

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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## WORKING PARTY 1 ON INTERNATIONAL CHAMBER OF COMMERCE RESOLUTIONS

### Draft Convention to Facilitate the Importation of Commercial Samples and Advertising Material

#### Note by the French Delegation

The Report of the Working Party which examined the International Chamber of Commerce Resolutions at the Sixth Session of the Contracting Parties (GATT/CP.6/36) stated that Article III of the draft Convention on Samples reproduced the provisions of Article X of the 1923 Convention on the Simplification of Customs Formalities. The Report stated that care had been taken to depart as little as possible from the 1923 text which was designed to permit the temporary duty-free admission of collections of commercial travellers' samples; that is, samples having commercial value, small in size and easily transportable and necessary for soliciting orders abroad.

Certain Delegations appear to interpret the provisions of Article III of the draft Convention in a much wider manner. They consider that the text should apply not only to samples of the traditional type but also to any specimen of any goods, whether it be a lady's handbag, machinery or a motor car.

The French Delegation cannot accept this interpretation. It considers on the one hand that the terms "samples", "objects" and "articles" used in the French text suggest goods of small size and that a wider interpretation would be contrary to the letter of the text and to the spirit in which it was originally drafted. On the other hand, a modification of the text to bring it into conformity with the new interpretation which it is sought to give would not be acceptable to the French Government.

The position of machinery, equipment and of vehicles is in any case quite different from that of the samples to which Article X of the 1923 Convention applies. These goods are capable of being used, while they are in the country of importation, as a means of production or a means of transport. They are of a high value and as a result the amount of duty involved is high. The incentive to fraudulent use up to the time of re-exportation, without paying the import duties, would thus be correspondingly increased.

The risk of fraud would be particularly serious for motor cars which could thus be driven within the country of importation for at least six months without paying duty. The Customs would

have difficulty in detecting the offence since the use of vehicles for demonstration purposes would be permissible and this would normally imply their being driven to possible customers.

Amendment of Article III in a more liberal sense would only be possible if the customs authorities had the means of eliminating possible abuses.

The conditions provided by the first paragraph of Article III fulfil this object but it must be recognised that the customs authorities will experience very serious difficulties in satisfying themselves that these conditions are fulfilled. In many countries there are no internal customs stations; this is the case in France and it would be practically impossible for the French customs authorities to satisfy themselves as to the regularity of operations which would take place a long way from their field of authority.

The risk of fraud which can result from such a situation can be accepted in the case of articles carried by commercial travellers because this is a practice corresponding to normal commercial custom, but it is not possible to accept such risks for goods of a much greater value and economic importance.

Nevertheless, the French Delegation has no wish to hinder the testing of markets by manufacturers of machinery, of equipment and motor cars.

The draft Convention already provides facilities for such machinery and apparatus since it authorises the exemption of catalogues and price-lists and the temporary duty-free importation of advertising films, the latter provision having been inserted to meet the case where the use of samples is not possible because of the nature of the goods.

The French Delegation proposes to add a provision for the temporary duty-free admission of goods intended to be exhibited at fairs and international exhibitions organised in the territories of the Contracting Parties to the Convention. Machinery and equipment and vehicles would be able to benefit by this provision. It is the usual practice to show them to possible customers in exhibitions of this kind.

This provision would not present the objections which are to be found in the proposal contained in the draft Convention on Samples, for the concentration of goods in a particular place enables the Customs to keep control of them and prevents any irregular use during the period of their temporary admission.

This temporary admission could be given either under bonding or temporary duty-free importation arrangements.

Domestic equipment (refrigerators, vacuum cleaners etc.) or articles for personal use (typewriters, for example) could benefit under the provisions laid down for samples having value.

Accordingly the French Delegation proposes :-

- (a) to add the following new paragraph at the end of Article III :

"Machinery and equipment (other than those intended for domestic or personal use) and vehicles may be excluded from the benefits of the present Article".

- (b) to add a new Article V bis to the draft Convention as follows :

"Fairs and Exhibitions"

On condition that they are capable of being identified, goods owned by a person established in the territory of a Contracting Party and imported to be exhibited or presented in international fairs and exhibitions organised in the territories of another Contracting Party, shall be allowed either :

- (i) temporary duty-free admission subject to the amount of the import duties and any other amount that may be payable being deposited as security being given for payment if necessary, or
- (ii) removal under bond, if the fair or exhibition is approved for this purpose.

Goods admitted to the benefits of these provisions shall be re-exported within one month of the close of the fair or exhibition.

The refund of any amount deposited or the release of any security given on importation shall be effected subject to the conditions of paragraph 6 of Article III of this Convention."

- (c) To revise paragraph 1 (b) of Article VI as follows :-

"which qualify for temporary duty-free admission or admission under bond, by virtue of the provisions of Articles III, V or V bis of this Convention".

- (d) In paragraph 2 of Article VI to amend the words "Articles III or V" to read "Articles III, V or V bis".