

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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CONTRACTING PARTIES  
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## GREEK INCREASE IN BOUND DUTY

### Communication from the Customs Co-operation Council

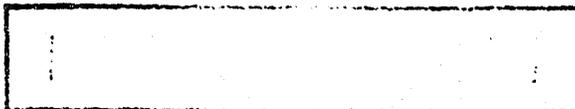
At the Eleventh Session the CONTRACTING PARTIES referred to the Inter-  
sessional Committee for consideration the complaint by the Government of Germany  
concerning the increase in the duty on long-playing gramophone records which  
appeared to the Government of Germany to be contrary to the binding of the duty  
rate on gramophone records in the Greek Schedule. At its meeting in April the  
Committee instructed the Executive Secretary to obtain from the Customs Co-  
operation Council in Brussels an advisory opinion on the question of customs  
classification involved in this complaint. The following reply has now been  
received:

"1. The problem does not in fact raise any question of customs  
classification really within the responsibility of the Council. The  
Council would not seem to be qualified either to interpret the scope  
of a tariff concession included in a trade convention or to judge the  
compatibility between such a concession and a subsequent amendment to  
the customs tariff of the country which granted the concession.

"2. The Council could only give an opinion on the question before the  
GATT if it concerned an interpretation of the Brussels nomenclature.  
And even in that case its decisions and findings would only become  
binding for Member States from the date of entry into force of the Con-  
vention of 15 December 1956 and the Protocol of 1 July 1955.

"3. It might, however, be useful to indicate the measures provided in  
the Brussels Nomenclature for the case of new products which may come on  
to the market and which are not covered by appropriate tariff headings.

"This point is the subject of Rule 5 for the interpretation of the  
Nomenclature, according to which: 'Goods not falling within any heading  
of the Nomenclature shall be classified under the heading appropriate  
to the goods to which they are most akin'.



"The commentary on the Brussels Nomenclature known as the 'Explanatory Notes' contains the following details with regard to Rule 5:

'a. This Rule relates to goods not falling within any heading of the Nomenclature because there is no heading which even prima facie covers the goods to be classified. It provides that such goods shall be classified under the heading appropriate to the goods to which they are most akin.

'b. In classifying in accordance with Rule 5, the first process is a comparison of the imported goods with other goods which are similar, so that the goods to which the imported goods are most akin can be determined. Having determined which goods are the most akin, the next step is to ascertain which heading is appropriate to those goods. When the appropriate heading has been ascertained, the Rule requires that the goods shall be classified there.

'c. Kinship can, of course, depend on many factors, such as description, character, purpose, etc.'

"4. It should be pointed out that Rule 5, quoted above, was drawn up within the framework of a systematic customs tariff containing no residual heading to cover all goods not specified in any other heading of the tariff. It is evident that the rule of assimilation to the article to which it is most akin could not be cited in the contrary case which is that of the present Greek tariff. In such a tariff, new articles not falling within any heading of the tariff must be classified in the heading 'other articles not elsewhere specified'."

