

GENERAL AGREEMENT ON TARIFFS AND TRADE

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WORKING PARTY I ON RESOLUTIONS OF THE INTERNATIONAL CHAMBER OF COMMERCE

French Amendment to Article 2 of the Draft Convention on Samples

The text of Article 2 proposed by the French Delegation differs essentially from the text examined by the Contracting Parties on the following points:

- (a) It is not left to the customs authorities to decide finally whether or not the sample in question should be exempt from import duties. Of course, the customs authorities would have to decide whether duty free admission was to be granted; but by relieving the customs authorities of the duty of making a final decision, the text implicitly reserves the right of importers who did not accept the opinion of the customs authorities to refer the matter to a judicial or arbitral tribunal in conformity with Article X of the General Agreement. The possibility of arbitrary decisions by the administration would thus be avoided.
- (b) The French proposal rejects the restrictive clause of paragraph 3 which is not justified in the case of samples without value.

It is clear that imports of samples of negligible value, such as those referred to in paragraph 3, would not be damaging to the interests of the manufacturers of the importing country.

Furthermore, a new examination of the text reveals that in the circumstance set out above it would be unnecessary to know whether Article 2 should be applied in conjunction with the reciprocal treatment clause or with the most-favoured-nation clause. In these conditions, the French Delegation would have no difficulty in deleting the phrase between square brackets in paragraph 1 of Article 2.

As the samples concerned would be of negligible value and would not involve any payment, questions of foreign currency and currency restrictions would also be immaterial. On the other hand it would be necessary to make it clear that the undertaking to exempt from import duties valueless samples of goods of all kinds would not prevent the states signatories to the Convention from prohibiting the importation of samples of goods, the import of which was prohibited for reasons of protection of health, public morals or public order; it would be illogical to allow the importation of samples to solicit orders of prohibited goods.

ARTICLE 2

1. Each contracting party undertakes to exempt from import duties samples of goods of all kinds imported into its territory, either directly or through the agency of commercial travellers, by manufacturers or traders established in the territory of any contracting party, provided such samples are of negligible value and are only to be used for soliciting orders.

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

3. The above provisions shall not prevent a contracting party from prohibiting the importation of samples of goods, imports of which are prohibited to protect a state monopoly or for reasons relating directly to the protection of health, public morals or public order in the contracting state.