WORKING PARTY 1 ON
INTERNATIONAL CHAMBER OF COMMERCE RESOLUTIONS

DRAFT CONVENTION FOR THE PURPOSE OF
FACILITATING THE IMPORTATION OF
COMMERCIAL SAMPLES AND ADVERTISING MATERIAL

The comments received and circulated by the Secretariat in documents

L/11
" /Add 1
" /Add 1/Corr 1
" /Add 2

have been divided by article, and in some cases by paragraph, and are herewith submitted to the Working Party.

The comments in this document were received from the following contracting parties:

Australia           Finland           Italy
Austria             France            Norway
Benelux             Germany           Southern Rhodesia
Ceylon*             Greece            Sweden
Czechoslovakia       Haiti             United Kingdom
Denmark             India             United States

Also included are comments by:

The Philippines   The Secretariat of the
Japan             International Civil
The International Chamber
of Commerce        Aviation Organization

* The comments of Ceylon will appear in L/11/Add. 3
COMMENTS ON
DRAFT CONVENTION FOR THE PURPOSE OF FACILITATING
THE IMPORTATION OF COMMERCIAL SAMPLES AND ADVERTISING MATERIAL

GENERAL COMMENTS

GREECE

In principle, the Greek Government is prepared to accept the Convention in question provided the text explicitly mentions that this convention deals with goods of any kind, whether the produce of the land or industrial products.

Greece, whose exports consist essentially of agricultural products, daily meets increasing difficulties as regards the marketing of her products. It is only fair that Greece, as it accepts this convention and grants all the facilities provided therein, should request reciprocal treatment for her own products. It is obvious that, without a reciprocity clause, this convention would be unacceptable to Greece because it would create for her unilateral obligations without any benefit for Greece.

It is true that the generalities in paragraph 1 of Article II of the draft convention refer to "samples of goods of all kinds", but the Greek delegation to the Sixth Session of the GATT noted, throughout the lengthy debates which lead to the framing of the draft, a tendency to grant nearly exclusive preference to industrial products and manufactured agricultural products without taking into account, or showing any specific concern for, the protection to be granted to raw products of the land such as fresh or dried fruit, tobacco leaves, etc.

This tendency towards extending to industrial products the facilities provided for in the convention led a delegation to oppose such a convention which would involve no benefits to agricultural or industrially less developed countries.

For the foregoing reasons Greece, in spite of its obvious desire to adhere to the convention, would not be in a position to sign it unless produce of the land were explicitly mentioned in paragraph 1 of Article II of the draft.

UNITED KINGDOM

The United Kingdom after further study of the draft Convention considers that some amendments are required to the text and has prepared a revised text which is attached. This shows the amendments in conjunction with the existing text. Included in the notes below are explanations of the reasons for the main changes proposed.
UNITED STATES

In accordance with its policy of supporting efforts to reduce barriers to international trade, the United States subscribes to the principles and objectives of the draft Convention and draft recommendations. The following comments on the draft Convention and draft recommendations include information and comments requested in the report of the Sixth Session Working Party on the I.C.C. Resolutions.

INTERNATIONAL CHAMBER OF COMMERCE

This report, approved by the Council of the I.C.C. at its 77th Session on May 13, 1952, is submitted to the Contracting Parties to the General Agreement on Tariffs and Trade (GATT), with the support of the International Cooperative Alliance and the International League of Commercial Travellers and Agents, as well as, for the sections dealing with documentary requirements and consular formalities, of the International Air Transport Association and the International Chamber of Shipping.

On behalf of the industrial and trading communities of its member countries, the International Chamber of Commerce warmly welcomes the initiative taken by the Contracting Parties to the General Agreement on Tariffs and Trade (GATT), at their Sixth Session in October 1951, in drawing up a Draft International Convention for the Purpose of Facilitating the Importation of Commercial Samples and Advertising Material and Draft Recommendations on Documentary Requirements and Consular Formalities. Simplification in these three fields would help greatly to smooth the path of trade, and the I.C.C. therefore hopes that at their Seventh Session opening October 2, 1952, the Contracting Parties to GATT will find it possible to reach final agreement on these proposals.

In view of the urgent importance of giving practical effect to the recommendations concerning documentary requirements and consular formalities, the I.C.C. suggests that some kind of follow-up machinery be created, for instance the submission by each contracting party at the end of each year of a report on action taken since the recommendations were issued.

The I.C.C. hopes that the Seventh Session of the Contracting Parties will also be able to adopt recommendations regarding two other basic problems raised by it in its Lisbon Congress Report (Brochure 153), namely customs valuation of goods and the definition of the nationality of manufactured products.

Whilst deeply appreciating the courtesies extended to its representatives at the Sixth Session, the I.C.C. would be glad if arrangements could be made at the Seventh Session for fuller and more regular participation in the discussions of the appropriate Working Party when its own proposals are under consideration.

While approving in substance the draft Convention drawn up by the Sixth Session of the Contracting Parties, which satisfies in large measure the requirements of trade and industry, the I.C.C. submits the following observations and suggestions for consideration by the Contracting Parties at their Seventh Session.
ARTICLE I

Sixth Session Draft

"For the purpose 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, but not including 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; and

(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 XIII."

COMMENTS ON ARTICLE I

UNITED KINGDOM

U.K. Draft

"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, but not including 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; and

(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 XIII."

Suggested Title to Article I

GERMANY

Insert the following title:

"Definition and scope".
ARTICLE II

Sixth Session Draft

"1. Each Contracting Party shall 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 Customs authorities of the territory of importation may require that, as a condition of their being exempted from import duties in accordance with paragraph 1 of this Article, samples 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 a manufacturer or trader established in the territory into which they are imported."

COMMENTS ON ARTICLE II

AUSTRIA

During the Geneva discussions the question had been raised whether the wording of paragraph 1 stated explicitly the exemption of individual samples as well as of aggregate pieces forming part of a sample collection. It seems that the present text means that both kinds of samples are to be free of duty, as results from the Annex to Article II in which mention is made of sample collections (paragraphs 2, 3, 4, 5 and 6). This Annex should be maintained. Though it is impossible to draw up an exhaustive list of goods it must be recognised that the Annex gives most valuable hints for doubtful cases. In Austria the customs regulations include a similar list necessary as a guidance to any person concerned. No reference is made in the Annex to embroideries, it should be stated whether such kind of articles is covered by paragraph 5 or elsewhere included.

BELGIUM-LUXEMBOURG

In the report members of the Working Party explain that they preferred the formula "negligible value" rather than the expression "no saleable value". This formula is rather vague and may give rise to abuses.

In the concept which was discarded, the introduction of the word "saleable" offers the advantage that it would prohibit the possible sale of any sample imported duty free. It would therefore seem desirable to substitute the words "negligible saleable value" or "no important saleable value" for the words "negligible value".

Such a definition would afford additional guarantees in cases where samples could not be made useless by tearing or perforation, as provided for in paragraph 2 of Article II.
Furthermore, it should be noted that the present wording of the article may create some confusion because it does not indicate whether the value to be taken into account is the value of all the samples constituting one aggregate shipment or the value of each individual sample. It would not be logical to leave it open to each contracting party to interpret this essential point. It would be better to have an article that implied a restricted but clear-cut and formal commitment rather than a vague provision involving no precise obligation. It is believed that the convention should provide at least for the exemption from customs duties in the case of any aggregate shipment when each quality or category of product is represented only by one sample of negligible value.

To that end, Article II para. 1 could be supplemented as follows:

"Exemption shall always be granted for an aggregate shipment of samples when each category or quality of product is represented only by one sample of negligible value."

The system now existing in the Belgian Congo and Ruanda Urundi is as follows:

Under Article 131 of the Governor-General's Order of 6 January 1950 enacted by virtue of the Decree of 29 January 1949 relating to the customs system of the Belgian Congo and Ruanda Urundi, a sample is defined as follows:

"Any small quantity of an object or product destined exclusively for the purpose of making it known and which cannot be used for any other purpose."

Samples are taxed under the tariff items under which the goods they represent are classified.

They can be exempted from import duties in the following cases and circumstances:

a) Samples of piece goods, when imported in such small pieces that they cannot be used except as specimens of samples. In other cases, for instance, in the case of whole pieces or complete articles such as shawls, handkerchiefs, etc., samples can be entitled to duty-free admission only after they have been cut or perforated so as to deprive them of any saleable value.

Any sample of piece goods of 30 centimeters in length, over the whole width of the material, shall be subject to customs duties.

b) Samples of wines in bottles containing not more than 15 centiliters, provided the customs authorities have no doubt whatever as regards their final destination.

This requirement does not apply to distilled beverages or to wines of more than 15 degrees of alcoholic strength.

c) Samples of unmanufactured tobacco of less than 100 grams in net weight shipped through the post office.
Article II (cont.)

d) Samples of manufactured tobacco, sent through the post office, of less than 10 grams in net weight shipped directly in single specimens to consignees.

e) Any quantity of any product shipped through the post office as ordinary correspondence (see Article 147) provided that the declared value is less than 20 Belgian francs.

CEYLON

The words "of negligible value" in this article should be replaced by the words "of no commercial value". The reason for this suggestion is that according to the provision of the Ceylon Customs ordinance, every article having a value must be taxed and therefore the use of the words "negligible value" does not seem to be appropriate.

FINLAND

The term "sample of negligible value" used in Article II is preferable to the term "no saleable value". It may be said that the former expression is too vague, but it will hardly cause any direct difficulties in practice especially if account is taken of the provisions of Article II entitling the customs authorities to require that in order to be exempted from import duties, the samples be rendered unusable for other purposes than as samples. Another question is that the importers of the samples often are reluctant to do it. Apparently, it is also difficult to define more precisely the term "negligible value", this depending on the different character and commercial qualification of the commodities.

FRANCE

Article II of the draft Convention provides that samples of negligible value shall be exempt from import duties. However, the wording of this Article does not clearly indicate whether, in assessing the value of samples, the value of each individual sample should be taken into account of the aggregate value of samples forming part of one consignment.

An ambiguity thus arises which should be eliminated as was requested by the United States representative.

It seems desirable that the Article should state explicitly that the customs authorities are given the option of taking into account the value of individual samples or the aggregate value of samples forming part of one consignment in order to determine whether or not the articles are of negligible value. This precise indication would help to a certain extent to combat the fraudulent practice of consigning, in the form of multiple samples, goods which have, in fact, a considerable value.

GERMANY

Paragraph 1:

Insert the following which would consolidate the second sentence:

"In cases when several samples are imported in aggregate shipments, the value of each individual sample and not to the aggregate
Paragraph 2: After the word "useless", insert the words "as merchandise".

The effect of this addition would be to make it clear that any other treatment designed to make samples useless would be fully adequate, if it were to deprive them of their intrinsic character as merchandise.

Paragraph 2: After the words "tearing, perforation" insert the words "of durable marks".

Affixing durable marks (e.g. by way of indelible stamping), to confer the character of a sample, is a common commercial practice for certain items. Such practice would, furthermore, meet any requirements that samples should be made useless.

Last line: substitute the word "character" for the word "value". This modification would be useful for the sake of clarity.

GREECE

The substitution of the words "samples of negligible value" for the formula "samples of no saleable value" is accepted.

As to the question of the customs authorities being at liberty to appreciate the negligible value of each individual sample or of identical
samples forming part of one consignment, the Greek Government does not feel the need for an amendment and leaves it to the Contracting Parties to reach any appropriate decision in this respect.

**India**

**Paragraph 1**

The words "bona fide" may be added between the words "import duties" and "samples". The question whether the value of each sample or the aggregate value of samples forming part of one consignment should be taken into account in determining whether the samples are of "negligible value", may be left to be decided by the customs authorities in the light of all the circumstances of the importation.

**Paragraph 2**

At the end of this paragraph, the last line may read as "...but not, however, so as to destroy their value and utility as samples".

**Italy**

The idea of "commercial sample" and more particularly that of a sample of "negligible value", in the terms employed in the Paragraph 1 of this Article, cannot be separated from the principle that such samples should be "free of charge".

It would not be conceivable to exempt a sample from import duty by reason of its negligible value and at the same time to agree that charges in respect of the sample may be payable by the firm to which it is consigned. If the sample is, as it should be, of "negligible value" – that is, of practically no value, the sample must be dispatched to the customer "free of charge".

Consequently, it seems necessary to amend Article II:1 as follows: "...provided such samples are of negligible value, are dispatched free of charge and are only to be used for soliciting orders".

The principle that samples should be free of charge, as set forth above, should obviously also apply to catalogues, price lists and trade notices mentioned in Article IV of the draft Convention.

The Italian Government has two further points to make in regard to Article II, as follows:

a) it would perhaps be advisable, by analogy with the provisions of Article III:2, to provide explicitly that samples may be imported with or without the intervention of a commercial traveller;

b) account should be taken of the need for complying with the internal laws and regulations of each country, under which special rules or conditions are laid down for the importation of certain products (e.g. sanitary regulations concerning medicinal specialities, previous analysis of certain chemical products, prohibition to import goods which are under state monopoly, etc.).

In regard to the practical application of Article II by customs authorities, it is recognized that the terms of the Article as worded at present are open to conflicting interpretations. If, as is desirable, the text of
Article II were to be modified in order to ensure its uniform application, it would be desirable to stipulate that the expression "negligible value" should refer to aggregate shipments.

JAPAN

Paragraph 1(c) of Article II:

'The meaning of the paragraph is not clear. According to current commercial practices, presentation of trial products as samples is required by a manufacturer or trader of importing countries prior to concluding contracts. Paragraph 1(c) is not considered proper, if these samples fall under the category of "samples made up on behalf of a manufacturer or trader established in the territory into which they are imported". It is our opinion that these samples should also be free from customs duties.

Moreover, it is practically impossible for the customs authorities to distinguish samples referred to in paragraph 1(c) above from other.

In view of the important role to be played by samples in commercial transactions, samples in the broader sense of the word should be exempted from customs duties.

As a conclusion, Paragraph 1(c) is desired to be deleted.

NORWAY

According to the Norwegian regulations in force commercial samples which are considered not to be intended for sale are admitted free of duty. Although the proposed formula "negligible value" in some respect may cover a broader field than the actual Norwegian regulations, the formula could be accepted.

PHILIPPINES

Paragraph 1

The Philippine Government agrees with the concept of the term "negligible value" i.e., that the samples be of such character that the Contracting Parties were prepared to ignore their value for customs purposes. The determination of whether a sample could be considered as of negligible value must be understood to be left to the contracting party concerned."

SOUTHERN RHODESIA

Paragraph 1

The concept of "negligible value" is acceptable to my Government and the Department of Customs and Excise does not, in fact, collect any duty on any item where the duty is less than 1s. -d.

