incompatible with the provisions of the Danish Law of April 28th, 1931, on the Exercise of Trade and Industry, §§ 31 *et seq.*, since the right of the commercial travellers of foreign firms to engage in their occupation in Denmark is, under the provisions of that Law, subject to the following conditions : the commercial traveller must obtain a licence and pay for the purpose the fee fixed in the Law of May 20th, 1933, amending the Law of April 28th, 1931, on the Exercise of Trade and Industry ;¹ he must also submit a certificate from the authorities, or prove in some other way to the satisfaction of the Ministry of Trade and Industry, that the foreign firm represented by him is authorised in its own country to deal in the goods in question ; lastly, he must possess credentials from the firm he represents and may book orders only by applying personally to individuals engaged in trade or industry in Copenhagen, in provincial towns, in localities situated on the railways or in commercial localities regarded by the Ministry of Trade and Industry as towns, and having a population of at least 2,000.

Denmark will be unable to accede to the provisions of Article 5 ; at the same time, the Danish regulations in force in this connection apply whether the commercial traveller in question is a Danish or a foreign subject. Denmark will therefore have no difficulty in acceding to provisions placing the commercial travellers of foreign firms, whether they be of Danish or of foreign nationality, on an equal footing.

As regards the provisions of Article 5 concerning the purchase of goods, it is assumed that they will not be incompatible with the provisions of paragraph 45 of the Danish Law on the Exercise of Trade and Industry, under which, even in the case of Danish subjects, goods—other than Danish agricultural, stockbreeding or fishery produce—may be bought by itinerant purchasers only if they hold a special licence (*Vandrebreve*) ; this licence can be obtained only in the province in which the person concerned is domiciled and authorises him to carry on his occupation in that province only.

Japan. — The system at present in force in Japan is, on the whole, in accordance with the general sense of this article.

¹ Law of May 20th, 1933, amending the Law of April 28th, 1931, on the Exercise of Trade and Industry.

§ 1.

Paragraph 33, sub-paragraph 1, of the Law of April 28th, 1931, on the Exercise of Trade and Industry shall read as follows :

" Licences shall be issued for periods of fifteen days, forty-five days or one year. Their issue shall be subject to payment of a fee to the Treasury, amounting to 40, 100 and 300 Kroner respectively if the licence refers to one foreign firm only ; if the person concerned represents several foreign firms, an additional fee of 20, 50 or 150 Kroner respectively shall be levied for each of the other firms."

Sweden. — This article provides *inter alia* that foreign traders and manufacturers and commercial travellers in their employ shall not be amenable to any special taxes or charges not payable by national undertakings or their representatives. This provision is taken from a previous draft International Convention on Treatment of Foreigners, in which, at the suggestion of Sweden, an additional provision was inserted to the effect that the right to levy a special fee in proportion to the length of their stay on foreign commercial travellers would be reserved for the signatory countries then applying such a system. In respect of those countries, the other signatory States would not be subject to the restrictions laid down in the Convention on the taxation of commercial travellers.

It would seem highly desirable that an additional provision corresponding to the above be inserted in the text of Article 5 of the present draft.

Briefly, the effect of these observations is:

(a) To have the nature of the charges leviable on foreign commercial travellers defined in an additional protocol (observation of the United Kingdom Government);

(b) To have an additional provision inserted specifying that the right to levy a special fee, proportionate to the length of stay, on commercial travellers, etc., coming from other countries in order to engage in their occupation, should be reserved to the signatory countries in which the said system was already in force when the Convention was signed, and that, in respect of such countries, the other signatory States shall not be bound to apply in this respect the rules laid down in the Convention (observation of the Swedish Government).

Denmark has, further, declared that she cannot accept this article.

The *Brussels Conference* adopted the following text :

1. Persons engaged in industrial or business activities in the territory of any of the High Contracting Parties may—subject, if necessary, to the presentation of an identity card—in the territory of the other High Contracting Parties, either in person or by *representatives or* travellers in their employ, purchase from merchants, or in places where goods are on sale, as well as from producers, the goods in which they deal. They may take orders from merchants and producers who trade in, or use in their establishments, goods of the same kind as those offered.

2. Persons engaged in industrial or business activities and their *representatives or* commercial travellers shall not require special authorisation for any of these activities, *which would not be required in the same circumstances* from national undertakings or their representatives.

