

Geneva, July 15th, 1935.

LEAGUE OF NATIONS**DRAFT CONVENTION FOR THE
PURPOSE OF FACILITATING COMMERCIAL PROPAGANDA****MEETING OF GOVERNMENT DELEGATES FOR THE EXAMINATION
OF THE DRAFT CONVENTION***Held at Geneva, July 1st to 4th, 1935.*

NOTE BY THE SECRETARY-GENERAL.

At the London Monetary and Economic Conference, Sub-Commission III, B, expressed the opinion (see document C.435.M.220.1933.II.B, page 30) that, as regards certain questions of Customs formalities, the work of the Economic Committee of the League of Nations was sufficiently advanced to allow of the convening of a special Conference on these matters at an appropriate date. The Bureau of the Conference accordingly authorised the President of the Economic Commission to take the necessary steps to ensure the adoption of such proposals as had reached a sufficient degree of maturity.

Prior to the London Conference, the Economic Committee had proceeded to a consultation of the competent departments in all countries with a view to ascertaining their opinion on a number of proposals which were intended to be taken as the basis for draft Conventions laying down common rules in regard, amongst other things, to the clearance through the Customs of samples without saleable value and printed matter for use as commercial propaganda.

On being consulted as to the best method of giving effect to the decision of the Bureau of the London Conference, the Economic Committee first proceeded to review and amplify the former proposals and combine them in the form of the chief provisions of a draft international agreement. Having done this, it suggested that the President of the Economic Commission should submit the draft, for consideration, to a number of Governments, the co-operation of which appeared to be necessary and for the choice of which it indicated various criteria (document C.643.M.306.1933.II.B, page 6).

In a letter dated November 23rd, 1933, the Secretary-General submitted this draft to the Governments designated by the President of the Economic Commission, while at the same time requesting them to send representatives to a meeting, the date of which was to be fixed later, for the purpose of finally examining the text.

As the results of this consultation showed that there were reasonable prospects of ultimate agreement, the Secretary-General, in a letter dated April 8th, 1935, invited the Governments consulted to send representatives to a meeting to be held at Geneva on July 1st, 1935, with the object of finally reviewing the draft which, if approved, might then be recommended by the delegates to their respective Governments for signature.

This meeting closed with the signature of a joint declaration regarding the draft Convention as revised and amplified by the delegates. The texts of the declaration and draft Convention are appended to the present note.

The Secretary-General will place the question of the action to be taken with regard to the draft adopted at the meeting in July 1935 on the agenda of the next session of the Council.

DECLARATION.

In compliance with the invitation addressed to them by the Secretary-General of the League of Nations on April 8th, 1935, the Governments of the following countries:

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| Austria | Czechoslovakia | Netherlands |
| Belgium | Denmark | Poland |
| United Kingdom of Great Britain and Northern Ireland | France Italy Japan | Sweden Switzerland United States of America |

appointed as delegates:

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|-------------------------|---|
| <i>Austria</i> : | M. P. E. ATTESLANDER, Consul at Geneva (Observer); |
| <i>Belgium</i> : | M. le Comte L. D'URSEL, Minister at Berne; M. LORIDAN, Consular Attaché; |
| <i>United Kingdom</i> : | M. A. J. DEDMAN, Assistant Secretary to the Board of Customs and Excise; |
| <i>Czechoslovakia</i> : | Dr. Ladislav RADIMSKÝ, Secretary at the Ministry for Foreign Affairs; |
| <i>Denmark</i> : | M. William BORBERG, Permanent Delegate of Denmark to the League of Nations, Geneva; |
| <i>France</i> : | M. LECUYER, Administrator at the General Directorate of Customs, Ministry of Finance; |
| <i>Italy</i> : | Dr. I. BAGLI, Director-General of Customs and Indirect Taxation Rome; Dr. E. SIMONI, Ministry of Corporations, Rome; |
| <i>Japan</i> : | M. M. YOKOYAMA, Consul-General of Japan at Geneva; M. NISHIMURA, Secretary of Embassy and Consul at Geneva; |
| <i>Netherlands</i> : | M. W. H. VAN DEN BERGE, Inspector of Direct Taxes, Customs and Excise at The Hague; |
| <i>Poland</i> : | Dr. W. KULSKI, Counsellor of the Polish Delegation to the League of Nations; Dr. W. RASIŃSKI, former Director of the Department of Customs at the Ministry of Finance; |
| <i>Sweden</i> : | M. WESTMAN, Swedish Minister at Berne, Permanent Delegate, to the League of Nations; |
| <i>Switzerland</i> : | M. Alexandre BERNER, Director of the Third Customs District Coire; |
| <i>United States</i> : | Mr. Erwin E. MAY, Treasury, Attaché at Berlin; Mr. Douglas P. MILLER, Acting Commercial Attaché at the American Embassy in Berlin; |

to take part in a meeting which was held at Geneva from July 1st to 4th, 1935.

I.

The delegates proceeded to re-examine the draft International Agreement for the Purpose of facilitating Commercial Propaganda previously drawn up by the Economic Committee of the League of Nations, taking into account the observations submitted by the Governments to which the draft in question had been communicated and the discussions to which it gave rise. The delegates drew up the attached text in the firm belief that the putting into force of this Convention would help to facilitate international trade.

They have agreed accordingly to recommend the adoption of the draft Convention to their respective Governments.

Mr. DEDMAN (United Kingdom) associated himself with the above recommendations except as regards the following points, concerning which he wished to consult his Government, for the reasons shown in parentheses:

Article 1.

(Because of the omission of the reference to excise duties which was in the draft.)



Article 2.