Paragraph 2

'The Southern Rhodesian customs authorities at present require that in order to qualify for exemption from import duty samples of clothing must be rendered unsaleable by the cutting out from each garment of a portion of the material of not less than 2" square from a prominent part, both back and front.
SWEDEN

The proposed formula "negligible value" covers in some respect a broader field than the actual Swedish regulations. It could, however, be accepted.

UNITED KINGDOM

U. K. re-draft:

"1. Each Contracting Party shall exempt from import duties samples of goods of all kinds imported into its territory, provided such samples are of negligible value, are not to be sold, and are only to be used for soliciting orders for similar goods with a view to their importation into that territory.

2. The customs authorities of the territory of importation may require that, as a condition of being exempted from import duties in accordance with paragraph 1 of this Article, samples shall be made useless by subjected to 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 a manufacturer or trader established in the territory into which they are imported."

U. K. Comments

The essential purpose of the Convention is to facilitate international trade, and when paragraph 1 speaks of "Samples.......only to be used for soliciting orders", it means the soliciting of orders for similar goods which are to be imported from abroad, and not the soliciting of orders for similar goods which are made in the country into which the samples are imported. This is also the intention underlying paragraph 3, but a literal interpretation of its wording would withhold the exemption from a card of samples which a foreign manufacturer's agent established in the country of importation asked his foreign principals to make up for him, to be used for securing orders for goods to be imported. To avoid this defect in paragraph 3, the United Kingdom suggests that paragraphs 1 and 3 of the Article be telescoped into a single revised paragraph.

Further, the phrase "shall be made useless" in paragraph 2 is literally contradicted by the concluding phrase "but not, however, so as to destroy their value as samples". To avoid this difficulty the suggested text omits the words "shall be made useless".
UNITED STATES

Despite the statement of the majority of the members of the Working Party that "the wording of paragraph 1 could be interpreted by customs authorities to mean that, in considering whether samples were, or were not, of "negligible value", they were at liberty to take into account either the value of each individual sample or the aggregate value of samples forming part of one consignment, in the light of all the circumstances of the importation", the United States continues to believe that it is necessary to add language to the article itself which will clarify the point. It is the view of the United States authorities that the present wording of Article II, paragraph 1, implies that negligibility of value is to be based on values of individual articles, but existing United States law requires the "aggregate" value to be used as opposed to the "individual" value. Unless the ambiguity is removed, misunderstandings might arise concerning the conflicting interpretations of the provisions of the Convention. If the meaning of the paragraph is clear to all the other Contracting Parties, it would appear to be desirable to prevent ground for confusion and misunderstanding. Therefore, the United States proposes that the following language be added to paragraph 1, Article II:

"In determining whether samples are of negligible value the customs authorities of the territory of importation may consider the values of individual samples or the aggregate value of all the samples in one shipment. The values of shipments for different consignees shall not be aggregated for the purpose of this paragraph even though they arrive at the frontier of the territory of importation at the same time."

The second sentence of the suggested language provides for the extension of the benefits of Article II to each shipment to a separate consignee even if the shipments arrive at the frontier of the importing country at the same time. The effort to develop interest in a given product through samples usually involves the sending of small quantities of the product simultaneously to an appreciable number of different possible buyers. Exporters need to have definite assurance that the value of such shipments to different consignees would not be aggregated by the customs authorities although they arrive at the frontier of the country of importation at the same time. Otherwise the Convention will largely fail in its purpose of facilitating trade expansion through the duty-free admission of consignments of samples that are individually of negligible value.

INTERNATIONAL CHAMBER OF COMMERCE

Paragraph 1

The I.C.C. is of the opinion that the question of whether the value of each sample or the aggregate value of the whole consignment is to be taken into account should be settled in the Convention. According to the majority view, it is the value of each sample which should count and not the aggregate value, except in exceptional circumstances which could be covered in the list appended to Article II, if such a list is conserved. In other words, if each
item is, or is made, valueless for customs purposes, the fact that one hundred such items are presented instead of one, should, normally speaking, make no difference. In any case, if there is to be option, the option should be stated and carefully defined.

Particular importance is attached by the members of the I.C.C. to the rule that any treatment required by the customs to render a sample commercially inutilisable should not be such as to diminish its utility as a sample. The I.C.C. would therefore welcome a redrafting of this article so as to make this rule more imperative. The insertion of the word "marking" before "tearing" in paragraph 2 might also be useful, since for instance stamping the word "sample" indelibly on an article may in many cases render more drastic measures unnecessary.

The I.C.C. believes it to be essential to avoid the use of the term "value" at the end of paragraph 2. The word "value" should be replaced, in order to obviate any misunderstanding, by some such word as "utility" or "character".

Suggested Title to Article II

GERMANY

Insert the following title:

"Exemption from import duties for samples of negligible value"
ANNEX TO ARTICLE II

Sixth Session Draft

Without prejudice to the generality of Article II, samples of the following goods in particular shall be entitled to exemption from import duties in accordance with that Article, subject to the limitations specified therein and provided that the weight or volume of each consignment does not exceed the limits, if any, laid down by the importing country as compatible with the character of samples:

1. Foodstuffs and beverages, including wine, spirits, cider, beer, mineral waters, juice of grapes or other fruits, edible oils, margarine and other edible fats, etc., provided that not more than one sample of each kind or quality is included in every consignment and that the weight or volume of these products does not exceed the limits laid down by the importing country as compatible with the character of samples.

2. Base metals, skins, leather, rubber, wood, cork and similar substances, also materials plaited or spun, in sheets, bundles, sets or individual pieces, of a shape precluding the possibility of any other use than as samples, or in threads, bars, tubes, cables or cords of a maximum length of 10 cm., affixed or not on cards and not capable of any use than as samples.

3. Sets of papers, envelopes, notepaper and picture postcards, rendered useless by being pasted on sheets, cancelled by a stamp, etc., wallpapers, mounted on stands or not, sent by a foreign supplier to customers and bearing his name or mark, and also single portions of paper or wallpaper suitable for showing an entire design but not usable for any other purpose.

4. Samples of threads of all kinds arranged on cards in order of size, quality or colour, sent by a supplier to a customer.

5. Woven textiles of all kinds and felt cloths made into sets of bundles, bearing the name or mark of the supplier, or imported in separate pieces, provided that owing to their size and nature they can be used only as samples or are rendered useless for other purposes; for example by cuts or perforations.

6. Coloured samples containing specimens of woven textiles, leather or other materials to show the nature and colour effect, provided that, owing to their size and nature, they can be used only as samples or are rendered useless for other purposes; for example by cuts or perforations.

7. Samples of manufactured goods such as shawls, handkerchiefs, ties, stockings, footwear, gloves, gaiters, serviettes, hats, etc., with deep cuts, or forming only half or a quarter of the article and not capable of being used.
Annex to Article II (cont’d.)

8. Samples of wood, stone, pottery, earthenware, china or glass, bearing several kinds of design, sculpture, etc., on one article, which cannot be put to any other use.

9. Screws, rivets, nails, etc., buttons, buckles, hooks and, generally speaking, small articles serving as ornaments or accessories in the clothing trade, affixed to cards containing a single sample of each size and of each kind and constituting genuine collections of samples.

10. Small samples of essence of turpentine, colophony, tartar, wax or other products in the raw state.

11. Samples of fruit essences, artificial dyes, etheric oils and chemical products, provided there is only one sample of each kind and quality in every consignment and that the weight or volume of these products does not exceed the limit fixed by the importing country as compatible with the character of samples.

12. Samples of colours and inks for painting and drawing, in small tubes or bottles of such small content that there is no possibility of their being sold.

COMMENTS ON ANNEX TO ARTICLE II

AUSTRALIA

Since it is impracticable to draw up an exhaustive list of the products whose samples would be covered by Article II the inclusion of the Annex does not resolve the problem of defining the articles that shall be eligible for admission as samples. In practice the Annex may be taken as too rigid a guide in determining the nature and treatment of a sample claimed to be of negligible value. In these circumstances Australia favours omission of the Annex.

Annex to Comments on “Annex to Article II”

1. Foodstuffs and beverages, including wine, spirits, cider, beer, mineral waters, juice of grapes or other fruits, edible oils, margarine and other edible fats, etc., provided that not more than one sample of each kind or quality is included in every consignment, and that the weight or volume of these products does not exceed the limits laid down by the importing country as compatible with the character of samples.

(a) No exemptions apply.

(b) To the extent of a size limit of (say) 4 fl. oz. or ½ lb., for each sample.
Annex to Article II (cont'd.)

2. Base metals, skins, leather, rubber, wood, cork and similar substances, also materials plaited or spun, in sheets, bundles, sets or individual pieces, of a shape precluding the possibility of any other use than as samples, or in threads, bars, tubes, cables or cords of a maximum length of 10 cm, affixed or not on cards and not capable of any use than as samples.

(a) If with advertising thereon -
    when partly of paper - Item 338 (A) (I) ☐
    otherwise - Item 367 x

If non-advertising - Unspecified /

(b) To the extent of limits proposed in paragraph 2 above.

3. Sets of papers, envelopes, notepaper and picture postcards, rendered useless by being pasted on sheets, cancelled by a stamp, etc., wallpapers, mounted on stands or not, sent by foreign supplier to customers and bearing his name or mark, and also single portions of paper or wallpaper suitable for showing an entire design but not usable for any other purpose.

(a) Sets of papers, envelopes, notepaper and picture postcards, rendered useless by being pasted on sheets, cancelled by a stamp, etc.

If advertising - Item 338 (A) (I) ☐

If non-advertising - Unspecified /

(b) To extent of limits proposed in 3 above.

4. Samples of threads of all kinds arranged on cards in order of size, quality or colour, sent by a supplier to a customer.

(a) On mountings -

If mountings are non-advertising - Unspecified /

If mountings are advertising and are of paper - Item 338 (A) (I) ☐

If mountings are advertising and are not of paper - Unspecified /

(b) To extent of limits proposed in 4 above.
5. Woven textiles of all kinds and felt cloths made into sets or bundles, bearing the name or mark of the supplier, or imported in separate pieces, provided that owing to their size and nature they can be used only as samples or are rendered useless for other purposes; for example, by cuts or perforations.

(a) When as indicated they are of size and nature as to be usable only as samples or are rendered useless for other purposes such as by cuts or perforations — Unspecified

(b) Covered by present exemptions.

6. Coloured samples containing specimens of woven textiles, leather or other materials to show the nature and colour effect, provided that, owing to their size and nature, they can be used only as samples or are rendered useless for other purposes; for example, by cuts or perforations.

(a) When as indicated they are of size and nature as to be usable only as samples or are rendered useless for other purposes such as by cuts or perforations — Unspecified

(b) Covered by present exemptions.

7. Samples of manufactured goods such as shawls, handkerchiefs, ties, stockings, footwear, gloves, gaiters, serviettes, hats, etc., with deep cuts, or forming only half or a quarter of the article and not capable of being used.

(a) When as indicated they are of size and nature as to be usable only as samples or are rendered useless for other purposes such as by cuts or perforations — Unspecified

(b) Covered by present exemptions.

8. Samples of wood, stone, pottery, earthenware, china or glass, bearing several kinds of design, sculpture, etc., on one article, which cannot be put to any other use.

(a) — Unspecified

(b) Covered by present exemptions.

9. Screws, rivets, nails, etc., buttons, buckles, hooks and, generally speaking, small articles serving as ornaments or accessories in the clothing trade, affixed to cards containing a single sample of each size and of each kind and constituting genuine collections of samples.
Annex to Article II (contd.)

(a) When on mountings -

If mountings are of paper and are advertising
- Item 338 (A) (I) φ

If mountings are of paper and are non-advertising
- Unspecified /

If mountings are not of paper
- Unspecified /

(b) To extent of limits proposed in 9 above,

10. Small samples of essence of turpentine, colophony, tartar, wax or other products in the raw state.

(a) No exemptions apply.

(b) To the extent of limits of 4 oz. of liquids or ½ lb. solids, for each product.

11. Samples of fruit essences, artificial dyes, etheric oils and chemical products, provided there is only one sample of each kind and quality in every consignment and that the weight or volume of these products does not exceed the limits fixed by the importing country as compatible with the character of samples.

(a) No exemptions apply.

(b) To the extent of a size limit of 4 fl. oz. or ½ lb. for each product.

12. Samples of colours and inks for painting and drawing, in small tubes or bottles of such small content that there is no possibility of their being sold.

(a) No exemptions apply.

(b) To extent of limit proposed in 12 above.

Notes φ and η give the wording of the Tariff Items named in the preceding comments.

<table>
<thead>
<tr>
<th>Tariff Item</th>
<th>Description of Goods</th>
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<tr>
<td>338 (a)(I)</td>
<td>Manufacture of paper, or articles partly manufactured of paper, framed (including the weight of the frame), or unframed, having advertisements thereon.</td>
</tr>
<tr>
<td>367</td>
<td>Articles of an advertising character which would not otherwise be dutiable at a higher rate of duty under any other heading, including all articles which would be free but for their advertising character.</td>
</tr>
</tbody>
</table>

φ Where the word "unspecified" appears opposite a description it signifies that the article of that description is not classifiable under any item of the Australian Customs Tariff schedule. Such articles are exempt from customs duty.
ANNEX TO ARTICLE II (contd.)

AUSTRIA

During the Geneva discussions the question had been raised whether the wording of paragraph 1 stated explicitly the exemption of individual samples as well as of aggregate pieces forming part of a sample collection. It seems that the present text means that both kinds of samples are to be free of duty, as results from the Annex to Article II in which mention is made of sample collections (paragraphs, 2, 3, 4, 5 and 9). This Annex should be maintained. Though it is impossible to draw up an exhaustive list of goods it must be recognized that the Annex gives most valuable hints for doubtful cases. In Austria the customs regulations include a similar list necessary as a guidance to any person concerned. No reference is made in the Annex to embroideries. It should be stated whether such kind of articles is covered by paragraph 5 or elsewhere included.

BENELUX

1. The principle

As regards the Annex to Article II the report of the Working Party does not conceal the fact that this was the object of lengthy discussions and that the unanimity could not be reached. The question arises whether it will be necessary to insert a list of samples of products entitled to duty-free admission. It seems that the answer is "yes"; provided such a list is not limitative.

Theoretically, a definition should not be followed with a non-limitative enumeration of objects responding to such a definition.

However, it should be recognized that Article II is far from providing a precise definition of samples that should be entitled to exemption from import duties. Hence, a non-limitative enumeration of examples would be of real practical value because:

(i) it supplements, in fact, a vague theoretical definition by illustrating with concrete examples the views of the authors of the definition;

(ii) it secures in a wide domain a uniform interpretation of the definition.

For this reason the retention of a list of examples is not without positive interest.

Perhaps it should be suggested that the list in question should be re-examined at a later stage in the light of experience gained and on the basis of any confusion or abuses which might have occurred.
Annex to Article II (contd.)

