

GENERAL AGREEMENT ON TARIFFS AND TRADE

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WORKING PARTY 1 ON THE RESOLUTIONS OF THE INTERNATIONAL CHAMBER OF COMMERCE

Addendum

Draft Clause submitted by the Indian Delegation

In the original League of Nations Draft in Article 1(2), there was a provision that the Convention would not apply to samples of goods which formed the subject of a State monopoly or the import of which was prohibited on moral, humanitarian, hygienic, veterinary and phytopathological grounds or on grounds of public safety. This clause has been dropped in the United Kingdom Draft. The reason given is that it is not clear why it was ever necessary since the Draft Convention imposed no obligation to admit goods in regard to which this reservation was necessary and that if certain goods were not admitted at all, there was no point in reserving the right to charge duty on them. While the reason advanced is perfectly logical, the Indian Delegation feels that the original clause makes for certainty and avoids any misunderstanding. Not only goods which are prohibited for the reasons given in the League of Nations Draft, but other goods completely banned (e.g.) for balance-of-payments reasons, may also be involved. In any case, the importer of samples should have no grounds to believe that he can import free of duty samples of all kinds even for goods which are prohibited. Provision to this effect in the Convention will do no harm to the Convention but, on the contrary, add to certainty,

For this reason, the Indian Delegation would suggest the addition of the following proviso in Article 2, as sub-clause 4:

"The provisions of this Convention shall not be construed as granting to importers the right to import free of duty any commercial samples or advertising material in connection with goods which could not otherwise be imported."