3. *In the cases referred to in paragraph 1, the exercise of the activities in question shall be exempt, on presentation, if necessary, of an identity card, from all taxes, duties or charges payable to any public authority whatsoever.*

4. The provisions of this article shall not apply to itinerant trading or to hawking or to the soliciting of orders or purchases from persons *other than the merchants or producers referred to in paragraph 1*, on which subject each of the High Contracting Parties reserves full freedom of legislation.

Protocol ad Article 5.

1. *It is understood that Article 5 refers both to moral and to physical persons.*

2. *The identity card referred to in Article 5 shall be that provided for in Article 10 of the International Convention relating to the Simplification of Customs Formalities of November 3rd, 1923.*

3. *The provisions of paragraph 3 of Article 5 shall not prevent the levying of the stamp duties which might be payable alike by nationals and foreigners in connection with the issue of the authorisations referred to in paragraph 2 of Article 5.*¹

COMMENTS.

The Brussels text anticipates the United Kingdom Government's observation.

On the other hand, the exemption granted to commercial travellers from all charges or taxes makes it deviate further from the recommendations of the Danish and Swedish Governments than the original draft.

It would seem possible, however, to satisfy those Governments by inserting in the Protocol of the Convention a provision to the effect that the States levying such charges would declare that, in view of the provisions in their legislation dealing with the exercise of trade and industry, they reserve the right, when ratifying, not to accept Article 5.

There are precedents for this in the 1923 Convention relating to the Simplification of Customs Formalities, but the duration of the reservations there specified was fixed at five years. In the present case, limited duration would also be desirable.

¹ The words underlined in the text adopted at Brussels amend or complete the text of the preliminary draft.

On the other hand, the other contracting States, while declaring that they accept the reservation thus made, would be authorised to stipulate that they themselves will not be bound by the provisions of this article in respect of the States benefiting by such reservation until those States have relinquished that reservation. Such a provision has been inserted in the Protocol *ad* Article 5 of the above-mentioned Convention, which therefore diverges on this point from the Brussels text.

Article 6.

The preliminary draft read as follows :

In applying the provisions of the previous article, as also in connection with the temporary exemption from duty of dutiable samples and patterns which manufacturers, traders or commercial travellers import in the exercise of their profession, the High Contracting Parties shall observe the stipulations of Article 10 of the International Convention relating to the Simplification of Customs Formalities, of November 3rd, 1923.

This article has given rise to the following observation :

Japan. — The general purpose of this article is fulfilled in the provisions contained in Article 8, items 5, 6 and 6a, of the Japanese Customs Law.

The *Brussels Conference* adopted the following text :

Article 6.

As regards the temporary exemption from duty of dutiable samples and patterns which manufacturers, traders or commercial travellers import in the exercise of their profession, the High Contracting Parties shall observe the stipulations of Article 10 of the International Convention relating to the Simplification of Customs Formalities, of November 3rd, 1923.

COMMENTS.

The slight difference of drafting between the preliminary draft and the Brussels text does not call for remark.

In the new draft, the text adopted at Brussels has accordingly been inserted.

Article 7.

The preliminary draft read as follows :

The High Contracting Parties undertake to reduce as far as possible the charges arising in connection with the obligation to effect provisional payment of import duties, or to make a deposit as security for the payment thereof, on the import of collections of samples or patterns of commercial travellers, under the system of temporary exemption. In particular, they are prepared to agree to the introduction of some form of simplified Customs clearing such as pass-bill books, provided always that the professional organisations concerned offer adequate guarantees, and come to previous arrangements with the Customs authorities for the execution of the new form of Customs clearing.

This article has given rise to the following observations :

Austria. — As regards the pass-bill book referred to in Article 7 of the preliminary draft mentioned in (1), it is clear that this procedure would be helpful to commercial travellers, as it would enable them to import collections of samples without having to deposit security with the Customs Office, and therefore to avoid the formalities necessary for recovery of such security. Nevertheless, the same facilities can be obtained by other means than the pass-bill book proposed—*e.g.*, by triptychs, a general deposit, etc.

In order to safeguard its revenue interests, the Federal Government could not consider extending the pass-bill-book system to collections of samples unless the proposed agreement fulfilled the following conditions :

(1) It would be necessary to set up an international organisation grouped by countries to issue the pass-bill books, a national body in each country undertaking, at the same time, to furnish a guarantee to the revenue authorities of the particular country as regards any samples that may have remained in the country.

(2) It would be necessary to have a detailed assessment of each article contained in the collection of samples imported, together with a calculation of the amount of the relevant turnover tax.

