

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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SAMPLES CONVENTION

Views of Contracting Parties on the Interpretation of Article III

The following statements have been received from the Governments of Australia and Germany:

Australia

"Interpretation of the word 'samples' does not arise in relation to the temporary importation into Australia of reduced-scale models and articles made up in materials inferior to the articles for which orders are sought. These goods are given the concessions envisaged in Article III under other provisions of the Australian Customs Law.

"However, it is the opinion of the Australian Government that provided such goods are produced solely to promote sales of the goods they represent and are not in fact goods of another basic character, such as toys or cheap dresses, they could be regarded as samples."

Germany

"1. The Government of the Federal Republic of Germany has examined the question of whether miniature models and patterns for women's dresses made up in paper or inferior cloth and usually known as 'toiles de couture', are to be treated as samples under the definition in paragraph 1 of Article III of the Convention to Facilitate the Importation of Commercial Samples and Advertising Material, having regard to the contents of the GATT documents W.10/16, L/446 and L/455. It has formed the same opinion as that already held by the German delegation at the Tenth GATT Conference. According to this opinion, it would be in conformity with the spirit of the Convention to interpret the terms 'samples' and 'examples' in the English text so that they extend also to reduced-scale models or copies of the original made up in materials other than those used in the goods themselves.

"2. In the opinion of the Federal Government the purpose of the Convention is to facilitate generally an extensive circulation in samples. This aim, however, would not be achieved if a not unimportant category of samples were to be excluded from the privileges of the Convention by a narrow interpretation of the Convention.

"3. For commercial samples which are imported into Federal German customs territory only for temporary use, the autonomous customs regulations of the Federal Republic provide for temporary duty-free admission (clearance by means of samples pass or 'Zollvormerkschein' (document to be used for temporary duty-free admission)). There is no restriction to the effect that samples must be the same size or produced in the same materials as the articles for which orders are being sought. Nor is there any regulation prescribing utilization for a particular purpose (e.g. only as a show-piece or for the purpose of soliciting orders) which in the view of some parties to the Convention is implicit in the term 'examples'. The broader interpretation of the word 'examples' in the English text of Article III, paragraph 1 of the Convention, which with regard to the term 'modèles' in the French text is uncontested, would ensure the same treatment for 'toiles de couture' as the autonomous German customs law does.

"The Federal Republic understood, on acceding to the Convention, that the Convention would contain no regulation less favourable to the above-mentioned samples than the autonomous German customs law. It would be almost pointless for the Federal Republic to accede to a convention providing for a less favourable treatment of German goods imported into the Convention countries than that which the Federal Republic, under its own autonomous law, grants for articles imported from the Convention countries. This would be the case if the more restricted interpretation of the Convention were accepted such as some parties seem to apply to the term 'examples'.

"4. The parties to the Convention who uphold the narrow interpretation of the English text maintain that the 'toiles de couture' have a not inconsiderable value as samples and could thus be used, apart from the use intended (for display in order to solicit orders), also for copying. The obvious answer to this objection is that also in the case of samples similar in every respect to the original article no watch can be kept to ensure that they are not used for other purposes, e.g. for copying or making sketches of them. Moreover, a sample the same size as the original and manufactured in the same material is, like the article itself, of much greater value (namely the value of the article plus its value as a sample) than a miniature model or a copy made up in inferior materials. And if the sample corresponding in every respect to the original article enjoys the privilege of Article III, this privilege can also be extended, without detriment to the importing country's economy, to miniature models or models made up in inferior materials, all the more as the condition of re-exportation applies anyhow in the case of such models,

"5. The Government of the Federal Republic thus holds the opinion that miniature models and patterns for women's dresses, made up in paper or inferior cloth and usually known as 'toiles de couture', came under Article III, paragraph 1 of the Convention, as is unequivocally shown by the French text of the Convention."

