Draft Convention for the purpose of facilitating the importation of Commercial Samples and Advertising Material

Agreed drafts of Articles 1, 2, 3 and 5

The Government signatories to the present Convention

Believing that the adoption of uniform regulations regarding the importation of samples and advertising matter would promote the expansion of international trade,

Have agreed as follows:

Article 1

For the purposes of the present Convention:

(a) the term "import duties" means customs duties and all other duties and taxes payable on or in connection with importation, such as internal taxes, excise duties, statistical taxes and import taxes; it excludes fees and charges which are limited in amount to the approximate cost of services rendered and do not represent an indirect protection to domestic products or a taxation of imports for fiscal purposes.

(b) references to the territory of a Contracting Party include its metropolitan territory and any territory for whose international relations it is responsible and to which the Convention extends in accordance with Article 14.

Article 2

1. Each Contracting Party undertakes to exempt from import duties samples of goods of all kinds imported into its territory, provided such samples are of negligible value and are only to be used for soliciting orders.
2. The Contracting Party into whose territory samples are imported may require that, as a condition of 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. This Article shall not apply to samples made up on behalf of manufacturers or traders established in the territory into which they are imported.

Annex to Article 2

(Insert here in square brackets the text of the preamble of Article 3 of CP, 6/W/2, followed by subparagraphs 1-12 of Article 2 of the 1935 text)

Article 3

1. The Contracting Parties shall exempt from import duties catalogues, price-lists and trade notices imported into their territories

   (a) in a single copy of each of any number of different documents, whatever their weight; or

   (b) in several copies (whether of the same or different documents), provided that the total weight of the copies does not exceed 200 grams

sent from the territory of another Contracting Party and relating to goods offered for sale by a manufacturer or trader established in the territory of another contracting party. Simultaneous but separate dispatch of catalogues, price-lists or trade notices from the place of origin to different addresses in the territory into which they are imported shall not debar such documents from this exemption provided the above conditions are met in the case of each consignee.

2. Notwithstanding paragraph 1 of this Article, a Contracting Party shall not be obliged to exempt from import duties on importation into its territory:

   (a) catalogues, price-lists and trade notices printed abroad on behalf of manufacturers or traders established in the territory of importation;

   (b) catalogues, price-lists and trade notices which do not clearly indicate the name of the foreign concern manufacturing or selling the goods to which such catalogues, price-lists or trade notices relate; or

   (c) catalogues, price-lists and trade notices which arrive at the frontier of the territory of importation in packets grouped together for subsequent despatch to separate addresses in that territory.
(The Article 6 of the text in CP.6/W/2 will appear as Article 4)

(Suggestion by the United States representative relating to Article 4, paragraph 1:

"It is believed that the views of the Working Party, as indicated in previous discussions, would be better expressed if paragraph 1 of Article 4 were revised to read as follows:

"1. Samples which are chargeable with import duties, when representative of the products of another Contracting Party and sent into the territory of importation by a concern established in such other Contracting Party, shall be admitted temporarily into the territory of any Contracting Party free of import duties, subject to the import duties or other amount being deposited or security being given for payment if necessary.

"If it is desirable to bring this paragraph 1 into greater conformity with the style of previously approved parts of the Convention, the following text is offered for consideration:

"1. Each Contracting Party undertakes to admit temporarily into its territory free of import duties samples which are chargeable with duty, provided that (a) such samples are representative of products of another Contracting Party and shall have been sent into the territory of importation by a concern established in the territory of such other Contracting Party, and (b) an amount equal to or more than the duty, or security for its payment, may be required to be deposited to assure reexportation of the samples."

Article 4 bis

(The Working Party has not yet decided whether this provision shall form part of Article 4 or appear as a separate Article:

"The Contracting Parties shall accord the facilities provided by Article 4, subject to the condition laid down in that article, to develop films of a width not exceeding 16 m.m., shown to the satisfaction of their Customs Authorities to consist essentially of photographs (with or without sound track) showing the nature or operation of products whose qualities cannot be adequately demonstrated by samples or catalogues, such as heavy machinery etc., being films offered for sale by a manufacturer or trader established in the territory of another Contracting Party and of a kind suitable for exhibition to prospective customers but not for general exhibition to the public, when imported temporarily from the territory of any Contracting Party in a packet which contains not more than one copy of each film and which does not form part of a larger consignment."
The Contracting Parties shall not apply import prohibitions or restrictions (other than import duties) whether made effective through quotas, import licences, or other measures on the importation from the territory of another Contracting Party of products

(a) which qualify for exemption from import duties by virtue of the provisions of Article 2 or Article 3 of this Convention; or

(b) which qualify for temporary duty-free admission by virtue of the provisions of Article 4 of this Convention;

provided that the importation of such products involves no payment.

2. The provisions of this article shall not prevent the authorities of the importing country from applying in the case of non re-exportation of the samples or specimens mentioned in Article 4 such measures as would have been applicable had not the articles been temporarily admitted under the provisions of Article 4. To ensure re-exportation or the application of these measures the authorities of the importing country may require appropriate guarantees such as the deposit of special security over and above that deposited against any duty or other amount that may be payable.

3. The provisions of this Convention shall not prevent a Contracting Party from applying import prohibitions or restrictions:

(a) necessary to protect public morals;

(b) necessary to protect human, animal or plant life or health;

(c) relating to the importation of gold or silver;

(d) necessary to secure compliance with laws or regulations relating to customs enforcement, the enforcement of State monopolies, the protection of patents, trade marks and copyrights;

(e) necessary to prevent deceptive practices;

(f) relating to the products of prison labour;

(g) necessary to the application of standards or regulations for the classification, grading or marketing of commodities in international trade.