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GENERAL AGREEMENT ON TARIFFS AND TRADE

DRAFT CONVENTION ON SAMPLES AND ADVERTISING MATERIALS

DRAFT RECOMMENDATIONS ON DOCUMENTARY REQUIREMENTS AND CONSULAR FORMALITIES

(Reference GATT/CP.6/36 and GATT/CP/131)

CORRIGENDUM

Annex to the United Kingdom Reply on the Draft Convention

The Government of the United Kingdom in submitting its remarks on the Draft Convention prepared a revised text incorporating their proposed amendments. This revised text was inadvertently omitted from document L/11/Add.1 and is herewith circulated.

DRAFT INTERNATIONAL CONVENTION FOR THE PURPOSE OF FACILITATING THE IMPORTATION OF COMMERCIAL SAMPLES AND ADVERTISING MATERIAL

The Governments signatories to the present Convention

Believing that the adoption of uniform regulations regarding the importation of samples and advertising matter would promote the expansion of international trade,

Have agreed as follows:

ARTICLE I

For the purposes of the present Convention:

(a) the term "import duties" means customs duties and all other duties and taxes payable on or in connection with importation, [such as] and shall include all internal taxes, excise duties and statistical taxes [and import taxes, but not including] chargeable on imported goods, but shall not include fees and charges which are limited in amount to the approximate cost of services rendered and do not represent an indirect protection to domestic products or a taxation of imports for fiscal purposes; and

(b) references to the territory of a Contracting Party include its metropolitan territory and any territory for whose international relations it is responsible and to which the Convention extends in accordance with Article XIII.

ARTICLE II

1. Each Contracting Party shall exempt from import duties samples of goods of all kinds imported into its territory, provided such samples are of negligible value, are not to be sold, and are only to be used for soliciting orders for similar goods with a view to their importation into that territory.

2. The customs authorities of the territory of importation may require that, as a condition of [their] being exempted from import duties in accordance with paragraph 1 of this Article, samples shall be [made useless by] subjected to tearing, perforation or other treatment, but not, however, so as to destroy their value as samples.

[3. This Article shall not apply to samples made up on behalf of a manufacturer or trader established in the territory into which they are imported.]

ARTICLE III

1. For the purposes of this Article, the term "samples" means [objects] articles which:-

(a) are representative of a particular category of goods already produced [and] or are examples of [objects] goods the production of which is contemplated, [by the sender, provided:] and

[(b) that they are not of such quantity or value that, taken as a whole, they no longer constitute samples; and]

[(c) that they have not been produced abroad on behalf of a manufacturer or trader established in the territory of importation.]

(b) are owned abroad and are consigned to the territory of importation solely for the purpose of being shown there for the soliciting of orders for goods to be supplied from abroad to the territory of importation, and

(c) are not sold, intended to be sold, offered for sale, put to normal use or used in any way for hire or reward in the territory of importation, and

(d) are intended to be re-exported in due course, and

(e) [that they are such that they can be duly identified] are capable of identification on re-exportation.

2. Samples which are chargeable with import duties shall, when imported, from the territory of another Contracting Party, with or without the intervention of a commercial traveller, by a manufacturer or trader established in the territory of any Contracting Party, be temporarily admitted into the territory of any of the Contracting Parties free of import duties, subject to the amount of the import duties and any /other/ amount that may be payable pursuant to Article VI being deposited or security being given for payment if necessary.

3. To obtain this privilege manufacturers, traders and commercial travellers must comply with the relevant laws, regulations and customs formalities prescribed by the authorities of the territory into which the samples are imported. /These laws and regulations may require the manufacturer, trader or commercial traveller to be in possession of an identity card as provided in paragraphs 7 and 8./

4. The customs authorities of any of the Contracting Parties shall, so far as practicable, recognise as sufficient for the future identification of samples the customs marks which have been affixed by the customs authorities of any other Contracting Party, provided that the said samples are accompanied by a descriptive list certified by the customs authorities of the latter contracting party. Additional marks may /however,/ be affixed to the samples by the customs authorities of the territory into which they are imported /in all cases in which the latter consider this additional guarantee indispensable for ensuring/ only if they are necessary, in the opinion of those authorities, to ensure the identification of the samples on re-exportation.

5. The period allowed for re-exportation of samples in order to qualify for exemption from import duties under this Article shall be not less than six months. /and may be prolonged by the customs authorities of the territory into which the samples have been imported./ When /this period/ the period allowed for re-exportation has expired, the amount of the import duties and any other amount due /shall be payable/ may be charged on samples which have not been re-exported.