(3) The samples imported would have to be identified with sufficient certainty.

(4) The samples would have to be re-exported within the time-limit fixed for the purpose.

(5) Dues and taxes should be paid on samples not re-exported.

As regards (1), it would be essential for the international organisation referred to to include an Austrian organisation. It would seem necessary to follow the analogy of passes for motor-vehicles, in which case the guarantee is given by the automobile club, this latter in turn being protected by its reinsurance policies, and by an Austrian guarantor.

Ad (2), in view of the number and variety of the articles in a collection of samples, the facilities for their Customs clearance by means of a pass-bill book should be obtainable only when the guarantor or the organisation in question undertakes to pay duty on the basis of the item most heavily taxed if the samples are not re-exported. The amount of the Customs duty applicable would be fixed on the basis of the weight, the number of articles and their value ; and, in addition to the pass-bill book, which is merely a document proving that a guarantee has been given, a document would be necessary specifying the amount of duty leviable.

Ad (3), the Convention relating to the Simplification of Customs Formalities provides that the identity marks of the country of origin must be recognised by the Customs authorities of the other contracting countries provided the samples are accompanied by a descriptive list certified by the Customs authorities of that country.

To satisfy the conditions specified in (4) and (5), separate portions of the collections of samples should not be allowed to remain in the country—*e.g.*, as a result of their sale ; the agreement to be concluded should therefore contain a clause stipulating that the collections of samples imported must be re-exported complete (a similar obligation already exists in the present Austrian laws—*viz.*, for collections of samples for commercial travellers crossing the frontier repeatedly in virtue of the same Customs bond (*Vormerkschein*) and within a period specified in advance). The great advantage of such a conventional undertaking would be that it would usually save Customs offices the formalities necessary for assessing and collecting the duties concerned.

United Kingdom. — It is to be feared that the proposals in this article would give rise in practice to serious difficulties. The scheme which it embodies is apparently based upon the system applied to the international circulation of touring motor-cars. In the case of these vehicles, claims for duty payable are guaranteed by various authorised motor associations. Claims in such cases are, however, rare, since touring motor-cars are in most cases duly re-exported. On the other hand, the commercial samples which it is here proposed to cover by a similar scheme comprise a very wide range and variety of articles. In these circumstances, the application of such a scheme would raise very great difficulties. Many of the commercial samples brought in by commercial travellers are left in the country and duty would have to be collected upon them. This would involve correspondence with the guarantor over large numbers of small claims, thereby occasioning much extra administrative work. Further difficulties would arise, *e.g.*, in cases where travellers proceed abroad without producing their samples to the Customs, in which case the account of the duty due as made up by the commercial traveller himself would be liable to disagree with that of the Customs Administration.

Moreover, it would seem from the scheme that the various Governments would have to judge whether the professional organisations in their country “ offer adequate guarantees ”, which might involve the Government concerned in some sort of responsibility should a professional organisation fail properly to carry out its obligations under the scheme. Finally, difficulties would appear likely to arise in making the necessary adjustments between countries where the traffic in samples is of unequal volume in the two directions.

Japan. — The application of the rule laid down in Article 7 regarding the adoption of pass-bill books would meet with certain difficulties arising out of the system of a guaranteed deposit referred to in Article 8 and other articles of the Japanese Customs Law.

Sweden. — The Swedish authorities are at the moment unable to express an opinion on the provisions of this article, and would like to await the result of the discussions which will be held at the proposed meeting of experts.

Briefly, the Governments’ observations show that, though not opposed to the adoption of simplified Customs formalities giving collections of samples the benefit of temporary exemption from Customs duties, the Governments consulted fear that the adoption of pass-bill books might give rise to difficulties in application.

The *Brussels Conference* adopted the following text :

Article 7.

The High Contracting Parties undertake to reduce as far as possible the charges arising in connection with the obligation to effect provisional payment of the duties *and charges leviable or to make a deposit as security for the payment thereof, on the import under the system of temporary exemption of collections of samples and patterns referred to in Article 6.* In particular, they are prepared to agree to the introduction of *simplified Customs formalities.*¹

¹ The words underlined in the Brussels text differ from the text of the preliminary draft.

COMMENTS.

The text adopted at Brussels differs from the text of the preliminary draft in that no further general reference is made to the possible adoption of a simplified procedure for Customs clearance of collections of samples and patterns, and that no more detailed reference is made to such a procedure, thus leaving the contracting parties full freedom of action. The general sense of the text corresponds to the spirit of the observations made by the Governments and summarised above.

