

GENERAL AGREEMENT ON TARIFFS AND TRADE

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SAMPLES CONVENTION

Views of Contracting Parties on the Interpretation of Article III

The following statements have been received from the Governments of Czechoslovakia, Denmark, Finland, India, Japan and Sweden:

Czechoslovakia

"Czechoslovakia agrees that the term 'samples' under the definition of paragraph 1 of Article III of the Convention should be interpreted as extending also to reduced-scale models of articles as well as to articles such as 'toiles de couture' which are imported in bond and, as laid down in Article III, are to serve only the purpose of soliciting orders for the articles which they represent."

Denmark

"The Danish Government is ready to accept an interpretation of paragraph 1 of Article III to the effect that the Convention does extend to reduced-scale models of articles and to articles such as 'toiles de couture' which are made up in materials inferior to the articles for which orders are to be sought when these models or articles are imported for the purpose of soliciting orders for goods from abroad."

Finland

"The wording in paragraph 1 of Article III 'or are examples of goods the production of which is contemplated' may be considered to cover - in addition to the samples identical with the articles in question - miniature models, patterns and model pieces - usually made of inferior and cheaper material than the material which would be used in the articles intended for sale - when imported for the purpose of soliciting orders. The definition 'the production of which is contemplated' seems to refer to this liberal interpretation, because it may be considered to cover also the case in which the articles are not yet produced, but are demonstrated by miniature models, patterns, or samples made of other material."

"On the other hand, it may be considered to be questionable whether the Convention applies to samples or patterns for dresses (etc.) made of paper or cloth (etc.), which are sent from abroad for the purpose of making copies of them in the country of importation for further distribution. Paragraph 1(a) of Article III states, as the condition for duty-free import, that '(the samples) are imported solely for the purpose of being shown or demonstrated', and paragraph 1(b) states that '(the samples) are not sold or put to normal use except for the purpose of demonstration'. It is possible to interpret this so that the demonstration ought to be done in using them and that the making of copies of them should not be allowed, not even for demonstration in the country of importation. According to this interpretation the duty-free admission would not refer to the articles mentioned in L/446 (Annex II, paragraph 3, sub-sections 1(b) and 2(c)).

"Another question arises in that, in practice, it is impossible to control in which way the samples, their miniature models and patterns are used after their importation. For this reason it would be desirable to try to obtain a wider interpretation.

"Finland's autonomous customs tariff legislation allows, however, under certain conditions the duty-free admission for temporary importation of samples and models in all the cases referred to in paragraph 3 of Annex II to L/446. In the Finnish Customs Tariff Act the exemption from duty is granted to articles which are imported for repairs, for completion and for use as moulds or models in Finland, and which thereafter will be re-exported, without further limiting the use of these articles. Besides this, the Central Board of Customs has the right to grant exemption from duty in individual cases to other articles which are comparable to those mentioned above. The conditions for temporary duty-free admission are in conformity with the provisions of the Convention. The period during which re-exportation is allowed has been fixed at six months, but this can be prolonged by the said Board on special request.

"The provisions of the autonomous customs tariff legislation are in force in Finland in cases where these provisions are wider than those established in treaties with foreign powers, by means of which the exemption from duty is admitted in each case mentioned in paragraph 3 of Annex II to L/446."

India

"The customs authorities in India have not so far had occasion to deal specifically with questions of the type under reference so that it has not been possible for the matter to be examined with reference to any established practice. The views of this Government are accordingly based on a study of Article III of the Convention after taking into account inter alia the considerations set out in the enclosure to your letter under reply.

"In the view of this Government, the word 'examples' used in paragraph 1 of Article III of the Convention has reference to identical articles the production of which is contemplated and not to scale models or articles such as 'toiles de couture'. I am directed to add that if it be the intention to extend the scope of the definition to cover such scale models, this Government would have no objection to the suggestion being discussed by the signatories to the Convention."

Japan

"The Japanese Government considers it appropriate, in view of the purport of the Convention, to include in the samples as defined in paragraph 1 of Article III those samples the size and/or materials of which are different from the goods which may be imported."

Sweden

"According to Swedish customs legislation models of articles and patterns are accorded temporary duty-free admission even if the models are made in a reduced scale or the patterns are made up in materials other than the article finally placed on the market. For this reason no decision has been taken up till now by the Swedish authorities concerned with regard to the interpretation of the definition of samples.

"However, after having taken the matter into consideration the Swedish authorities consider it consistent with their practice that the wider interpretation, which is also entirely in accordance with the French text, be used during the continued application of the Convention."