6. /The refund of duties and any other amount paid on importation, or the release of the security for payment of duties and any other amount,/ On the re-exportation within the permitted time of samples imported under this Article, the refund of any amount deposited or the release of any security given on importation in accordance with paragraph 2 of this Article shall be effected without delay at any of the customs offices situated at the frontier or in the interior of the territory which possesses the necessary authority, and subject to the deduction of the duties and any other amount payable on samples not produced for re-exportation. Each Contracting Party shall publish a list of the customs offices on which the said authority has been conferred.

/7. Where identity cards are required for the purposes of this Convention they must conform to the specimen annexed to this Convention, and be delivered by an authority designated for this purpose by the Contracting Party in whose territory the manufacturer or trader has his business headquarters. Subject to reciprocity, no consular or other visa shall be required on identity cards unless a Contracting Party shows that such a requirement is rendered necessary by special or exceptional circumstances. When a visa is required its costs shall be as low as possible and shall not exceed the cost of the service./

/8. Each Contracting Party shall, as soon as possible, communicate direct to the other Contracting Parties, and also to the Secretary-General of the United Nations, a list of the authorities recognised as competent to issue identity cards./

ARTICLE IV

1. Each Contracting Party shall exempt from import duties catalogues, price lists and trade notices /imported into its territory from the territory of another Contracting Party./

/(a) in a single copy of each of any number of different documents, whatever their weight; or/

/(b) in several copies (whether of the same or different documents), provided that the total weight of the copies does not exceed 200 grammes/

/and/ relating to goods offered for sale by a manufacturer or trader established in the territory of another Contracting Party, when such documents are imported into its territory from that territory or from the territory of another Contracting Party, provided that each consignment imported -

(a) consists of not more than one document; or

(b) if it consists of more than one document, does not include more than one copy of any one document; or

(c) irrespective of the number of documents, does not exceed 200 grammes in gross weight.

Simultaneous /but separate/ despatch of /catalogues, price lists or trade notices from the place of origin/ a number of consignments to different addresses in the territory of importation shall not debar such /documents/ consignments from this exemption, provided /the above conditions are met in the case of each consignee/ that not more than one consignment is sent to any one consignee.

2. Notwithstanding paragraph 1 of this Article, a Contracting Party shall not be obliged to exempt from import duties on importation into its territory:

(a) catalogues, price lists and trade notices which do not clearly indicate the name of the foreign concern manufacturing or selling the goods to which such catalogues, price lists or trade notices relate; or

(b) catalogues, price lists and trade notices which arrive at the frontier of the territory of importation in packets grouped together for subsequent despatch to separate addresses in that territory.

ARTICLE V

Each Contracting Party shall accord the facilities [(except as regards the period allowed for re-exportation)] provided by Article III of the present Convention, subject to the conditions laid down in that Article, to developed cinematograph films of a width not exceeding 16 mm. shown to the satisfaction of its customs authorities to consist essentially of photographs (with or without sound track) showing the nature or operation of products, or equipment whose qualities cannot be adequately demonstrated by samples or catalogues, provided that the films:

(a) relate to products or equipment offered for sale by a manufacturer or trader established in the territory of another Contracting Party; and

(b) are of a kind suitable for exhibition to prospective customers but not for general exhibition to the public; and

(c) are imported in a packet which contains not more than one copy of each film and which does not form part of a larger consignment.

[The period allowed for re-exportation in the case of such films [must] shall be not less than .]

ARTICLE VI

1. No Contracting Party shall apply import prohibitions or restrictions (other than import duties), whether made effective through quotas, import licences or other measures, on the importation from the territory of another Contracting Party of [products] goods

(a) which qualify (or would qualify if they were dutiable) for exemption from import duties by virtue of the provisions of Article II or Article IV of this Convention; or

(b) which qualify (or would qualify if they were dutiable) for temporary duty-free admission by virtue of the provisions of Article III or Article V of this Convention;

[provided that the importation of such products involves no payment] provided that no payment is made for the goods or for the hire or use of them.

[2. The provisions of this Article shall not prevent the authorities of the importing country from applying in the case of non re-exportation of products accorded the facilities of Article III or Article V of the present Convention such measures as would have been applicable had not the products been temporarily admitted under the provision of the said Article III or Article V. To ensure re-exportation or the application of those measures the authorities of the importing country may require appropriate guarantees such as the deposit of special security over and above that deposited against any duty and other amount that may be payable.]

