

GENERAL AGREEMENT ON TARIFFS AND TRADE

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SAMPLES CONVENTION

Views of Contracting Parties on the Interpretation of Article III

Addendum

The following statement. has been received from the Government of the United Kingdom:

"1. Her Majesty's Government is of the opinion that paragraph 1 of Article III of the Convention does not extend to reduced-scale models of articles and to articles such as 'toiles de couture'. This opinion is based on the fact that the English text of the Convention is so worded as to exclude such articles, coupled with the fact that the records of the meetings at which the Convention was drafted reveal no trace of any intention to cover those articles in the Convention.

"2. It seems clear, as was recognized by the Working Group set up to consider the problem by the CONTRACTING PARTIES at their Tenth Session, that some difference of interpretation between the English and the French texts of paragraph 1 of Article III is possible, the French text being capable of having a subsidiary meaning which would cover miniature models and 'toiles'. This is due to the use of the word 'examples' in the English text and 'modèles' in the French text. It seems that, whereas the primary meaning of 'modèle' is the same as the only meaning of the English 'example', it has other meanings which include miniatures and also imitations of an article made of different materials from those of the articles they are intended to portray. Thus, the word 'modèle' is imprecise and the word 'example' is precise, and Her Majesty's Government consider that the Article should be regarded as having a meaning which is common to both texts; it is not reasonable or practicable to stretch one text beyond its natural meaning in order to cover subsidiary meanings of the other.

"3. A study of the evolution of the text of Article III (document W.10/16) indicates, in the opinion of Her Majesty's Government, that the intention of the drafters was to prepare a Convention in terms of samples of goods which were in all respects identical with the goods produced or to be produced, for which orders were to be taken. The first version of the Article in question used the word 'samples' and

specimens', but during the discussions which took place a proposal was made that the words 'and specimens' should be omitted as not adding anything to the sense of the word 'samples'. The majority of delegations considered that the best solution would be to use the single word 'samples' and to define what was meant by it. The text which was then drawn up was worded so as to include the concept that samples might represent not only goods already produced, but also goods intended to be produced (i.e. advance production specimens or prototypes). In providing for these two possibilities, however, there was no intention that the nature of the articles accepted as samples should vary according to whether they represented goods already produced, or goods to be produced. The new text, slightly modified in other respects, became the final version of Article III (1) of the Convention. The discussions did not include any proposal to make the Convention cover miniature models or imitations of goods which are not identical with articles which have been, or will be, actually manufactured, and it cannot, therefore, be maintained that the definition was intended by the majority of delegates to cover classes of goods other than those which are identical with goods in production or to be produced.

"4. In the opinion of Her Majesty's Government the intention and the meaning of the Convention are unmistakable, if both texts are read in the context of the Convention. The alternative interpretation, which would extend it to cover reduced-scale models and toiles, would not only run counter to the meaning of one of the texts, but would constitute a provision which would be very difficult to operate in practice, because of the difficulty of drawing a dividing line between, on the one hand, articles which are properly intended for the purpose of obtaining orders for the goods which they represent and, on the other hand, miscellaneous models or advertising material.

"5. On general grounds, it should be recognized that this is a Convention in which a number of countries undertake to grant freedom from customs duties to a limited range of goods. The range of goods cannot be more than the highest common factor of agreement between the various parties. Accordingly, if there is any ambiguity in the wording of the Convention, Her Majesty's Government consider that it should be resolved in favour of the narrower interpretation, rather than the wider one."