2. The form of the list

In view of the fact that under the opening paragraph of the Annex importing countries can lay down limits, it would be preferable to delete the following closing words in paragraphs 1 and 11: "... and that the weight or volume of these products does not exceed the limits laid down by the importing country as compatible with the character of samples".

In its present wording in paragraphs 1 and 11 this phrase is of a mandatory character. In view of the great diversity of products which can be classified under the items listed in these paragraphs, it is practically impossible to lay down limits for each product whether in weight or volume; furthermore, the difference in the value of these products does not make it possible to lay down a uniform quantitative limitation.

Generally speaking, the Benelux countries have not laid down any limits whether in terms of weight, quantity or value, but exemption is granted to products imported as samples into Belgium when the amount of duties involved does not exceed 5 Belgian francs. A similar practice is followed in the Netherlands.

One could however accept the determination of a maximum volume as regards samples of wines and distilled beverages. In this respect, the figure of 15 centiliters could be suggested.

Lastly, it appears that, if the Annex to Article II were adopted, agricultural products should be added to foodstuffs in paragraph 1 relating to the goods enumerated.

CZECHOSLOVAKIA

As for the Annex to Article II, containing an example of a list of samples of various goods, we propose that no such list should be included in the Convention, but that the definition of commercial samples of negligible value should be given in more detail in Article II.

Concerning the invitation that the Contracting Parties supply information as to the limits of weight, quantity or value of their present exemptions from customs duties for the kinds of samples covered by the Annex to Article II, we advise that in the Czechoslovak customs regulations there are no such limitations and that the customs authorities grant exemptions for samples on the basis of the legal definition of customs-free samples. This definition is based on the provision that samples cannot be sold or used for other purposes. In cases mentioned by the Annex to Article II the Czechoslovak customs authorities generally grant exemptions. As far as commercial samples of foodstuffs and beverages, respectively of other articles which could be used otherwise than samples, are concerned, it depends on the character of each case (e.g., who is the importer, in what form the article is imported) whether the customs authorities will grant exemptions for such samples.
Annex to Article II (contd.)

DENMARK

The Danish Government find it useful that a list of samples of negligible value benefiting from the provisions of Article II is included in the draft Convention as an unexemplified guidance for the customs authorities.

Under the Danish Tariff Act models and samples representing dutiable products are exempted from import duties provided the customs authorities deem them useless for purposes other than the soliciting of orders.

Further, such samples may be imported without licence.

The decision whether a product is a sample or not is thus to a wide extent delegated to the customs authorities. Hence, the Danish Government are not interested in the inclusion in the draft Convention of limits of weight, quantity or value with regard to commercial samples to be exempted from import duties.

FINLAND

The list of examples included in the Annex to Article II may be considered useful, although it is not and cannot be perfect. Sometimes, on the occasion of customs clearance, there may be uncertainty as to whether certain kinds of samples can actually be considered as "samples of negligible value", and to provide for such eventualities, the list could have its importance, since it suitably illustrates the conception of a sample of negligible value. However, the wording of the list ought to be revised.

The condition at the end of its introductory sentence "and provided that the weight or volume of each consignment does not exceed the limits, if any, laid down by the importing country as compatible with the character of samples" reappears at the end of Articles I and II of the same Annex. It may be thought whether such a condition of general nature, if it is considered necessary, could not be included in the text of Article II itself.

In Finland no maximum weight or value limits have been fixed for samples of duty-free articles except in a few cases. Thus, a duty-free sample packet of coffee is not allowed to weigh more than 2 kilograms net and contain more than 500 grams net of each quality of coffee. In duty-free tobacco sample packets not more than 50 grams of each quality is allowed. However, if any provisions concerning specified limitations are to be included in the final Convention, these quite liberal maximum weight limits should not be increased taking into consideration the quality of the goods in question.

FRANCE

The Annex to Article II should be included as an integral part of the Convention.

This would ensure that the Convention is applied on a satisfactory reciprocal basis; an exception would, of course, be made in the case of goods prohibited for one of the reasons listed in Article VI:3.
Annex to Article II (cont'd.)

Existing French regulations relating to samples of no value are laid down in Sections 879-882 of the Preliminary Observations to the French Tariff. At present, only samples of manufactured articles are exempted from import duty, provided they are recognized as being of no saleable value. Section 882 of the Preliminary Observations specifies the conditions under which samples are to be considered as such.

It will probably not be necessary to state the limits of weight, quantity or value in respect of the products mentioned in paragraphs 2 to 9 of the list. However, although the general rule laid down for samples of manufactured articles could also apply to samples of foodstuffs and beverages (these are not at present admitted free of duty into France), limits, which have not yet been defined, could be established in respect of the products listed in paragraph 1 of the Annex and also in paragraphs 10, 11 and 12, if the Annex is adopted. The French Government reserves the right to publish a list of such limits, if necessary.

ANNEX

EXTRACT FROM PRELIMINARY OBSERVATIONS TO FRENCH CUSTOMS TARIFF

Special Treatment Applicable to Samples

A - SAMPLES OF FOODSTUFFS AND BEVERAGES

879 - Samples of foodstuffs and beverages and other goods of a similar nature taken at the time of importation or while the goods are in bonded warehouse are subject to the provisions of the Tariff.

The provisions of Section 161 concerning the weighing of packages does not apply to samples of foodstuffs and beverages. Duty is payable on the actual weight (to the nearest gram).

B - SAMPLES OF MANUFACTURED ARTICLES

1) Definition

880 - Samples of manufactured articles are defined as single articles, unmatched or incomplete, the purpose of which is proved by the fact that dissimilar objects are contained in the same set.

2) Treatment applicable

881 - A distinction must be made between samples of manufactured articles which have no saleable value and those which can be utilized in their present state. The first-mentioned only are exempted from import duties and taxes, the others being subject to ordinary Tariff provisions. They may, however, be temporarily imported free of duty under the duty deposit or security systems.
Annex to Article II (cont'd,)

a) Samples of no saleable value (duty-free admissions)

The following shall be deemed to be samples of no saleable value:

Fabrics:

(a) those which are imported in such small pieces that they cannot be used except as specimens or samples or those which can be utilized in their present state (whole pieces, shawls, handkerchiefs, neckties, etc.), which have been cut or perforated so as to deprive them of their saleable value.

(b) pieces not exceeding 50 centimeters in length, and of any width, intended for the use of merchants for insertion in books of fabric samples, provided there is no doubt as to the manner in which they are to be used.

(c) pieces of larger dimensions brought from abroad by French commercial travellers in sets made up of dissimilar specimens each of which is labelled (name and trade mark of firm, type of fabric, etc.).

(d) stockings or socks with either two oblique cuts or two perforations made with a punch (in the calf and heel).

(e) sleeved waistcoats with two perforations or cuts (in the middle of each sleeve and at the level of the breast).

Footwear: odd footwear lacerated in different parts of the soles and uppers.

Paper:

(a) paper gummed to paperboard or cardboard in the manner of samples in albums and paper bearing printed references in bold characters done in tambour or stippled; in the case of chromos the printed reference should be applied on the reverse side; if a stippled reference is applied it should cover the essential part of the image.

(b) wallpapers displayed on wooden frames (the appropriate duty would be payable on the binding or the covers of the albums and wooden frames, in appropriate cases).

(c) samples of diaphanous papers and of articles for natural history collections.

Cardboard:

Small samples of insulating fibreboard (masonite, celotex, etc.) 10 to 15 cm. in width, with one perforation in the centre and samples of a slightly larger size with three perforations, two of which are placed close to two different edges and the third near the centre.
Annex to Article II (cont'd.)

The following are also considered as samples of no value, and therefore are admitted duty-free:

Small quantities of manufactured tobacco addressed directly to the Direction générale, the service d'Expertise or the manufactures of the Service d'Exploitation industrielle des Tabacs et Allumettes, by foreign tobacco administrations or merchants, as specimens to support their sales offers.

The maximum quantities of tobacco, cigars or cigarettes which can be admitted duty-free for each consignment are fixed as follows:

- Smoking tobacco: 2,500 kg. in various types of packages
- Snuff: 2,500 kg. in various types of packages
- Chewing tobacco: 2,500 kg. in various types of packages
- Cigars: 1,000 with a maximum of 100 for each quality submitted or for each specimen package
- Cigarettes: 5,000 with a maximum of 400 for each quality submitted or for each specimen package

These quantities together may be contained in a single consignment.

Exemption from import duty shall be subject to the production at the Customs Office concerned of a certificate issued by a qualified official of the Service, stating that the samples in question shall be destroyed in the course of expertise work.

This list is non-limitative in character, and exemption from import duty may be granted in respect of all other articles recognized as being of no value.

GERMANY

Annex to Article II: The Annex to Article II can be retained in its entirety.

The purpose of the Convention is to ensure maximum uniformity in the application by all countries of facilities for the importation of commercial samples. Even though the general principle of exemptions from import duties is laid down in Article II, paragraph 1, it might, in fact, be differently applied, because of different interpretations by the customs services, if the Annex to Article II were not incorporated in the text.

On the other hand, the list drawn up by the Economic Committee of the League of Nations in 1935 would ensure that
only samples mentioned therein as an illustration were effectively exempted from import duties, subject to the limitations involved in restrictions and reservations. Furthermore, the list would enable customs services to treat other cases by way of analogy.

As Germany was not a participant in the negotiations concerning the 1935 list, the Federal Republic proposes various amendments.

Introduction, line 4:
Substitute the words "the weight, volume or value of each consignment" for the words "the weight or volume of each consignment".

Although, generally speaking, samples referred to in Article II should be of negligible value, the explicit mention of value over and above restrictions relating to weight and volume would be desirable.

At the end of the Introduction add the following phrase:

"As regards goods listed below the following maximum limits have been laid down:"
Annex to Article II (contd.)

as regards alcoholic beverages for consumption purposes, or spirits to be used for mixing (finished products): individual samples containing not more than 50 cm.:

as regards tobacco, including cigarette paper: exclusively sample packages containing, each, not more than three cigars or five cigarettes or 10 grm. of smoking tobacco, or 5 gr. of snuff, or 5 gr. of chewing tobacco or 10 cigarette papers;

as regards coffee, not roasted, and tea:
- all such goods in postal packages not exceeding 250 gr. gross weight when consignments are destined for commercial undertakings in this branch of industry -

as regards seeds of cereals and vegetables:
10 gr. of each kind, of brewing malt, hops, seeds of broadleaved and coniferous trees
- all such goods in postal packages not exceeding 250 gr. gross weight. Preparations of coffee shall not be granted duty-free admission.

Para- After the words "leather, rubber", insert the words "plastic materials".

graph 2: After the words "tubes, cables, cords", insert the words "or presented in any other form".

As regards samples of spirits, tobacco, etc., it would be necessary to lay down maximum limits in order to avoid any abuse in duty-free importation of samples, in view of the fact that in nearly every country goods of this kind are heavily taxed upon importation.

The limit of 250 gr. gross weight for customs exemption in the case of postal packages shipped to commercial undertakings in this branch of industry would be necessary in order to avoid any abuse in duty-free importation of samples of goods of this kind.

These limits of weight admitted duty-free are the usual limits accepted for international shipments of samples.

Plastic materials have now become of considerable importance in international trade; it is, therefore, desirable that they should be listed together with other raw materials and semi-products included in paragraph 2.

The purpose of this addition is to include also cast items of small dimensions manufactured in foundries.
Annex to Article II (contd.)

Substitute "100 cm." for "10 cm.".

At the end of the paragraph add the words "and metal powders not exceeding 10 gr. in weight".

Paragraph 3: After the words "picture postcards" insert the words "and containers".

Insert the following at the end of paragraph 3: "Sample packets of sensitised paper for photography when presented as postal packages not exceeding 250 grams; in weight provided they can be clearly identified as sample packets and their value does not exceed the limit value laid down by the importing country".

"Specimens of books, periodicals, cartographic articles and printed music, when their presentation makes it possible to use them only as specimens. In the case of other complete works which can be used for other purposes, several pages of the text of each copy should bear the mention 'Specimen - Prohibited for sale' written in indelible ink in letters of about 1 inch in size."

The adoption of 100 cm. would be necessary to make it possible to submit samples also to breaking and bending tests.

In view of the fact that metal powders are not explicitly mentioned in paragraph 2, it would seem necessary that they be listed separately. Samples of 100 gr. are necessary in order to make it possible to conduct dissolving tests which very often have to be made several times. Furthermore, 100 gr. of copper, tin, lead or zinc powders represent a volume of not more than 8 to 15 cm$^3$.

The purpose of this addendum is to include samples of empty containers such as containers for soup and broth preparations.

In view of the fact that samples of photographic paper are not explicitly referred to in paragraph 3, it would be necessary to list them separately. It seems appropriate to leave the importing country at liberty to lay down a maximum value as regards upper grades of photographic paper.

It seems necessary to list those printed items separately in paragraph 3. In order to avoid any abuse in the case of specimens of complete printed works, the necessary steps would have to be taken in order to ensure that they shall be used only as specimens.
Annex to Article II (contd.)

Para­graph 4: This paragraph should be worded as follows:
"Samples of textile fibres and threads of all kinds showing the size, quality or colour of such textile fibres or threads."

It would be desirable to word paragraph 4 in more general terms. The proviso that such samples should be arranged on cards is too restrictive whereas in commercial use such samples are also sent on wooden spools, in skeins or otherwise.

Para­graph 7: This paragraph should be worded as follows:
"Samples of manufactured goods such as articles of hosiery, bathing costumes, shawls, handkerchiefs, ties, gloves, gaiters, leather articles, hats, etc., with deep cuts, or other depressing marks which make them useless as merchandise."

It would be preferable to list textile fibres separately because they are not included in the phrase "textile threads".

Samples listed opposite often have to be examined from the point of view of their appearance, size, breaking resistance, elasticity, solidarity, etc. The present wording for the restrictive clause makes it impossible to carry out the necessary text and therefore the more general text proposed would have to be adopted.

Para­graph 8: Substitute the words "manufactures of wood" for "wood".

After the words "of glass bearing" insert the words "one or".

Samples of wood are already covered in paragraph 2.

In order to avoid any ambiguity, specific mention should also be made of samples bearing only one kind of design.

Para­graph 9: The text of paragraph 9 should be worded as follows:
"9. Manufactures of iron, steel or any other base metals, such as cutlery, tools, screws, rivets, nails and small articles of all sorts of materials serving as ornaments or accessories in the clothing trade, such as buttons, buckles, hooks, affixed to cards

The present wording covers only small articles and is therefore too limited.

The object of the addition of the words "affixed onto cards or presented in any other current commercial way" is to include, for example, nails shipped in small boxes in accordance with current commercial use.
Annex to Article II (cont'd.)

