

GENERAL AGREEMENT ON TARIFFS AND TRADE

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INTERNATIONAL CONVENTION TO FACILITATE THE IMPORTATION OF COMMERCIAL SAMPLES AND ADVERTISING MATERIAL

Interpretation of Article III

Report on a Meeting of the Parties to the Convention held at the Palais des Nations, Geneva, on 19 November 1956

1. In October 1955 the Brussels Customs Co-operation Council drew the attention of the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade, which had drafted the Samples Convention, to the fact that a difference of opinion concerning the interpretation of Article III seemed to exist between various parties to the Convention.
2. The problem was whether the provisions of paragraph 1 of Article III were to be extended to miniature models and to articles made of inferior materials other than the material which would be used in the articles for which orders were sought. This question was discussed in October 1955 by the contracting parties to GATT which are parties to the Convention. Some parties considered that the French word "modèles" called for such an interpretation. Other parties were of the opinion that the English word "examples" did not permit such an extended interpretation and only covered objects which were of the same size and material as the articles for which orders were to be taken. It was recognized therefore that the English and French texts were capable of different interpretations and that this difficulty could only be resolved by the parties to the Convention themselves.
3. The Executive Secretary to GATT was instructed to invite all the parties to the Convention to express their views regarding the problem involved. The enquiry and the replies received were distributed in document L/472 and Addenda 1 to 9.

*This document will be derestricted when the period of ninety days mentioned in paragraph 9 has elapsed.

4. At the meeting on 19 November 1956 the following sixteen countries, parties to the Samples Convention, were represented: Australia, Austria, Czechoslovakia, Denmark, Finland, Federal Republic of Germany, India, Indonesia, Japan Kingdom of the Netherlands, Norway, Pakistan, Federation of Rhodesia and Nyasaland, Sweden, Switzerland and the United Kingdom. Five parties to the Convention - Egypt, Greece, Portugal, Spain and Yugoslavia - were not represented. Furthermore, representatives of two countries which have signed the Convention but have not yet ratified it, namely Belgium and the United States, attended the meeting. France, which applies the Convention without having signed or ratified it, was also represented.
5. The representatives present at the meeting took into account the fact that the phrase in paragraph 1 of Article III under discussion - "are examples of goods the production of which is contemplated" - had been added to the text when the Convention was drafted, in order to make provision for samples of articles not yet produced. This phrase does not correspond exactly with the preceding phrase "which are representative of a particular category of goods already produced", in that it does not contain the idea that the examples (in French "modèles") must be "representative" in order to benefit by the provisions. This fact seems to have been the cause of the divergency of opinion.
6. All delegates present agreed that if this idea of "representative" examples were observed in all circumstances (also for samples covered in the second part of the sentence, i.e. examples of goods not yet produced), the spirit of the Convention would be maintained.
7. If all parties to the Convention could subscribe to such an interpretation, this would lead to a more uniform application of the provisions of this paragraph, regardless whether a government bases itself on the English or on the French text, in dealing with reduced scale models or models made of other (e.g. inferior) material than that of the articles to be imported. It has been recognized that a liberal application of this provision would enable most of such articles to benefit from the advantages provided in Article III of the Convention.
8. It was also acknowledged that such an interpretation covers the case of "toiles de couture"; but it should be recalled that the benefits of the Convention apply only to samples as defined in Article III, that is to articles imported solely for the purpose of soliciting orders for goods to be supplied from abroad.

9. It was considered desirable that such an interpretation should be unanimously accepted. As some representatives did not have full instructions and some parties to the Convention were not represented at this meeting, it was decided to afford the parties concerned a period of ninety days, from the date on which they are notified by the GATT secretariat, in which to express their views on it.

10. To ensure that governments which in future might wish to accede to the Convention are fully aware of this interpretation, the Executive Secretary to GATT, after the ninety-day period has elapsed, will request the Secretary-General of the United Nations to circulate this document to all governments invited to accede.