This new form of words, like that in the original text, gives Article 7 the character of a general declaration rather than an exact conventional undertaking. In such circumstances, it seemed advisable to reintroduce it in the new draft in the form of an Annexed Declaration, and in this form it seemed possible and advisable to complete it by a paragraph specifying that the contracting parties are prepared in principle to agree to the introduction of triptychs and pass-bill books as a simplified procedure for collections of samples and patterns, provided that the necessary guarantees are given and that the provisions for the application of this new system of Customs clearance effect a simplification of the formalities hitherto in force.

The following are the reasons for reintroducing this paragraph :

1. The 1923 Convention relating to the Simplification of Customs Formalities introduced all the simplifications compatible with maintenance of the existing system of temporary exemption from Customs duty, subject to a deposit of such duty and the issue of a Customs voucher usually called a "passavant". Under Article 16, contracting parties were recommended, *inter alia*, to recognise the identity marks placed on samples and patterns by the Customs administrations of other countries, and to agree that the deposit of the duty temporarily payable could be replaced by a secured bond. Further simplification may therefore be expected only if a new system is adopted for the temporary admission of collections of samples and patterns.

2. The circles concerned believe that the most important reform would be one which would relieve them from the obligation of depositing the amount of the duty, which sometimes ties up large amounts of capital, or from giving the secured bond, which is often costly. (Under the present system, a commercial traveller who has to visit several countries in succession with a valuable collection of samples (*e.g.*, jewellery), and who therefore has to deposit very large security to cover the duty, may, when leaving one of the countries, receive the amount deposited only after some delay, and may be compelled either to interrupt his journey to wait for repayment ; or, if he proceeds on his journey, he may have to make a fresh deposit at the Customs office of entry of the country in which he proposes to travel before having his deposit refunded by the first country. In both these cases, he himself, or the firm employing him, has to make a considerable additional payment). The only solution would seem to be to adopt a system of triptychs and pass-bill books guaranteed by an organisation of the same kind as that in operation for motor-cars.

Some parties interested, more particularly the International Chamber of Commerce and the International League of Associations of Commercial and Industrial Travellers and Representatives, have considered the question of introducing the triptych and pass-bill book for commercial travellers' collections of samples and patterns. Through its national committees the above-mentioned League has tried to lay the foundation of a guaranteeing organisation. According to certain information, it has succeeded in interesting the Austrian and Czechoslovak Governments in the matter, and they have decided to make a joint study of the practical conditions for introducing triptychs in their mutual relations. In Belgium, France and Switzerland, the central organisations of industry and commerce are also said to have shown themselves in favour of the introduction of triptychs and pass-bill books for commercial travellers and to be ready to take up the matter with the administrations concerned.¹

The reinsertion in the text of the Convention of a provision whereby the contracting parties declare their willingness in principle to consider the practical conditions for adopting such a Customs clearance procedure is designed to encourage these organisations to pursue their action by giving them an assurance that their application, when made, will be favourably received by the Customs administrations.

3. The chief obstacle to the practical adoption of this new form of Customs clearance is the necessity of finding in each country an organisation qualified to give full guarantees for the recovery of any duties and charges that may be levied in cases where samples imported under the triptych or pass-bill-book system are not re-exported.

As the central organisations of industry and commerce in several countries seem to be interested in the introduction of this system, they will undoubtedly succeed in setting up national guaranteeing organisations that will satisfy all the requirements of the administrations concerned.

¹ See, for instance, *Bulletin de la Ligue internationale des Associations de voyageurs et représentants du commerce et de l'industrie*, No. 5, February 1935, page 3.

4. Any technical difficulties due to the fact that, in some cases, commercial travellers hand over some of their samples could presumably be obviated by making acceptance of the triptych or pass-bill book conditional on full re-exportation of the samples imported. The guarantor bodies themselves will also, in order to reduce their responsibility, be prepared to make the issue of such documents conditional on such an undertaking. Sanctions such as the levying of the highest tariff rates on articles not resubmitted, together with an administrative fine or the withdrawal of the commercial traveller's licence, might, if necessary, be taken into consideration, subject to the right of the party concerned to prove *force majeure*.

5. The effect of introducing the triptych and pass-bill book for collections of samples and patterns would not only be to abolish the deposit of duty or a secured bond, but it would also mean a simplification of Customs formalities.