Paragraph 9 (cont'd.)

or in single samples
of each size and of
each kind or presented
in any other current
commercial fashion and
constituting genuine
collections of samples."

Paragraph 11: Substitute the words
"manufactures of plastic
materials, rubber articles
and chemical and pharma-
ceutical products" for
the words "and chemical
products".

In view of the ever increasing importance
of manufactures of plastic materials
and rubber articles in international
trade, it is necessary that these should
be listed separately. It is also
desirable to include separately
pharmaceutical products which, in
various customs tariffs, are not
classified under chemical products.

As regards samples of dyes etc., the
ordinary practice is to send more than
one sample of each kind and quality
in every consignment.

Paragraph 12: After the words "of
colours" insert the
following: ", of
varnishes".

Varnishes are not specifically mentioned
in paragraph 12; they should therefore
be listed separately.

On the other hand, the
words "for painting and
drawing" should be deleted.

This deletion is necessary if this
clause is not to be given too restric-
tive an interpretation.

GREECE

Schedule

The appropriate services of the Greek Government hold the unanimous
view that the addition of an annex is of no particular value. In fact, such
a schedule could not possibly list all the products, samples of which could
be exported. On the other hand, if this list remained purely illustrative
in order to facilitate to the customs authorities the task of appreciating
the value of samples, or avoiding frequent disputes, it is to be feared that
each contracting party will wish to include in the schedule products interest-
ing its own exports, though the annex could not meet the requirements of
every country.
Annex to Article II (contd.)

Therefore, even though the Annex would be essentially illustrative, there would result therefrom serious inconvenience as regards samples of non-listed products. The Greek Government will therefore oppose the insertion of the annex and will be fully content with the general definition of a sample which, as already indicated above, should be supplemented by a formal reference to produce of the soil. However, if the Contracting Parties decide to retain the Annex, the Greek Government would be prepared to accept it provided samples of produce of the soil and agricultural products be mentioned at the beginning of the annex as proposed by the Greek Delegation to the Sixth Session of the GATT.

Weight or volume of samples to be entitled to exemption

The deletion of the schedule which gives indications in this respect would leave open the question of the weight or volume of samples which each country could exempt. The Contracting Parties have referred this question to governments. The Greek legislation does not determine the weight or volume of samples entitled to exemption. The Greek customs authorities are at liberty to decide in this domain. The criteria on which the estimation of the customs authorities is based are: specific packaging, presentation and, depending upon the nature of samples, the volume or weight which would exclude any use or purpose other than the publicity purpose of soliciting orders. In their appreciation, the customs authorities take account of the profession of the shipper (manufacturer, producer, trader, etc.), as well as the profession of the consignee. If one considers that samples shipped are essentially varied and that it is impossible to lay down uniform and rigid criteria for the importation of each individual product, it would seem that the system of criteria followed in Greece would, on account of its flexibility, facilitate the solution to be arrived at.

HAITI

This enumeration does not seem to be necessary in view of the fact that such a list would never be complete and its application could give rise to difficulties if some products were omitted. However, such a list, if it were of a purely illustrative nature, could be inserted in the Convention as a list of samples.

INDIA

It is noticed that paragraph 1 of Article II already provides for the exemption from import duties of samples of goods of all kinds provided they are of negligible value. The Annex may, however, be retained as it is but provision may be made for re-examination of the list at a later stage in the light of experience gained and on the basis of any confusion or abuses which might have taken place.

No limits with regard to weight, quantity or value of present exemptions for articles covered by the Annex have been prescribed hitherto in India because such a concession is not in operation. The existing practice is to admit free of duty only samples of no commercial value.
Annex to Article II (contd.)

As the list is intended to be only indicative of the articles to which special favour has to be shown, it seems unnecessary to be meticulous as to the limits of weight, quantity or value before the articles which are bona fide samples, can be shown the concession of exemption from duty.

As in the opening paragraph of the Annex, importing countries are being allowed to lay down limits, it will be appropriate to delete the words occurring in paragraphs 1 and 11: "... and that the weight or volume of these products does not exceed the limits laid down by the importing country as compatible with the character of samples".

ITALY

As regards the Annex to Article II, the Italian Government considers that it should be incorporated in the final text of the Convention. It would be advisable, however, to stipulate that the Annex be subsequently revised after the Convention has been in force for a certain length of time.

Finally, under existing Italian legislation only "samples of no value" are exempted from import duty. No quantitative limits are fixed; it being left to the discretion of the customs authorities to decide whether, in view of the weight of the goods, the regulations regarding exemption are applicable. A maximum allowance of approximately 100 grams is fixed only in the case of consignments sent through letter post (posta lettere). Exemption, however, does not apply to certain types of goods (chemical products, and products subject to state monopoly, etc.).

JAPAN

In general we are in favour of these provisions. However, as we understand that these products enumerated here are just some examples among many, it seems advisable to make it clearer to treat similar products on an equal basis, if they are considered as among the same categories.

With this in mind, it is proposed that the words "samples of the following goods in particular" as employed here be replaced by such appropriate words as to convey more clearly the purport stated above.

Furthermore, it is desired that the naming of products in this Annex be made more detailed and concrete and categories of products more extensive.

NORWAY

The Norwegian Government would favour the deletion of the Annex and agrees with the arguments put forward to this end by several members of the Working Party.

To what extent articles covered by paragraphs 1-18 of the draft Convention of 1935 can be imported into Norway free of duty is determined in accordance with the above-mentioned rule (see comments to Article II) which applies to commercial samples in general.
Article to Article II (contd.)

PHILIPPINES

The Philippine Government maintains no regulations as to the limits of weights, quantity or value of its present exemptions nor does it have a list of examples of articles granted exemption. However, it agrees in principle to the inclusion of this Annex.

SOUTHERN RHODESIA

The present maximum duty-free amounts permissible in respect of foodstuffs and beverages listed in paragraph 1 are 1 lb. or 1 pint according to the nature of the samples; and in respect of the commodities listed in paragraph 11, 1/2 lb. or 1/2 pint. The Department of Customs and Excise has indicated that it will be prepared to modify these limits should the proposal for the retention of the Annex be generally accepted.

SWEDEN

The Swedish Government believes that it is not necessary to work out a partial list of samples entitled to exemption from import duties in accordance with Article II. As mentioned in the report of the Working Party it is clear that each country would favour the inclusion of its products and oppose the insertion of those products the samples of which could not for various reasons easily be granted the benefits in question. Further, such a list could make the accession of states more difficult which did not participate in the working out of the Convention as products which may be considered to be of important interest to them have not been inserted in the list.

The Swedish legislation does not determine the weight or volume of samples entitled to exemption. The estimation of the Swedish customs authorities is based not only on the nature and weight of the goods but also on the specific packing, the profession of the consignee, etc. It is the view of the Swedish Government that limits of weight, quantity or value should not be included in the Convention.

UNITED KINGDOM

During the discussions in the Working Party at the Sixth Session, the United Kingdom was strongly of the opinion that it was illogical and undesirable to incorporate in the Convention a detailed list of articles or commodities to be admitted free as samples, because Article II already gives an entirely general commitment to allow samples of any goods of negligible value to be admitted free. This view received considerable support, as is indicated in the report of the Working Party.

The United Kingdom is still of the opinion that the Annex to Article II is unnecessary and that accordingly there is nothing to be gained by detailed examination of quantity limits which various countries fix at present or consider that they might be prepared to fix in future. In any case, closer examination of the draft Annex to Article II shows that it is difficult to
produce any such statement of quantity limits. So far as the United Kingdom is concerned, almost all the articles mentioned in paragraphs 2-12 of the Annex are liable to ad valorem, not specific, duties, and it is therefore not possible to state any fixed quantitative limit. It is not even possible to state a limit of value since the goods in the list are so diverse and their values differ so greatly that no common limit for value, even in respect of goods falling within the same paragraph of the Annex, can be stated; even if it were possible to fix such a limit, it would need constant adjustment in the light of changing levels of value. Moreover, in the opinion of the United Kingdom the duty-free admission of samples of negligible value cannot be based on any single criterion such as quantity or value. The real purpose of Article II is to distinguish for preferential treatment the bona fide trade sample; and, in determining whether a sample is to be admitted free of duty, not only its quantity and value but also all the circumstances attending the importation need to be taken into account. Thus, where the general circumstances clearly indicate an importation of bona fide trade samples, it may well be possible to give a more generous interpretation of "negligible value" than is possible in other cases.

UNITED STATES

The Working Party gave considerable attention to the question of whether a non-exclusive list of samples to benefit from the treatment provided in Article II should be included. The United States believes that it is unnecessary to endeavour to work out a partial list of items all of which should be covered by the general and simple definition of Article II, samples of negligible value to be used only for soliciting orders. Some of the difficulties of working out such a list were suggested in the Working Party report. It is the view of the United States Government that such a listing, now embodied tentatively in an Annex to Article II, not be included in the Convention.

With respect to the limits of weight, quantity, or value of the existing exemptions from United States duties on articles covered by the paragraphs of the proposed Annex to Article II, the only limits which would be applied by the United States under present laws are value limits. The samples of negligible value enumerated could enter the United States duty free within the limits of Section 321 of the Tariff Act of 1930, as amended. This Section authorizes customs collectors to permit the entry into the United States by one person in one day of goods aggregating not over $1.00 in value free of duty and taxes.

In the light of existing United States laws, samples permitted entry free of duties and taxes under Article II or under the Annex to Article II would be those items permitted free entry under the terms of the $1.00 exemption of Section 321 of the Tariff Act.
Annex to Article II (contd.)

INTERNATIONAL CHAMBER OF COMMERCE

As among the Contracting Parties, there is also a difference of opinion within the ICC as to the advisability of appending a list of specific goods to Article II.

The majority view, however, is strongly in favour of retaining the list, in spite of the fact that it cannot pretend to be exhaustive. They feel that no general definition can give practical guidance to the customs authorities unless it is accompanied by concrete examples of the way in which it is meant to be applied.

If the list is retained, it is essential, the ICC feels, that the introductory paragraph should state more clearly that the list is in no way intended to be exhaustive and consists simply of a certain number of examples for guidance to the customs authorities in the application of Article II of the Convention. It should also be made clear that the list is subject to periodical revision on the basis of experience gained in its application. The attention of the ICC was drawn in this connection to the fact that the list contains no reference to ironmongery, pharmaceutical products and perfumes.

If the list is not retained, the ICC nevertheless believes it to be most important that the Contracting Parties should draw up a separate commentary on Article II in the form of a set of recommendations with concrete examples. Without such a commentary, there is great danger that the adoption of the very general definition contained in Article II will do little to achieve simplification and uniformity in practice.

The attention of the ICC has been drawn to the following points of detail in connection with the existing list:

a) Item 1 (foodstuffs and beverages, etc.) would exclude the generally accepted practice of admitting free of duty without limitation of number small sample bottles of wine, spirits, etc.

b) Are coffee, tea and tobacco included under "foodstuffs"?

c) In Item 4 (samples of threads, etc.) the words "sent by a supplier to a customer" should be struck out as being irrelevant to a list of this kind. The definition is, moreover, unsatisfactory for threads of jute which have to be long enough to show over a certain length whether or not they contain knots and that they have been spun with a certain degree of regularity.

d) Under paragraph 7, it is clear that a single shoe (i.e., not a pair) will be treated as a sample without "deep cuts"?

e) The list should perhaps be completed by reference to plastic materials which are now a substitute for certain articles mentioned (e.g., pottery, glass)?
ARTICLE III:1

Sixth Session Draft

"1. For the purposes of this Article, the term "samples" means objects representative of a particular category of goods already produced and examples of objects the production of which is contemplated by the sender, provided:

(a) that they are such that they can be duly identified on re-exportation;

(b) that they are not of such quantity or value that, taken as a whole, they no longer constitute samples; and

(c) that they have not been produced abroad on behalf of a manufacturer or trader established in the territory of importation."

COMMENTS ON PARAGRAPH 1

BENELUX

The text of Article III makes it possible to deny temporary duty-free admission when the goods concerned are imported in such quantity or aggregate value that they can no longer be regarded as samples. In view of the fact that no indication is given as to the demarcation line beyond which such items could no longer be regarded as samples, each contracting party is free to consider or not to consider as "samples" items imported for the purpose of soliciting orders.

Therefore the proposed definition does not give any guarantee as to entitlement to temporary exemption. For that reason, it would be preferable to provide that such treatment is applicable so long as only one item of the same category or quality is being imported. The following definition would cover this point much more adequately:

'1. For the purpose of this article, the term "samples" shall mean objects representative of a particular category of goods, provided:

a) that they are such that they can be duly identified on re-exportation;

b) that each category or quality of goods be represented by one object only;

c) that they have not been manufactured abroad on behalf of a manufacturer or trader established in the territory or importation.
INDIA

Sub-paragraph (c) needs to be reworded. As it stands, it might prevent a legitimate demand from an agent in country B from asking a manufacturer in country A for samples of his products. This is not obviously the intention of this paragraph. It is, therefore, desirable to alter the wording.

JAPAN

Like paragraph 3 of Article II, the meaning appears ambiguous.

PHILIPPINES

The amendment of sub-paragraph (a), to read as follows, is suggested:

"that they are duly identified on importation and can be so identified upon re-exportation;"

UNITED KINGDOM

U.K. draft

"1. For the purposes of this Article, the term 'samples' means /objects/ articles which:-

(a) are representative of a particular category of goods already produced /and/ or are examples of /objects/ goods the production of which is contemplated, /by the sender, provided: /and

(b) that they are not of such quantity or value that, taken as a whole, they no longer constitute samples; /and

(c) that they have not been produced abroad on behalf of a manufacturer or trader established in the territory of importation, /and

(b) are owned abroad and are consigned to the territory of importation solely for the purpose of being shown there for the soliciting of orders for goods to be supplied from abroad to the territory of importation, and

(c) are not sold, intended to be sold, offered for sale, put to normal use or used in any way for hire or reward in the territory of importation, and

(d) are intended to be re-exported in due course, and

(e) /that they are such that they can be duly identified/ are capable of identification on re-exportation."
Article III: 1 (contd.)

U.K. Comment

It appears to the United Kingdom that this paragraph might be improved by redrafting, for the same reasons as apply in respect of Article II, namely to remove the obscurity as to the purpose for which samples are to be sent from abroad. The new text which is proposed does not reproduce sub-paragraph (b) of the text in GATT/CP. 6/36 since this sub-paragraph seems very difficult of precise application. It seems to suggest that there are certain criteria by way of quantity or value by which a genuine sample can be detected, but it is doubtful whether such criteria exist and in the absence of them the sub-paragraph merely serves to blur an intention which should be clear-cut and precise. The United Kingdom considers that the revised text offers sufficient security against any possible abuse of the concessions, particularly in view of (i) its reference to the purpose of importation, (ii) the condition that the samples are not sold or intended for use or sale.