1A In the case of products which qualify (or would qualify if they were dutiable) for temporary duty-free admission by virtue of the provisions of Article III or Article V, this waiver of import prohibitions or restrictions shall extend only to the period for which temporary duty-free admission is allowed (or would be allowed if the products were dutiable).

2. In the case of non-re-exportation within the permitted period of products for which the application of any import prohibitions or restrictions has been waived under paragraph 1 of this Article and which qualified (or would have qualified if they had been dutiable) for temporary duty-free admission under Article III or Article V of this Convention, the authorities of the importing country may apply such measures as would have been appropriate if the application of import prohibitions or restrictions had not been so waived. To this end, the authorities of the territory of importation may require appropriate guarantees, such as the deposit of a special security over and above any security deposited against the payment of import duties.

3. The provisions of this Convention shall not prevent a Contracting Party from applying import prohibitions or restrictions.

(a) necessary to protect public morals;

(b) necessary to protect human, animal or plant life or health;

(c) relating to the importation of gold or silver;

(d) necessary to secure compliance with laws or regulations relating to customs enforcement, the enforcement of State monopolies, the protection of patents, trade marks and copyrights;

(e) necessary to prevent deceptive practices;

(f) relating to the products of prison labour;

(g) necessary to the application of standards or regulations for the classification, grading or marketing of commodities in international trade.

ARTICLE VII

1. Each Contracting Party shall [grant the greatest possible facilities when determining] keep to a minimum the formalities required in [respect of the matters covered by the present Convention] connection with the privileges granted by them under this Convention.

2. Each Contracting Party 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 VIII

1. Any dispute between any two or more Contracting Parties concerning the interpretation or application of the present Convention shall so far as possible be settled by negotiation between them.

2. Any dispute which is not settled by negotiation shall be referred to a person or body agreed between the Contracting Parties in dispute, provided that if they are unable to reach agreement, any of these Contracting Parties may request the President of the International Court of Justice to nominate an arbitrator.

3. The decision of any person or body appointed under paragraph 2 of this Article shall be binding on the Contracting Parties concerned.

ARTICLE IX

1. The present Convention shall be open for signature until ..... by the Governments contracting parties to the General Agreement on Tariffs and Trade and by the Governments of all States members of the United Nations, or of any State not a member of the United Nations, which the General Assembly of the United Nations may declare to be eligible.

2. This Convention shall be subject to ratification by the signatory Governments in accordance with their constitutional procedures, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

ARTICLE X

1. This Convention shall be open for accession by the Governments of any of the States referred to in paragraph 1 of Article IX.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

ARTICLE XI

1. When [10] of the Governments referred to in Article IX have deposited their instruments of ratification or accession, the present Convention shall come into force between them on the thirtieth day after the date of the deposit of the [tenth] instrument of ratification or accession. It shall come into force for each other Government on the thirtieth day after the deposit of its instrument of ratification or accession.

ARTICLE XII

1. After the present Convention has been in force for [5] years any Contracting Party may denounce it by notification of denunciation to the Secretary-General of the United Nations.

2. Denunciation shall take effect six months after the date of receipt by the Secretary-General of the United Nations of the notification of denunciation.

ARTICLE XIII

1. Any Government may at the time of the deposit of its instrument of ratification or accession or at any time thereafter by notification addressed to the Secretary-General of the United Nations declare that the present Convention shall extend to all or any of the territories for the international relations of which it is responsible, and the Convention shall extend to the territories named in the notification as from the thirtieth day after the date of receipt of the notification by the Secretary-General of the United Nations or on the date on which the Convention comes into force under Article XI whichever is the later.

2. Any Government which has made a declaration under paragraph 1 of this Article extending the present Convention to any territory for whose international relations it is responsible may denounce the Convention separately in respect of that territory in accordance with the provisions of Article XII.

ARTICLE XIV

The Secretary-General of the United Nations shall notify all signatory and acceding States of all signatures, ratifications and accessions of the present Convention and of the date on which the Convention comes into force and of every notification received by him under Article XII or XIII.

In witness whereof the undersigned plenipotentiaries] igned in the present Convention

Done at this in the English

and French languages, both texts being equally authoritative, in a single original which shall be deposited in the archives of the United Nations. The Secretary-General of the United Natuons shall transmit certified copies thereof to all signatory and acceding States.