At the present time, the commercial traveller has to submit his collection of samples to the Customs offices of the foreign countries he enters, not only to have the identity marks placed on them or checked, but also for the exact assessment of each of his samples. In some cases, this assessment may be very complicated, and it invariably means drawing up a declaration and making out a receipt in accordance with the items of the tariff, together with the weighing of the articles and calculation of the duty. At the Customs office of exit, exportation also involves a check and the making out of Customs documents certifying export and also the repayment of the duty deposited or the cancellation of the sum deposited as security.

With the triptych or pass-bill book, the commercial traveller holding it could, before leaving, fill up the number of forms necessary to corroborate his various passages through the Customs. He could, if necessary, attach to each of them a detailed list of his samples, drafted in commercial terminology sufficiently clear to enable the samples to be identified. In these circumstances, the establishment of the Customs forms referred to above would be abolished, and as the guarantee of total re-exportation would be given on conditions eliminating all risk of infringement, there would be no need to make an assessment or to calculate the duty.

Customs formalities would therefore be reduced both on import and on export to a mere check of the identity of the samples, removal of the leaf of the triptych or pass-bill book proving import or export, and endorsement of the counterfoils of those leaves.

Annex.

OBSERVATIONS FROM THE UNITED STATES OF AMERICA CONCERNING
THE PRELIMINARY DRAFT ON COMMERCIAL PROPAGANDA.

Section A (articles 1 and 2) of the proposed agreement covers the exemption from Customs duty of samples of goods of all kinds, provided they have no commercial value, or a quite trifling commercial value, and can be used only for soliciting orders, for demonstrations, experiments or analyses, with the exception, however, of those which form the subject of a State monopoly.

Many imported samples are of a size or character which would be readily recognised as of no commercial value and so treated by appraising officers.

Section 308 of the Tariff Act of 1930, paragraph (3), provides for the free importation of samples solely for use in taking orders for merchandise or for examination with a view to reproduction, provided bond for their exportation within six months from the date of importation is taken, which period may, in the discretion of the Secretary of the Treasury, be extended, upon application, for a further period not to exceed six months.

Section A of the proposed agreement refers to samples to be used "for demonstrations, experiments or analyses". There is no provision in the Tariff Act according free or temporary free entry to samples imported for demonstration, unless such demonstration were connected with the use of samples entered under Section 308 (3) for taking orders for merchandise; nor does the Tariff Act contain any provision for the free or temporarily free entry of samples for analysis, except for such analysis as would constitute an experiment within the meaning of Section 308 (4), which authorises the temporary free entry under bond of articles, a term which would embrace samples, intended solely for experimental purposes.

While the proposed agreement provides for free entry of samples, provided they have no commercial value, or a quite trifling commercial value, the Office of the Appraiser of Merchandise at New York calls attention to the fact that there are many samples used for taking orders that have a market value, and it is the opinion of his office that an agreement should not be entered into that samples of any given dimensions or quantity are without value and free of duty, but that the question of value should be determined by Customs authorities.

Section B (articles 3 and 4) refers to Customs treatment of printed matter intended for use as advertisements. The proposed agreement relative to the free admission of catalogues, price-lists and trade notices imported in single copies, with the exceptions therein noted, seems adequately to cover the matter.

There is no provision in the Tariff Act for free importation of printed matter such as is contemplated in Section B, other than the authority for entering into reciprocal agreements relating to advertising matter contained in Section 320 of the Tariff Act. The Department perceives no objection to the proposed agreement for admission free of duty of single copies of the printed matter, with the exceptions noted, among which is one that the exemption from duty shall not apply to such matter printed abroad for traders and manufacturers established in the country into which they are imported. A change in the law would be necessary to carry the provisions proposed in Section B into effect.

Section C (articles 5 to 7) of the proposed agreement deals largely with the question of facilitating the operations of commercial travellers in foreign countries by eliminating liability for fees and dues, with which this Department is not concerned.

With regard to samples accompanying travelling salesmen, the Department entertains the views expressed above on the subject of all samples.

The suggestion that groups of interested parties, such as chambers of commerce, might arrange to give protection to the several Governments for the purpose of facilitating the passage through Customs of commercial travellers having samples of their wares, does not appear to require any change in our law. If the security offered by such organisations was found to be acceptable by the Secretary of the Treasury, regulations as to the bond required could be made under existing laws.