In paragraph 1. (a) it is proposed to omit the words "by the sender" since the production of the goods may not be contemplated by the sender himself who may be a merchant obtaining the goods from a manufacturer.

INTERNATIONAL CHAMBER OF COMMERCE

Sub-paragraph (b)

This paragraph appears to duplicate Article II and raises again the problem of unit value versus aggregate value. From this point of view the same remarks apply to it as have already been made concerning Article II.

The I.C.C. fails to understand the introduction in this paragraph of a limitation on the value of the samples. Samples of value and subject to duty are in fact the specific subject-matter of Article III. Moreover, no criterion is given, nor could it be found, by which the customs authorities are to decide when an article ceases to be a sample because it is too valuable.

The I.C.C. would suggest striking out sub-paragraph (b) altogether.

Sub-paragraph (c)

This paragraph needs to be reworded. As it stands it might prevent an agent in country B from asking a manufacturer in country A for samples of his products. This cannot be the intention, but clearly the wording should be altered. Allowance should also be made for producers of agricultural products e.g. dried raisins, who are not perhaps covered by the term "manufacturers".
"8. Samples which are chargeable with import duties shall, when imported from the territory of another Contracting Party, with or without the intervention of a commercial traveller, by a manufacturer or trader established in the territory of any Contracting Party, be temporarily admitted into the territory of any of the Contracting Parties free of import duties, subject to the import duties and any other amount that may be payable being deposited or security being given for payment if necessary."

COMMENTS ON PARAGRAPH 2

BELGIUM

In paragraph 2, the words "temporarily admitted ... free of import duties" do not render correctly the underlying idea. The following text is proposed:

"... be temporarily exempted from customs duties when imported into the territory of any of the contracting parties."

FRANCE

Under Article III, samples which are chargeable with import duties, may be temporarily imported free of duty; Article III:2 provides that, in such cases, any duties that may be payable can either be deposited or security can be given for payment, if necessary.

If the method of depositing import duty in accordance with the letter of Article III, is systematically applied, the result may be in the case of certain samples of value, that their importation is hindered or prevented altogether, owing to the considerable sums which are thus immobilized.

For this reason, it seems desirable to indicate, if only by way of a recommendation, that the system of giving security should be applied as often as possible.

PHILIPPINES

The amendment of this paragraph to read as follows is suggested:

"Samples which are chargeable with import duties shall, when imported from the territory of another Contracting Party, with or without the intervention of a commercial traveller, by a manufacturer or trader established in the territory of any Contracting Party, be temporarily admitted into the territory of any of the Contracting Parties free of import duties, provided that the Contracting Party concerned may limit to an amount not less than five thousand United States dollars ($5,000.00) the value of samples subject to this exemption in one single importation, and that import duties and any other amount that may be payable be deposited or security be given for payment if necessary."
"2. Samples which are chargeable with import duties shall, when imported, from the territory of another contracting party with or without the intervention of a commercial traveller, by a manufacturer or trader established in the territory of any contracting party, be temporarily admitted into the territory of any of the contracting parties free of import duties, subject to the amount of the import duties and any other amount that may be payable pursuant to Article VI being deposited or security being given for payment if necessary."

U. K. Comment

A reference to Article VI has been inserted after the words "and any other amount that may be payable". The "other amount" in the text in GATT/CP.6/36 was presumably intended to refer to an amount payable under Article VI; this is made clear in the text as amended. The provision for deposit must be confined to import duties and the securities or guarantees required under Article VI, and should not refer to other undefined amounts. Moreover, paragraph 6 of the Article might possibly be otherwise held to imply that contracting parties were required to refund fees and charges outside the definition of "import duties" in Article I(a).
ARTICLE III: 3; 7; 8

Sixth Session Draft

"3. To obtain this privilege manufacturers, traders and commercial travellers must comply with the relevant laws, regulations and customs formalities prescribed by the authorities of the territory into which samples are imported. Those laws and regulations may require the manufacturer, trader or commercial traveller concerned to be in possession of an identity card as provided in paragraphs 7 and 8."

"7. Where identity cards are required for the purposes of this Convention they must conform to the specimen annexed to this Convention, and be delivered by an authority designated for this purpose by the Contracting Party in whose territory the manufacturer or trader has his business headquarters. Subject to reciprocity, no consular or other visa shall be required on identity cards unless a Contracting Party shows that such a requirement is rendered necessary by special or exceptional circumstances. When a visa is required its costs shall be as low as possible and shall not exceed the cost of the service."

"8. Each Contracting Party shall, as soon as possible, communicate direct to other Contracting Parties, and also to the Secretary-General of the United Nations, a list of the authorities recognised as competent to issue identity cards."

COMMENTS ON PARAGRAPHS 3; 7; 8.

AUSTRALIA

It is suggested that the use of identity cards be governed by the principle of national treatment provided for in Article III(4) of GATT. Under that approach those countries which required national travellers to hold a professional card, would be enabled to apply comparable requirements to commercial travellers of other nationalities only under conditions where the latter requirements were no more onerous than those applicable to national travellers.

AUSTRIA

Paragraphs 7 and 8 as well as the passage in square brackets of paragraph 3 should be maintained. Identity cards are required in Austria by national legislation and international commitments (The Convention for the Simplification of Customs Formalities, Geneva, 1923).
BENELUX

In the Benelux countries, as in the great majority of countries represented on the Working Party, the identity card referred to in paragraphs 3, 7 and 8 is not required. It would therefore seem that the inclusion of the identity card requirement would compel most contracting parties to establish a special procedure for commercial travellers without which the convention might well become inapplicable.

CZECHOSLOVAKIA

We believe that the advantage of customs registration of samples of commercial value should not be tied to the presentation of identity cards by commercial travellers, and therefore we recommend that the second sentence of paragraph 3 and paragraphs 7 and 8 be deleted.

DENMARK

Identity cards as those referred to in the said Article are not used in Denmark. On the other hand, the Danish Trade Act provides that the activities of a foreign commercial traveller in Denmark are subject to his obtaining a so-called "entry permit" as a licence for his acting as a representative of foreign firms. The issuing of an "entry permit" is contingent upon his evidence, verified by an official certificate or otherwise, that in the country where the firm is situated it is entitled to deal in the products concerned, and upon the traveller's possessing an authorization issued by the firm in question. In the light of the above and considering that the provisions of the draft Convention only deal with the treatment of goods, the Danish Government consider it expedient to omit from Article II of the draft Convention the provisions concerning identity cards. Consequently, the only relevant provisions will be those of Section 3, first paragraph, providing for commercial travellers to comply with the laws and regulations prescribed by the authorities of the country where they exercise their commercial activities.

FINLAND

As to the commercial travellers' identity card system referred to in passages 3, 7 and 8 of Article III of the draft Convention, it may be considered unnecessary. In Finland such an identity card is at present not always required.
The provisions between square brackets relating to the identity card requirement should be retained.

Under the relevant German legislation ("Gewerbeordnung") the professional identity card is required not only from German traders, but also from foreign traders established in the territory of the Federal Republic. It is not at present envisaged to rescind such legislative provisions. Therefore, the elimination of the identity card requirement under the Convention would constitute an advantage to any foreign trader, to the detriment of German traders, which, for reasons of principle, would not be acceptable.

The Greek Government does not feel the need for requiring that traders, commercial travellers and anyone carrying samples should be in possession of an identity card. The Greek Government believes that evidence of the profession of such persons is adequately supplied by their passports and the nature of the collections that they carry. The Greek Government therefore would favour the deletion of the sentences which appear between square brackets in paragraphs 3, 7 and 8 of Article III of the draft.

From the point of view of Haiti, the identity card for commercial travellers is not justified. As samples are either exempt or liable to duty, as the case may be, any individual can import them or carry them in his personal baggage provided he has complied with customs formalities of a revenue nature. Furthermore, under the existing customs regulations, any traveller who imports samples in order to solicit orders on the domestic market must, if his firm is not already represented in Haiti, buy a licence before he can clear through the customs any samples he carries.

The Government of India consider that it is unnecessary for commercial travellers, traders or anyone carrying samples to be in possession of identity cards. Paragraphs 7 and 8 and the portion of paragraph 3 in square brackets may, therefore, be deleted.
Article III: 3; 7; 8 (contd.)

ITALY

An agreement, in principle, could be reached as to the desirability of discarding the provisions relating to the "identity card". However, since some countries might consider it indispensable, in view of their internal regulations, to retain the use of such cards, it would perhaps be advisable to specify that each country is given the option of deciding whether or not foreign commercial travellers may be required to produce such cards.

JAPAN

These provisions are considered unnecessary.

NORWAY

In the opinion of the Norwegian Government the last passage of paragraph 3 and paragraphs 7 and 8 should be deleted, the reason being that the question of identity cards for commercial travellers does not seem to fall within the natural scope of the proposed convention.

In this connection it should be mentioned that identity cards for commercial travellers are not required in Norway. On the other hand foreign commercial travellers operating in Norway have to obtain a special commercial card issued by the Norwegian authorities.

PHILIPPINES

The Philippine Government believes that the identity card may be made an optional requirement.

SWEDEN

Identity cards for commercial travellers are not required in Sweden. However, the formalities for obtaining exemption from duties are less complicated for commercial travellers who are in the possession of an identity card and are established in countries which have acceded to the 1923 Convention on the Simplification of Customs Formalities. The Swedish Government is prepared to unify the regulations in a way that the more simple formalities are to be applicable for all commercial travellers established in the territory of another contracting party.

UNITED KINGDOM

The United Kingdom is in favour of the omission of the provisions relating to identity cards.
UNITED STATES

A majority of the Working Party opposed the inclusion of any reference to "identity cards" because such a reference in the draft Convention would serve to perpetuate a formality required by very few governments and which, if maintained by any one contracting party, would require all contracting parties to institute machinery for the issuance of identity cards. The United States concurs in the view of the majority and continues to believe that all references to identity cards should be omitted from the draft Convention. Accordingly, the United States recommends paragraphs 7 and 8 and the bracketed sentence of paragraph 3 be deleted.

INTERNATIONAL CHAMBER OF COMMERCE

The I.C.C. suggests that the proposed passages in square brackets relating to identity cards for commercial travellers should be deleted. It is important, however, that their absence should not be interpreted as implying the abolition of the system of identity cards in countries where the system at present exists. A paragraph should therefore be added at the end of Article III stating that the provisions of this Article are in no way intended to exclude any of the contracting parties from maintaining or introducing the system of identity cards for commercial travellers provided for in the 1923 Convention for the Simplification of Customs Formalities.
ARTICLE III: 4
Sixth Session Draft

"4. The customs authorities of any of the Contracting Parties shall recognise as sufficient for the future identification of samples the customs marks which have been affixed by the customs authorities of any other Contracting Party, provided that the said samples are accompanied by a descriptive list certified by the customs authorities of the latter Contracting Party. Additional marks may, however, be affixed to the samples by the customs authorities of the territory into which they are imported in all cases in which the latter consider this additional guarantee indispensable for ensuring the identification of the samples on re-exportation."

GERMANY

Add the following sentence at the end of paragraph 4:
"Additional marks affixed by the customs authorities of the importing country shall not be such that the article would no longer constitute a sample."

UNITED KINGDOM

U.K. Draft

"4. The customs authorities of any of the Contracting Parties shall, so far as practicable, recognise as sufficient for the future identification of samples the customs marks which have been affixed by the customs authorities of any other Contracting Party, provided that the said samples are accompanied by a descriptive list certified by the customs authorities of the latter contracting party. Additional marks may [however] be affixed to the samples by the customs authorities of the territory into which they are imported [in all cases in which the latter consider this additional guarantee indispensable for ensuring] only if they are necessary, in the opinion of those authorities, to ensure the identification of the samples on re-exportation."
ARTICLE III: 5

Sixth Session Draft

"5. The period allowed for re-exportation shall be not less than six months, and may be prolonged by the customs authorities of the territory into which the samples have been imported. When this period has expired, import duties and any other amount due shall be payable on samples which have not been re-exported."

COMMENTS ON PARAGRAPH 5

JAPAN

"One year" is proposed instead of "six months".

UNITED KINGDOM

U.K. Draft

"5. The period allowed for re-exportation of samples in order to qualify for exemption from import duties under this Article shall be not less than six months, and may be prolonged by the customs authorities of the territory into which the samples have been imported. When this period has expired, the amount of the import duties and any other amount due may be charged on samples which have not been re-exported.

ARTICLE III: 6

Sixth Session Draft

"6. The refund of duties and any other amount paid on importation, or the release of the security for payment of duties and any other amount, shall be effected without delay at any of the customs offices situated at the frontier or in the interior of the territory which possesses the necessary authority, and subject to the deduction of the duties and other amount payable on samples not produced for re-exportation. Each Contracting Party shall publish a list of the customs offices on which the said authority has been conferred."

COMMENTS ON PARAGRAPH 6

GREECE

The Greek Government shares the concern voiced by the delegation of the United States as regards paragraph 6 of Article III. Existing Greek customs legislation greatly facilitates the release of the security for
Article III:6 (contd.)

GREECE (Contd.)

payment of duties in cases when re-exportation is effected at the same customs offices and by the same means of transportation, (customs offices in harbours, railway stations and airports) as importation. On the other hand, if samples with respect to which duty has been paid or security deposited at the time of import are re-exported through a customs office other than that through which importation was effected, reimbursement or release cannot possibly be effected without delay. Indeed it may occur that a small customs office at the frontier which has no revenue of its own is physically unable to effect the refund or release in question. Even in the case of a more important customs office it may be impossible to effect refund or release before correspondence in this respect has been exchanged with the office which has levied the duties or received the security, and before the necessary authorization is given.

Such difficulties might perhaps be overcome if the importer at the time when he enters the country indicates in advance the date and place of his leaving the country. If provisions of this nature were included in the convention the appropriate competent services could then issue orders which would facilitate the prompt transmission of official documents from one customs office to another. Unless the individual concerned submits a preliminary statement, any waiver to the existing Greek customs legislation is not possible.

ITALY

In regard to Article III:6, the Italian Government is prepared to undertake the refund of sume deposited as security through a customs office other than the office where the goods were imported, but only if the deposit is made in cash, and not if it has been made in the form of bonds or security. Paragraph 6 should, therefore, be amended to this effect.

PHILIPPINES

The Philippine Government takes the same view as the United States representative that it would find difficulty in applying the provisions of this paragraph as at present drafted. To give time to customs authorities to release the securities, collect duties, if any, and comply with other requirements, it is suggested that the following sentence be added to this paragraph:

"The Contracting Party concerned may, however, require the surrender of samples on which the refund is desired not more than five (5) days, exclusive of Sundays and holidays, before re-exportation."
W.7/7
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Article III: 6 (Contd.)