(Because of the items "spirits" in paragraph 1 and "manufactured goods", in paragraph 7.)

Article 3.

(Because of the phrase "of whatever weight", in paragraph 1.)

Article 7.

(Because of the preferential treatment provided in paragraph 3 of this article for foreigners as compared with nationals in the matter of taxes, duties or charges payable to any public authority.)

M. BORBERG (Denmark) also wished to consult his Government (on account of the omission from Article 1 of the reference to excise duties appearing in the draft).

M. BAGLI (Italy) stated that he understood paragraph 3 of Article 7 as not excluding, for Italy, the possibility of levying stamp duties in cases in which they are at present payable, nationals and foreigners being treated alike, when special authorisations are given under the conditions laid down in paragraph 2 of Article 7.

M. BORBERG (Denmark), M. KULSKI (Poland), Mr. MAY (United States of America) and M. YOKOYAMA (Japan), as regards Article 5, wish to consult their Governments because this provision did not appear in the draft which was submitted to them for consideration.

M. RADIMSKÝ (Czechoslovakia) makes the same reserve as regards the application of this provision to Article 4.

II.

The undersigned delegates recommend that the Economic Committee of the League of Nations, in consultation with the Educational Cinematographic Institute at Rome, should, while pursuing the studies which it has undertaken in the matter of international tourist traffic, examine the possibility of extending the benefit of import duties exemption to films despatched by the recognised tourist organisations of the different States, when such films are of the same nature as the printed matter intended for tourist propaganda, referred to in Article 4.

They further recommend that a similar study should be made in regard to photographs, transparencies, etc., despatched by the organisations, and also in regard to tourist forms ("carnets", triptychs, etc.) and propaganda publications of general interest, even if these contain a small amount of advertising matter.

Geneva, July 4th, 1935.

Comte L. D'URSEL,
W. LORIDAN.

M. YOKOYAMA,
K. NISHIMURA.

A. J. DEDMAN.

W. H. VAN DEN BERGE.

William BORBERG.

W. KSULSKI,
W. RAIŃSKI.

Erwin E. MAY,
Douglas P. MILLER.

K. WESTMAN.

G. LECUYER.

A. BERNER.

I. BAGLI,
E. SIMONI.

L. RADIMSKÝ.

DRAFT CONVENTION
FOR THE PURPOSE OF FACILITATING COMMERCIAL PROPAGANDA.

PREAMBLE.

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(List of countries)

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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:

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

Article 1.

1. The High Contracting Parties agree to exempt from import duties on importation samples of goods of all kinds, provided they are, in the opinion of the Customs Administration concerned, of no saleable value and can only be used for soliciting orders.

2. This however does not apply to samples of goods which form the subject of a State monopoly or the import and transit of which is prohibited or subject to special regulations 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 import duties, in so far as they are not excluded from exemption under the general principles laid down in the preceding article.

1. Foodstuffs and beverages, including wine, spirits, 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, sets 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 than as samples.

3. Sets 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 portions 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.

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

6. Coloured samples containing specimens of woven textiles, leather or other materials to show the nature and colour effect, provided that, owing to their size and nature, they can be used only as samples or are rendered useless for other purposes; for example, by cuts or perforations.

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.

8. Samples of wood, stone, pottery, earthenware, china or glass, 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 clothing trade, affixed to cards containing a single sample of each size and of each kind and constituting genuine collections of samples.

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 Articles 1 and 2.

1. The Customs Administration may require that the articles be made useless by tearing, perforation or other treatment, this operation, however, being carried out in such a way that the said articles do not lose their value as samples.

2. 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.

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. The following may be excluded from free admission, even if imported in single copies:

(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 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.

2. Catalogues, price-lists and trade notices, accompanying the goods, the number of which corresponds to the number of the articles packed together shall be treated as imported in single copies.

3. 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 addresses which are to be posted 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.

Article 5.

The words "import duties" used in Articles 1, 2, 3 and 4, not only include Customs duties, but also all duties and taxes which are payable at the time of and by reason of the importation (*i.e.*, interior taxes, excise duties, statistical taxes, import taxes, etc.).



Article 6.

The High Contracting Parties undertake to grant the greatest possible facilities when determining the formalities required in respect of the importation of samples, and more particularly as regards the designation of the Customs offices at which such operation may be effected and the means of transport which may be used.

The High Contracting Parties shall publish promptly all regulations introduced in this respect in such a manner as to enable persons concerned to become acquainted with them and to avoid the prejudice which might result from the application of formalities of which they are ignorant.

Article 7.

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, provided that the persons who have no fiscal domicile or no establishment of any kind in the country in which they carry on their activities, will alone be able to avail themselves of this exemption.

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 7.

1. It is understood that Article 7 refers both to juridical and to natural persons.

2. The identity card referred to in Article 7 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 paragraph 3 of Article 7 shall not apply either between Japan, Sweden, . . . or between these countries on the one hand and the other High Contracting Parties on the other hand.

4. The provisions of Article 7 shall not apply between Denmark and the other High Contracting Parties.

Article 8.

As regards the temporary exemption from duty of dutiable samples and specimens 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.

Article 9.

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.

3. This article shall not apply to the decisions of Customs administrations provided for in Article 1.

4. It is understood that disputes will only be referred by States to arbitration or judicial settlement when any remedies provided by national legislation have been exhausted.

Article 10.

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

Article 11.

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 12.

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 13.

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 11.

Article 14.

1. 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 13. It shall come into force on that date.

2. 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 15.

1. The present Convention shall remain in force for a period of three years after its entry into force.

2. It shall remain in force for further successive periods of one year 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 11.

Article 16.

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 11 and 12, 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 15.

Article 17.

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 11.

