

GENERAL AGREEMENT ON
TARIFFS AND TRADE

RESTRICTED

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SAMPLES CONVENTION

Views of Contracting Parties on the interpretation
of Article III

The following statement has been received from the Government of Belgium and also from the Government of the Kingdom of the Netherlands:

"1. Those who drafted the original project (document CP.6/W/2 of 21 September 1951) used the phrases 'échantillons ou modèles' and 'samples or specimens', both of which cover 'specimens of goods already produced' and 'examples of goods which are to be produced'.

"2. The opening provisions of the subsequent drafts and the final text of Article III seem to have received formal amendments only. In any case it is impossible to find anywhere comments expressing the desire by any delegation to establish a distinction between:

- prototypes, reduced scale models, and other similar advanced production specimens;
- examples (original models) of objects which can be produced, but are not yet currently produced on a regular basis;
- specimens of goods which are being currently produced.

The fact that no such desire has ever been expressed may explain why no delegation raised the point as to whether prototypes as well as reduced scale models, miniatures and other advanced production specimens, were, or were not, excluded from the application of the Convention.

"3. It does not seem logical to exclude from the application of the Convention prototypes, reduced scale models, miniatures and other advanced production specimens:

- (a) because they are representative of a particular category of goods; and
- (b) because an example of a product which is being currently manufactured and which constitutes a sample (échantillon) may well be also an advanced production specimen for a product to be manufactured.

It frequently occurs that a sample is used for the purpose of soliciting orders for identical and other goods to be effectively manufactured according to the buyer's convenience, that is with better or inferior materials, in smaller or larger sizes, or even with a different kind of finishing.

"4. More particularly, as regards 'toiles de couture', the customs administration draws a distinction between such 'toiles' and 'patterns of cloth'. The latter receive the same treatment as patterns of paper, whereas the former are regarded as rough dress models cut out of canvas rather than out of high quality materials, in order to avoid the expenditure which would result from the use of such high quality fabrics and the labour cost involved in the finishing.

'Toiles' and model dresses alike constitute the expression of the designer's conception. If orders are received, the design is reproduced by the dressmaker, taking account of the measurements of, and the wishes expressed by, the customer, using high quality material depending upon the specific taste and age of the person and the country where the garment is to be worn. It is only in exceptional circumstances that a garment is strictly identical with a 'haute couture' model, and it is only on infrequent occasions that a model is sold to be effectively worn. Whenever a dress model is effectively made up with a high quality material and not with canvas, the intention is only to improve the piece of work effectively presented, by making it out of a fabric which is likely to carry more conviction and to be more adapted for fashion-show purposes.

"5. To conclude, the Belgian Government and the Netherlands Government are of the opinion:

- (a) that prototypes, reduced scale models, miniatures, and other advanced production specimens fall within the purview of Article III, under the heading 'examples of goods which are to be produced';
- (b) that 'toiles', and also models made with high quality fabrics should be granted temporary duty free admission when used for the purpose of soliciting orders for garments to be sold abroad;
- (c) that patterns of cloth, like patterns of paper, may be granted temporary duty free admission under the Convention, provided only that they are used for the purpose of soliciting orders for patterns to be delivered abroad.
(It should be noted that these same patterns may be imported duty free by virtue of special provisions of the Benelux Customs Legislation, when imported to be used for the making of garments by undertakings established in the Benelux territory)."