UNITED KINGDOM

U.K. Draft

"6. The refund of duties and any other amount paid on importation, or the release of the security for payment of duties and any other amount, on the re-exportation within the permitted time of samples imported under this Article, the refund of any amount deposited or the release of any security given on importation in accordance with paragraph 2 of this Article shall be effected without delay at any of the customs offices situated at the frontier or in the interior of the territory which possesses the necessary authority, and subject to the deduction of the duties and any other amount payable on samples not produced for re-exportation. Each Contracting Party shall publish a list of the customs offices on which the said authority has been conferred."

UNITED STATES

As pointed out in the report of the Working Party, in view of the organisation of the United States customs administration and of the general system controlling all disbursements by United States Government agencies, the United States Government could not at this time apply the provisions of paragraph 6 as now drafted. Recognising the desirability of facilitating the arrangements covered by paragraph c, the United States proposes that after the word "authority" in the first sentence add the following: "or shall be effected by official remittance promptly."

Suggested Title to Article III

GERMANY

Insert the following title:

"Temporary Admission of Samples of Saleable Value."
ARTICLE IV
Sixth Session Draft

"1. Each Contracting Party shall exempt from import duties catalogues, price-lists and trade notices imported into its territory from the territory of another Contracting Party

(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 and relating to goods offered for sale by a manufacturing 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 of importation 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 a manufacturer or trader 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 dispatch to separate addresses in that territory."

COMMENTS ON ARTICLE IV

AUSTRALIA

It also suggested that (b) of Article IV be amended to read:

"In a packet containing several copies (whether of the same or different documents) provided that the total weight of the copies does not exceed 200 grams."
Paragraph 1 exempts catalogues, price-lists and trade notices explicitly under the provision that these documents refer only to goods "offered for sale".

This means that propaganda material not relating to goods offered for sale, but imported together with goods sold or under other circumstances does not fall under the exemption. Certainly it is true that in most of the cases propaganda material relates to goods offered for sale; however, the enclosure of such material to goods sold or loaned must be regarded as an act of propaganda too. Originally the draft presented at Geneva stated that the contracting parties shall exempt from import duties catalogues, price-lists and trade notices accompanying imported goods provided that they correspond in number to the number of such goods, and that they are sent free of charge from the territory of another contracting party by a manufacturer or trader established in the territory of any contracting party (Document CP.6/W/2), page 4). The case of instructions for use should be considered which relate to sold or loaned goods. Those instructions may be of highest importance for the proper use of the goods. The previously drafted provisions could be modified as follows:

"2) The Contracting Parties shall exempt from import duties catalogues, price-lists and trade notices relating to imported goods other than samples provided that their total weight does not exceed ... grams, being catalogues, price-lists and trade notices sent free of charge from the territory of another contracting party by a manufacturer or trader established in the territory of any contracting party. Catalogues, price-lists and trade notices relating to samples are covered by paragraph 1."

A special weight limit could be found for this provision.

The present paragraph (2) would be paragraph (3). The wording of the new paragraph (3) must be slightly amended:

"3) Without prejudice to paragraphs (1) and (2) of this article no contracting party shall be obliged to grant exemption from import duties for: ..."

BENELUX

In order to facilitate the prospecting of markets with a view to the hiring of objects (such as machines), it is proposed that the final part of the first sentence should be worded as follows:

"... and relating to goods offered for sale or for hire by a manufacturer or trader established in the territory of another contracting party."
FINLAND

In the cases mentioned in Articles IV and V of the draft convention, a considerably greater exemption from import duties and other taxes in connection with the importation is, at present, granted in Finland than that implied in the draft convention. The printed matters mentioned in Article IV are, in general, already in virtue of the Customs Tariff Law free from duty, no matter in which way they are imported. The cinematograph films of a width not exceeding 16 mm. mentioned in Article V, are in Finland already now exempted from import duty, provided that they are exhibited free of charge and will be returned abroad. The period of re-exportation is 6 months, in addition to which the Board of Customs may still prolong it according to its own judgment. Thus it would be suitable that the period to be mentioned in the convention would not be less than 6 months.

GERMANY

Paragraph 1: Paragraph 1 should be worded as follows:

"1) Each contracting party shall exempt from import duties printed advertising material (catalogues, price-lists, trade notices, posters, directions for use, calendars professional and foreign trade directories and similar documents of an essentially advertising nature, when such items are of paper or cardboard, even in the form of books, brochures or calendars) to be used primarily for soliciting orders of goods manufactured abroad, provided such printed advertising material consists of articles manufactured in the territory of the exporting country and distributed free of charge by the importer in the territory of the importing country and providing further that its advertising nature be unquestionable."

The limitation of duty-free importation to catalogues, price-lists and trade notices only is too restricted, in view of the multiplicity and diversity of advertising methods. Therefore, posters, calendars, professional and foreign trade directories and similar documents, when of an essentially advertising nature and manufactured of paper or cardboard, should be regarded as advertising material. The effect of the restrictive clause providing that all such articles should be of an essentially advertising nature if they are to be treated as items referred to in Article IV is to avoid that, for instance, directories, a small part of which only is taken up by advertisements should also be admitted duty-free. The provision relating to the advertising nature and to free distribution by the importer implies that such advertising printed matter cannot be treated as imported goods, as such printed matter is of no salable value.
Distribution free of charge of advertising material printed in the territory of the importing country should constitute one of the pre-requisites for exemption from customs duties of printed advertising material, otherwise its advertising nature would be at least doubtful.

Although directions for use and instructions are not necessarily of an advertising nature, their presentation and contents often make them suitable for publicity. The conclusion of a special agreement on exemption from customs duties of directions for use does not appear to be appropriate, and it is therefore desirable to include those items in the present Draft Convention in view of their importance in international trade.

A limitation in the number of copies or weight of printed advertising material cannot be accepted as the purpose of these provisions is to facilitate international trade. In view of the fact that such advertising material cannot be regarded as merchandise, as indicated above, any limitation in the number of copies or weight would amount to a restriction in the domain of commercial publicity which is of considerable significance in international trade, and would therefore be contrary to the spirit of the Convention.

Paragraph Substitute the phrase "printed advertising material" for the words g),b) & "catalogues,price-lists and trade notices."

Ad.2 b): After the words "the name" insert the words "or the trade mark".

This modification is a corollary to the proposal relating to Paragraph 1.

Typical trade marks which are often used in trade are fully adequate to give information as to the origin of the goods.
Article IV (cont'd)

GREECE

The Greek legislation provides for liberal exemptions for the importation of catalogues, price-lists, notices for use, and publicity material. The Greek Government therefore does not raise any objection to the adoption of Article IV of the draft in its entirety.

INDIA

The words "supplied gratis and" may be inserted between the words "notices" and "imported" occurring in the opening sentence of paragraph 1.

NORWAY

The article as a whole is acceptable.

UNITED KINGDOM

U. K. Draft

1. Each Contracting Party shall exempt from import duties catalogues, price-lists and trade notices imported into its territory from the territory of another Contracting Party:

(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

and relating to goods offered for sale by a manufacturer or trader established in the territory of another Contracting Party, when such documents are imported into its territory from that territory or from the territory of another Contracting Party, provided that each consignment imported-

(a) consists of not more than one document; or

(b) if it consists of more than one document, does not include more than one copy of any one document; or

(c) irrespective of the number of documents, does not exceed 200 grams in gross weight.

Simultaneous but separate despatch of catalogues, price-lists or trade notices from the place of origin a number of consignments to different addresses in the territory of importation shall not debar such documents/consignments from this exemption, provided that not more than one consignment is sent to any one 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:
Article IV (Cont'd)

(a) 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

(b) 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."

U. K. Comments

The wording of this Article appears on further study to be not entirely satisfactory and the new text of paragraph 1 is intended, without altering the sense in any way, to make the meaning clearer.

UNITED STATES

The Sixth Session Working Party considered it was unnecessary to include a provision on travel literature since this was adequately covered by the UNESCO Convention on the Importation of Educational, Scientific and Cultural Material and the Touring Convention. Since the UNESCO Convention may not have wide application for some time and since the provisions on travel literature may not be retained in the proposed Touring Convention, the United States recommends the inclusion of travel literature in Article IV, paragraphs 1 and 2.

The United States does not believe it to be necessary or desirable to impose the limitation now provided by paragraph 2(c) on the benefits to be accorded by paragraph 1. It is suggested, first, that paragraph 2(c) be deleted and, second, that the last sentence of paragraph 1 be revised to read as follows:

"Simultaneous dispatch of catalogues, price-lists, trade notices, and travel literature from the place of origin to different addresses in the territory of importation shall not debar such documents from this exemption, even if grouped together for subsequent dispatch to separate addresses in that territory, provided the above conditions are met in the case of each consignee."

INTERNATIONAL CHAMBER OF COMMERCE

The present wording of Article IV appears to the I.C.C. to be too restrictive. Duty-free entry is granted only to catalogues, price-lists and trade notices "relating to goods offered for sale by a manufacturer or trader established in the territory of another contracting party".
Article IV (contd.)

This definition should be broadened to include producers other than manufacturers and also suppliers of services, such as insurance companies, shipping companies and travel agencies. Secondly, allowance should be made for the very common practice of sending prospectuses, etc. along with a consignment of goods already sold.

The suggestion concerning producers and suppliers of services also applies to paragraph 2 of this Article.

As regards paragraph 2 (a), it should be made clear that this restriction refers exclusively to catalogues, etc. printed abroad for the account and at the expense of a manufacturer or trader in the territory of importation.

COMMENTS ON WEIGHT-LIMIT

AUSTRALIA

Australia considers 200 grams is a reasonable weight limit.

AUSTRIA

In paragraph 1(b) of the present wording a weight limit of 200 grams is prescribed. This weight limit constitutes a restriction of advertising possibilities. Voluminous and detailed propaganda material is generally used today. As an example the catalogues for technical equipment and tools as issued by manufacturers in industrial countries may be mentioned. Similar examples could be found for agricultural products. It should be proposed, therefore that the weight limit be expanded as much as possible.

BENELUX

Article IV does not deal with the global weight of catalogues or price-lists which shall be exempted from import duties. As it is not clear what interest there would be for any country to misuse duty-free admission in order to export exaggerated numbers of catalogues or price-lists, it should be possible to accept the highest figure proposed. The Benelux countries could at once accept the maximum figure of 1,000 grams.

CZECHOSLOVAKIA

As to the limits of weight of advertising material exempted from customs duties under paragraph 1(b) of Article IV, we recommend that the weight limit be set at 500 grams.
The figure of 200 grams (indicated in square brackets as an illustration of the total weight to be exempted) is acceptable. The Athens Chamber of Commerce and Industry even went a little further and proposed a higher figure.

INDIA

The figure of 200 grams indicated in square brackets as an illustration of the total weight to be exempted, is acceptable, provided that the catalogues, price-lists and trade notices are supplied gratis.

ITALY

The Italian Government does not consider it advisable at the present state of investigations, to propose a maximum limit of weight beyond which catalogues, price-lists and trade notices may not be admitted free of duty. The Italian Government reserves the right to express its opinion when the draft is being discussed, after the other contracting parties have expressed their views on the subject.

JAPAN

No objection to 200 grams.

NORWAY

The weight-limit suggested (200 grams) is acceptable.

SWEDEN

The Swedish Government does not find it necessary to indicate a weight-limit in paragraph 1(b).

UNITED STATES

With respect to the weight-limit for packages containing multiple copies of advertising matter, the United States suggests that the limit should be set at 500 grams. Five hundred grams (1.1 pounds) would be a more useful limit than the 200 gram limit suggested in the draft. It might be noted that samples of no commercial value may now be sent by "Sample Post" to most countries up to 18 ounces (roughly 500 grams) at reduced postage rates and that such packages are understood usually to be given expeditious clearances.

INTERNATIONAL CHAMBER OF COMMERCE

The I.C.C. urges the Contracting Parties to fix the weight limit in paragraph 1(b) as high as possible. A low limit such as 200 grams would not be in harmony with modern developments in advertising and trading practice. A single copy of a catalogue, particularly when illustrated or issued by a trade association or syndicate, may easily exceed that weight. A producer in
Article IV (cont'd)

one country, moreover, frequently has to forward quite a large number of copies to an agent or representative abroad.

In the opinion of the I.C.C., the weight limit should be 2 kgs., if necessary with the additional proviso that the number of copies should not exceed 20.

Suggested Title to Article IV

GERMANY

Insert the following title:

"Duty-Free Importation of Advertising Materials".
ARTICLE V

Sixth Session Draft

"Each Contracting Party shall accord the facilities (except as regards the period allowed for re-exportation) provided by Article III of the present Convention, subject to the conditions laid down in that Article, to developed cinematograph films of a width not exceeding 16 mm. shown to the satisfaction of its Customs authorities to consist essentially of photographs (with or without sound track) showing the nature or operation of products or equipment whose qualities cannot be adequately demonstrated by samples or catalogues, provided that the films:

(a) relate to products or equipment offered for sale by a manufacturer or trader established in the territory of another Contracting Party; and

(b) are of a kind suitable for exhibition to prospective customers but not for general exhibition to the public; and

(c) are imported in a packet which contains not more than one copy of each film and which does not form part of a larger consignment.

The period allowed for re-exportation in the case of such films must be not less than $77."

1. COMMENTS ON ARTICLE V

For the reason mentioned with respect to Article IV, the text of sub-paragraph a) should be worded as follows:

"a)...relate to products or equipment offered for sale or hire whether by a manufacturer or trader established in the territory of another contracting party."

As regards sub-paragraph b) which deals with one of the conditions in which films can be regarded as samples, it should be noted that this sub-paragraph stipulates that such films must be "of a kind suitable for exhibition to prospective customers, but not for general exhibition to the public."

It might be useful to stress the difficulty that might arise in determining what films are not suitable for general exhibition to the public. One could thus quote as an example the case of a film of a purely
Article V (cont'd)

commercial character which, on account of its technical qualities, would be exhibited to the general public on a paying basis. It would therefore seem that the following wording would be more appropriate:

"b)...are of a kind suitable for exhibition to prospective customers but in no case for general exhibition to the public."

CEYLON

The films referred to in this article should cover only those intended for vocational training or dealing with scientific or technical research. If films of any other type are included, it will give rise to administrative difficulty as far as Ceylon is concerned.

FINLAND

In the cases mentioned in Articles IV and V of the draft convention, a considerably greater exemption from import duties and other taxes in connection with the importation is, at present, granted in Finland than that implied in the draft convention. The printed matters mentioned in Article IV are, in general, already in virtue of the Customs Tariff Law free from duty, no matter in which way they are imported. The cinematograph films of a width not exceeding 16 mm. mentioned in Article V, are in Finland already now exempted from import duty, provided that they are exhibited free of charge and will be returned abroad.

GERMANY

Before the words "or operation", insert the following:
"the manufacturing process".

After the words "if products or equipment" insert the following:
", or used exclusively to advertise a specific item".

Delete the following phrase: "whose qualities cannot be adequately demonstrated by means of samples or catalogues". Purely advertising cinematograph films can demonstrate not only the type and the working of machines, but also the manufacturing process. This addition would emphasize the advertising nature of such films and would also preclude any unduly restrictive interpretation of the concept of advertising which is the necessary prerequisite to exemption from import duties. The Customs Services are not competent to decide whether the qualities of a product can be adequately demonstrated by samples or catalogues. In order to promote international trade, the facilities provided for in this Convention should also apply at the same time to all modern commercial advertising media. In other words, it should be possible to advertise a specific
Article V (cont'd)

Paragraph a): after the words "offered for sale" insert the words "or for hire".

Special machines can also be shipped abroad for a given period for hiring purposes. The addendum would cover this possibility.

GREECE

The Greek Government, taking into account the rapid evolution of the cinema, holds the view that films constitute a new and excellent means for the presentation of samples and it therefore agrees in principle with the United Kingdom proposal. On the other hand, it would not accept the former British proposal that exemption from customs duties should be granted only in the cases of films publicising products of the heavy industry, samples of which are not moved easily or cannot be transported. Greece is not interested in accepting this new limiting clause which would not involve any reciprocal advantage for the type of products that it can export. The Greek Government holds the view that films constitute an effective means of conducting publicity and disseminating directives, and it would be pleased if the advantages resulting from publicity films could be extended to all products in conformity with the spirit of Article II of the draft convention. If its views were shared, the Greek Government would accept the United Kingdom proposal supplemented by a formal reference to "produce of the soil or industrial products."

In the course of the discussions on the above-mentioned question, it was contended that duty-free importation of films dealing with the popularisation of means of production, cultivation and industrialisation or with the processing of the agricultural products of certain countries, are governed by the UNESCO Convention relating to the circulation of educational films. The Greek Government however does not believe that the UNESCO Convention also covers the case of films exhibiting samples of different products and which therefore are of an exclusively publicity nature. Consequently, it would be desirable that this question be dealt with by means of wider and more up-to-date provisions.

HAITI

Films, as defined in Article V, could be entitled to the facilities provided for in Article III both as regards exemption and duty free admission.

INDIA

In order to make the sense quite clear, the words "and shall not be screened for general exhibition to the public" may be substituted for the words "but not for general exhibition to the public" at the end of (b).
Article V (cont'd)

ITALY

It is proposed that the text of this article be amended, taking into consideration:

a) that the facilities referred to should apply only to positive films and not to negative or lavender films;

b) that in place of the expression "are of a kind suitable for exhibition..." the following expression which appears to be more precise, should be substituted: "are intended for exhibition..."

NORWAY

In principle Article V is acceptable.

PHILIPPINES

The Philippine Government suggests that the phrase "subject to the conditions laid down in that Article" (Article III) be understood to mean the conditions enumerated in Article III of the draft Convention including the amendments proposed by it relative to said article, i.e. amendments to sub-paragraph 1(a) and paragraph 2 of Article III.

SOUTHERN RHODESIA

It is considered that a further proviso should be added to Article V of the draft Convention to prohibit the exhibition of films of the type described (a) under any conditions which require payment to be made by the persons to whom they are exhibited, or (b) in conjunction with any form of entertainment for which payment is required.

SWEDEN

Two months are considered an appropriate period within which the films should be re-exported.

UNITED STATES

The United States suggests that "35 mm" be substituted for "16 mm" or, alternatively, that no width limitation be included. Considering the limitations in the draft article, industrial films for advertising or demonstration purposes of all standard widths could be granted the duty-free treatment contemplated without real danger of abuse. A number of industries in the United States now use 35 mm films and film strips for the purpose set forth in Article V.

INTERNATIONAL CHAMBER OF COMMERCE

If customs practice is to keep pace with modern technical developments,
Article V (cont'd)

the I.C.C. feels that this article should be redrafted in a more liberal spirit.

Developed cinematographical films designed for advertising purposes, as defined in Article V, should not be treated as temporary imports of value under Article III, but should be admitted free of duty without the obligation to re-export, under the regime applied to samples in Article II.

As in the case of Article IV, provision should also be made not only for manufacturers and traders but also for producers and suppliers of services.

Nor should the facilities be limited to films dealing with products or equipment "whose qualities cannot be adequately demonstrated by samples or catalogues". This is not a point which the customs authorities are in a position to decide.

The following amendments are therefore proposed:

**Opening paragraph**

- replace "Article III" by "Article II";
- delete the following phrase "...whose qualities cannot be adequately demonstrated by samples or catalogues".

**Sub-paragraph a)**

Add the word "services" after the word "products" and the words "or for hire" after the words "for sale".

2. **Time Limit for Re-exportation Comments**

**AUSTRALIA**

In fixing a time limit for re-exportation we see no reason to differentiate between a sample in its physical form and a cinema film showing the nature or operation of possibly the same product. We therefore suggest that the words "(except as regards the period allowed for re-exportation)" be deleted from Article V.

**BENELUX**

The minimum duration for temporary admission could be one month. The time limit within which films would have to be re-exported could be six months.
Article V (cont'd)

CZECHOSLOVAKIA

We propose that the time limit for re-exportation of cinematographic films under Article V be set to a period of at least twelve months which could be extended to another twelve months.

DENMARK

The Danish Government consider six months an appropriate period within which the cinematograph films concerned should be re-exported.

FINLAND

The period of re-exportation is six months, in addition to which the Board of Customs may still prolong it according to its own judgment. Thus it would be suitable that the period to be mentioned in the convention would not be less than six months.

FRANCE

In the interest of simplification, the time limit for re-exportation could be fixed at six months, as in the case of samples.

GERMANY

Last paragraph: substitute the words "six months" for the square brackets.

The period allowed for re-exportation should be adequate to allow for general public exhibition to as many customers as possible without being pressed for time.

GREECE

As regards the period allowed for re-exportation, Greece is agreeable to this period not exceeding six months.

HAITI

As in the case of samples, a period of six months could be allowed for re-exportation.

INDIA

The time limit for re-exportation fixed for the products falling under the provisions of paragraph 5 of Article III is adequate for the purpose of this article also.

ITALY

It is proposed that the time limit for re-exportation be limited to
Article V (cont'd)

A period of three months. However, the Italian Government would have no objections to a clause stipulating that the time limit be extended for an appropriate period in exceptional cases.

NORWAY

As to the period to be fixed for the re-exportation of the cinematographic films a period of six months is suggested.

PHILIPPINES

The Philippine Government also suggests that the "period allowed for re-exportation in the case of such films must be not less than" four (4) months.

UNITED KINGDOM

U. K. Draft:

The period allowed for re-exportation in the case of such films shall be not less than

U. K. Draft

The United Kingdom considers that the period allowed for re-exportation of films under this article should be six months and sees no reason for a different period from that laid down for the samples covered by Article III. If this is agreed, the words in lines 1 and 2 of the first paragraph of the article and the last sentence of the article can be omitted.

UNITED STATES

There would appear to be no reason for treating this material any differently from the items covered under Article III, and, therefore, the United States suggests that the six-month time limit for re-exportation be provided in Article V also. Accordingly, the parenthetical phrase in the first sentence of the Article and the last sentence of the Article should be deleted.

INTERNATIONAL CHAMBER OF COMMERCE

If the I.C.C.'s suggestion in favour of referring to Article II instead of Article III in the opening paragraph is accepted, this final paragraph could be deleted. If it is not accepted, the minimum period allowed for re-exportation should be six months.

SUGGESTED TITLE TO ARTICLE V

GERMANY

Insert the following title: "Temporary Admission of Advertising Cinematograph Films".
ARTICLE VI:1

Sixth Session Draft

"1. No Contracting Party shall 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 II or Article IV of this Convention; or

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

provided that the importation of such products involves no payment."

COMMENTS ON PARAGRAPH 1

DENMARK

The Danish Government agree that the items covered by the draft Convention when not involving payment should be admitted free of quantitative restrictions. It will appear from the comments on Article III that the Danish Import Regulations already are in conformity with this principle.

FINLAND

As to the provisions of Article VI that the goods which according to the draft Convention are exempted from import duties, are to be exempted also from quantitative import restrictions, if they are imported without payment and on the condition that they will be returned in the cases referred to in Articles III and V, they are in general lines in harmony with the existing Finnish licensing regulations.

GREECE

In view of its adverse balance of payments and of its limited availabilities in foreign exchange, Greece has had to impose drastic restrictions on imports. The Greek Trade Ministry does not envisage the possibility of allowing importers of samples having some commercial value not to comply with the requirements relating to the preliminary issuance of an import licence. No other regulations could be followed even in the case of samples imported for publicity purposes and destined for re-exportation, even though their
importation might not involve any loss in foreign exchange.

In view of this categorical denial by the competent authorities, the only possible solution in this domain would lie in the adoption of a simpler system which might render more flexible the formalities concerning the issuing of import permits for samples to be re-exported.

It is understood that such import restrictions do not apply to samples of negligible value. In the case of samples, the value of which does not exceed $75.00, an import permit can be easily secured by means of the deposit of security which is released at the time of re-exportation.

Commercial exhibitions and fairs

In order to facilitate duty-free import of products and samples for exhibitions and fairs, the Greek Trade Ministry proposes to include in the convention special provisions relating to this matter. Such clauses would deal with the duty-free importation, on a reciprocal basis, of industrial and agricultural products and samples thereof shipped to international exhibitions and fairs to be distributed free of charge to visitors, for publicity purposes. Such shipments should be effected in limited quantities and if need be should be submitted to postage requirements in order to avoid any misuse. The Greek Government requests that the above-mentioned proposals be submitted to the Contracting Parties for consideration.

ITALY

In accordance with what was proposed in regard to Article II (that samples should be free of charge) Article VI should be amended in the sense that the phrase "provided that the importation of such products involves no payment" should logically refer only to sub-paragraph (b) of this Article.

UNITED KINGDOM

U.K. Draft

"No Contracting Party shall 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 or goods

(a) which qualify (or would qualify if they were dutiable) for exemption from import duties by virtue of the provisions of Article II or Article IV of this Convention; or

(b) which qualify (or would qualify if they were dutiable) for temporary duty-free admission by virtue of the provisions of Article III or Article V of this Convention;"
provided that the importation of such products involves no payment/ provided that no payment is made for the goods or for the hire or use of them.

U. K. Comment

On examination of this Article, the United Kingdom has come to the conclusion that it does not go wide enough in its exemption of samples from import restrictions. It deals with goods covered by Articles II, III, IV and V of the Convention, i.e. goods which are exempted from duty, but does not refer to goods which are ordinarily free of import duties. It is doubtful whether goods which are ordinarily free of import duties can be said to "qualify for exemption from import duties by virtue of Article II or Article IV". It is certain that such goods cannot "qualify for temporary duty-free admission by virtue of the provisions of Article III or Article V" because both these Articles expressly relate to goods "which are chargeable with import duties." It, therefore, seems necessary to cover the goods ordinarily free of import duties, and sub-paragraphs (a) and (b) have been amended accordingly.

The last ten words of the paragraph (as it appears in GATT/CP.6/36) have been amended in order that payments by the consignee for the services of forwarding agents, carriers and the like should not be prohibited.
ARTICLE VI:2

Sixth Session Draft

"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 products accorded the facilities of Article III or Article V of the present Convention such measures as would have been applicable had not the products been temporarily admitted under the provisions of the said Article III or Article V. 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 and other amount that may be payable."

COMMENTS ON ARTICLE VI:2

GERMANY

At the end of the paragraph add the following:
"and not exceeding 20 per cent of the value of the respective products".

UNITED KINGDOM

U. K. Draft

1A. In the case of products which qualify (or would qualify if they were dutiable) for temporary duty-free admission by virtue of the provisions of Article III or Article V, this waiver of import prohibitions or restrictions shall extend only to the period for which duty-free admission is allowed (or would be allowed if the products were dutiable).

2. In the case of non-re-exportation within the permitted period of products for which the application of any import prohibitions or restrictions has been waived under paragraph 1 of this Article and which qualified (or would have qualified if they had been dutiable) for temporary duty-free admission under Article III or Article V of this Convention, the authorities of the importing country may apply such measures as would have been appropriate if the application of import prohibitions or restrictions had not been so waived. To this end, the authorities of the territory of importation may require appropriate guarantees, such as the deposit of a special security over and above any security deposited against the payment of import duties.
U. K. Comment

Suggested new paragraph 1A and paragraph 2

The intention of the new paragraph 1A and the re-draft of paragraph 2 of this Article is:

(a) to extend its provision to goods ordinarily free of import duties (as in paragraph 1);

(b) to make clear that the waiving of import restrictions extends only to the period for which exemption from duty is permitted and, the other side of this, that the application of measures which would otherwise have been applicable can only take place at the end of that period;

(c) to make clear that re-exportation can only be required for goods which are normally subject to prohibitions or restrictions;

(d) to remove the implication that Article III or Article V provide for admission as such, as opposed to exemption from duty (admission being governed by Article VI).

INTERNATIONAL CHAMBER OF COMMERCE

The last sentence of paragraph 2 should be completed by adding after the words "deposit of special security" the words "which should not exceed 20 per cent of the value".
ARTICLE VI:3

Sixth Session Draft

"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."

COMMENTS ON ARTICLE VI:3

BENELUX

The enumeration which appears in paragraph 3, sub-paragraph (d) makes it possible in particular to apply prohibitions or restrictions "necessary to secure compliance with laws and regulations relating to customs enforcement."

This wording lacks clarity and would easily afford pretexts for denying duty-free admission or temporary admission. The wording should therefore be elaborated.

As regards prohibitions or restrictions other than import duties it should be mentioned that existing colonial legislation does not include any provision which would hamper the importation of commercial samples into the territory of the Belgian Congo and Ruanda Urundi. In fact, subject of course to the exemption provided for under paragraph 3 of Article VI, such articles can be imported freely because such importation is not subject to import licences as is the case with other goods imported into the Belgian Congo and Ruanda Urundi for consumption purposes.

CZECHOSLOVAKIA

In Article VI, paragraph 3, of the draft Convention we miss among the usual exceptions the important exception concerning measures which are necessary for security purposes.
Article VI:3 (contd.)

GERMANY

At the end of the sentence add the following:
"Samples of manufactures of precious metals which are exempt from import duties on the ground that they are being granted temporary admission shall be exempt from hall-marking provided they are re-exported"

Requirements relating to hall-marking of samples of manufactures of precious metals, in force in certain countries, lay down substantially different standards of fineness. Compliance with such different requirements makes it necessary to manufacture special samples from which there result considerable technical difficulties and also considerable expenditure. Complete exemption from hall-marking requirements relating to samples of manufactures of precious metals is therefore desirable in the interest of the expansion of international trade and is in conformity with the spirit of this Convention.

INDIA

In paragraph 3, a contracting party should be authorized to impose prohibition or restrictions in the interest of public security also. Paragraph 3(a) may be amplified to read "necessary to protect public morals and security".

INTERNATIONAL CHAMBER OF COMMERCE

Paragraph 3(e) requires clarification.

Suggested Title for Article III

GERMANY

Insert the following title:
"Exemption from Import Prohibitions and Restrictions", 
ARTICLE VII

Sixth Session Draft

"1. Each Contracting Party shall grant the greatest possible facilities when determining the formalities required in respect of the matters covered by the present Convention.

2. Each Contracting Party shall publish promptly all regulations introduced in this respect in such a manner as to enable persons concerned to become acquainted with them and to avoid the prejudice which might result from the application of formalities of which they are ignorant."

COMMENTS ON ARTICLE VII

GERMANY

Delete the phrase beginning with the words "in such a manner as to enable persons" down to the end of the paragraph.

The latter part of the sentence relates only to reasons in support of the former part of the sentence.

UNITED KINGDOM

U. K. Draft:

1. Each Contracting Party shall grant the greatest possible facilities when determining to a minimum the formalities required in respect of the matters covered by the present Convention in connection with the privileges granted by them under this Convention.

2. Each Contracting Party shall publish promptly all regulations introduced in this respect in such a manner as to enable persons concerned to become acquainted with them and to avoid the prejudice which might result from the application of formalities of which they are ignorant.

U. K. Comments:

The new text is suggested as expressing more directly the intention of this article.

UNITED STATES

In order to clarify the provision, the United States suggests that
Article VII (cont'd)

the language of paragraph 1 be replaced with the following:

"Each contracting party shall, as far as possible, decrease and simplify the formalities required by it in respect of matters covered by the present Convention."

**Suggested Title to Article VII**

**GERMANY**

Insert the following title: "Facilities relating to Formalities and Publication of Requirements relating thereto."
ARTICLE VIII

Sixth Session Draft

"1. Any dispute between any two or more Contracting Parties concerning the interpretation or application of the present Convention shall so far as possible be settled by negotiation between them.

2. Any dispute which is not settled by negotiation shall be referred to a person or body agreed between the Contracting Parties in dispute, provided that if they are unable to reach agreement, any of these Contracting Parties may request the President of the International Court of Justice to nominate an arbitrator.

3. The decision of any person or body appointed under paragraph 2 of this Article shall be binding on the Contracting Parties concerned."

COMMENTS ON ARTICLE VIII

AUSTRALIA

On the basis of the majority view that Article VIII refers to disputes between governments, not disputes between importers and national governmental authorities, Australia has no announcement to suggest.

BENELUX

The decisions rendered on the occasion of the interpretation of the application of the convention should constitute binding precedents for all contracting parties.

Article VIII in its present wording does not achieve this objective.

It would therefore be preferable to refer any dispute to a representative body of the contracting parties to the convention, whose decisions would be binding on all contracting parties.

GREECE

The Greek Government shares the opinion expressed by the majority of contracting parties that Article VIII deals exclusively with differences and disputes which may arise between governments concerning the application of the convention. It is on the basis of this interpretation that the Greek Government accepts the text of this Article in the draft and the Greek Government is of the opinion that the addition proposed by the
Article VIII (cont'd)

Italian delegation is unnecessary. Of course ordinary disputes between importers of samples and the national customs authorities shall be settled in conformity with the existing legislation of each country.

ITALY

Since this Article refers to disputes between governments, it should be noted that the Italian delegation at the Sixth Session had urged the inclusion of the part of Article IX, 3 of the League of Nations Draft Convention of 1935, which reads as follows: "this article shall not apply to the decisions of customs administrations provided for in Article 1". According to this Article, the customs authorities of the importing countries were given discretion to decide in individual cases whether the provisions contained in Article II of the draft Convention in question were applicable, that is, provisions relating to the principle determining the "negligible value" of the "sample", which is the condition for exemption from import duty.

It is obvious that, in view of the present wording of Article VIII, the decisions made by the customs authorities of one of the importing countries might give rise, if only after a certain time, to observations and objections at international level. However, since the great majority of the other countries have not found it possible to agree to the Italian proposal, the Italian Government does not wish to raise any other objections in respect of this Article.

UNITED NATIONS LEGAL DEPARTMENT

This settlement of disputes clause providing for negotiation between the parties and for reference to an arbitrator is well drafted for the purposes for which it is intended. However, we would also submit for your attention the following clause providing for reference to the International Court of Justice which is a standard clause frequently to be found in conventions adopted under the auspices of the United Nations:

"Any dispute which may arise between any two or more contracting States concerning the interpretation or application of this convention which is not settled by negotiation, shall at the request of anyone of the parties to the dispute be referred to the International Court of Justice for decision, unless they agree to another mode of settlement."

Suggested Title to Article VIII

GERMANY

Insert the following title: "Settlement of Disputes".
ARTICLE IX

Sixth Session Draft

1. The present Convention shall be open for signature until........... by the Governments contracting parties to the General Agreement on Tariffs and Trade and by the Governments of all States members of the United Nations, or of any State not a member of the United Nations, which the General Assembly of the United Nations may declare to be eligible.

2. This Convention shall be subject to ratification by the signatory Governments in accordance with their constitutional procedures, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

COMMENTS ON ARTICLE IX

GERMANY

Paragraph 1: After the words "Member States" insert the words "of the Economic and Social Council".

The accession of states which are not contracting parties to the GATT or members of the United Nations should be facilitated in the sense that eligibility will be declared not by the General Assembly but by the Economic and Social Council of the United Nations.

GREECE

The Greek Government holds the view that a minimum time limit of four months should be granted to countries whether or not members of the GATT for the signature of the Convention.

ITALY

As regards the numbers of rectifications necessary for the entry into force of the Convention, it is considered that this figure be fixed at fifty per cent of the number of countries provided for in Article X.

UNITED NATIONS LEGAL DEPARTMENT

In our view, the provision allowing the Convention to be open for a limited period only is unnecessary since the accession clause in Article X provides that the latter method of becoming a party to the Convention is
available to all States as from the date of opening for signature. We would therefore suggest the omission of the words "until ..." unless there is a specific reason for them of which we, as at present advised, are unaware.

We would also draw to your attention the possibility of deleting everything after the words "not a Member of the United Nations" and substituting the following: "which the Contracting Parties to the GATT may declare to be eligible". This amendment would have the effect of avoiding casting the burden of the decision regarding eligibility upon the General Assembly and instead transposing it to what may possibly be the more appropriate body in the circumstances, namely, the Contracting Parties.

**Proposed Title to Article IX**

**GERMANY**

Insert the following title:

"Ratification".
ARTICLE X

Sixth Session Draft

"1. This Convention shall be open for accession by the
governments of any of the States referred to in
paragraph 1 of Article IX.

2. Accession shall be effected by the deposit of an
instrument of accession with the Secretary-General
of the United Nations."

Proposed Title to Article X

Germany

Insert the following title:

"Accession"
ARTICLE XI

Sixth Session Draft

"1. When of the Governments referred to in Article IX have deposited their instruments of ratification or accession, the present Convention shall come into force between them on the thirtieth day after the date of the deposit of the instrument of ratification or accession. It shall come into force for each other Government on the thirtieth day after the deposit of its instrument of ratification or accession."

COMMENTS ON ARTICLE XI

AUSTRALIA

To ensure that any Convention shall be international in status upon its entry into force, Australia suggests ten countries as the minimum number of signatories requires to give the Convention force.

FINLAND

As a country that joins in this Convention must, in virtue of the General Agreement on Tariffs and Trade or the most-favoured-nation clause included in its bilateral agreements, apply it to many countries outside of the Convention, it would be advisable, in order to ensure at least some measure of reciprocity, to make the final enforcement of the Convention depend on the condition that a sufficient number of countries, e.g. 20, join it.

FRANCE

The French Government wish to point out that they would be prepared to ratify the Convention only if it were also ratified by the principal countries which are parties to the General Agreement.

GERMANY

If the reciprocity clause is to be included, substitute "seven" for the square brackets; otherwise insert the figure "twenty".

GREECE

The Convention should enter into force only when twenty countries at least have deposited their instruments of accession.

The Greek Government attaches particular importance to the reciprocal clause which should be formally included. It is only with the operation of such a clause that a government could be in a position to grant the benefits
involved in the Convention. The question of reciprocity does not arise as regards members of the GATT which would accede to the Convention. But differences might arise between GATT members which have acceded to the Convention and GATT members which have not done so. It was contended during the discussions that the operation of the most-favoured-nation clause incorporated in Article I of the General Agreement on Tariffs and Trade should apply equally as between members of the GATT whether they have acceded to the new Convention or not. The view that most-favoured-nation treatment should apply to this Convention did not meet with general agreement. Furthermore, as this is a separate convention of a special type and with a scope much wider than that of the General Agreement which is rather limited, the Greek Government is of the opinion that the Convention relating to samples should be applied subject to absolute reciprocity treatment. Furthermore, the new Convention represents a step forward in the direction of free trade and constitutes, so to speak, a widening of the Convention on the Simplification of Customs Formalities concluded in 1923, under the auspices of the League of Nations and applied by Greece ever since 1927. Again, this latter Convention on Customs Formalities is applicable only as between signatory states and does not apply to other states even though these may have entered into bilateral commercial agreements with the most-favoured-nation clause. For all the foregoing reasons, the Greek Government proposes to include in the text of the new Convention a specific article dealing with reciprocity treatment.

The Greek delegation to the Sixth Session of the Contracting Parties has already made this proposal (See document GATT/CP.6/W/8 of 29 September 1951).

HAITI

The number of ratifications required for the entry into force of the Convention could be half the number of contracting parties plus one.

ITALY

As regards the number of ratifications necessary for the entry into force of the Convention, it is considered that this figure be fixed at fifty per cent of the countries provided for in Article X.

UNITED KINGDOM

The United Kingdom would suggest for the consideration of the Contracting Parties that the Convention should come into force when ten Governments have deposited their Instruments of Ratification or Accession.

UNITED STATES

The United States considers that acceptance by ten countries might appropriately be specified as a requirement for the Convention's entry into force.

Suggested Title to Article XI

Insert the following title: "Entry into Force".
ARTICLE XII

Sixth Session Draft

"1. After the present Convention has been in force for \( \_ \) years any Contracting Party may denounce it by notification of denunciation to the Secretary-General of the United Nations.

2. Denunciation shall take effect six months after the date of receipt by the Secretary-General of the United Nations of the notification of denunciation.

COMMENTS ON ARTICLE XII

AUSTRALIA

Australia proposes deletion of the words "After the present Convention has been in force for ... years". Some Governments may be ready to accede if acceptance did not involve adherence for a number of years.

FINLAND

The irrevocable period of enforcement of the Convention could be perhaps 3 years.

GREECE

No contracting state should be allowed to denounce the Convention unless the Convention has been in force for two years already.

GERMANY

Paragraph 1: Substitute the word "two" for the square brackets. This duration of validity is proposed to ensure some degree of stability.

HAITI

As regards the period during which the Convention would have to remain in force, the Convention could remain indefinitely in force but it would be open to any contracting party to denounce the Convention by notification of denunciation to the Secretary-General of the United Nations.

ITALY

The period during which the Convention shall remain in force should not be less than five years.
Finally, it is considered advisable that the present order of Articles III and IV should be reversed so as to present a more logical arrangement of the subject matter, i.e. permanent importation and temporary importation.

PHILIPPINES

The Philippine Government suggests that the minimum period within which the Convention must be in force before any Contracting Party may denounce it by notification of denunciation to the Secretary-General of the United Nations be fixed for one (1) year.

UNITED KINGDOM

The Convention should have an initial period of duration of five years before denunciation becomes possible.

UNITED STATES

The United States suggests that the duration of the Convention be five years and indefinitely thereafter unless denounced on six-months' notice by a contracting State after the initial five-year period.

Suggested Title to Article XII

GERMANY

Insert the following title:

"Denunciation".
ARTICLE XIII

Sixth Session Draft

"1. Any Government may at the time of the deposit of its instrument of ratification or accession or at any time thereafter by notification addressed to the Secretary-General of the United Nations declare that the present Convention shall extend to all or any of the territories for the international relations of which it is responsible, and the Convention shall extend to the territories named in the notification as from the thirtieth day after the date of receipt of the notification by the Secretary-General of the United Nations or on the date on which the Convention comes into force under Article XI whichever is the later.

2. Any Government which has made a declaration under paragraph 1 of this Article extending the present Convention to any territory for whose international relations it is responsible may denounced the Convention separately in respect of that territory in accordance with the provisions of Article XII."

Suggested Title to Article XIII

GERMANY

Insert the following title:

"Extension of Scope"
ARTICLE XIV

Sixth Session Draft

"The Secretary-General of the United Nations shall notify all signatory and acceding States of all signatures, ratifications and accessions of the present Convention and of the date on which the Convention comes into force and of every notification received by him under Article XII or XIII.

In witness whereof the undersigned plenipotentiaries have signed in the present Convention

Done at __________ this _______ in English

and French languages, both texts being equally authoritative, in a single original which shall be deposited in the archives of the United Nations. The Secretary-General of the United Nations shall transmit certified copies thereof to all signatory and acceding States."

COMMENTS ON ARTICLE XIV

UNITED NATIONS LEGAL DEPARTMENT

In order that all the States referred to in paragraph 1 of Article IX should receive the various notifications under this Article, the latter should be amended to read as follows: "The Secretary-General of the United Nations shall notify all States referred to in paragraph 1 of Article IX of all signatures...."

Deposit clause: The word "authentic" should be substituted for the word "authoritative". The last sentence should also be amended to read as follows: "The Secretary-General of the United Nations shall transmit certified copies thereof to all States referred to in paragraph 1 of Article IX."

Suggested Title to Article XIV

GERMANY

Insert the following title:

"Notification of Status of the Convention to the Contracting Parties"
CARNET DE PASSAGE

Comment on the Proposal (GATT/CP.6/W/6)

AUSTRIA

The system envisaged by the French Delegation is of great interest to the commercial activities involved. As the problems raised by this proposal require a very detailed study no definite comment on it could be made in the moment.

CZECHOSLOVAKIA

The French proposal for a possible introduction of a certain system of Carnet de Passages for commercial samples which are subject to customs duties similar to the TIR carnets in our opinion interesting and could possibly simplify customs formalities with such samples and perhaps be of advantage even as far as foreign exchange is concerned (deposits of bonds in cash). It should be further studied.

GREECE

The Greek Government believes that the French proposal relating to the setting up of a system of polyptychs (Carnet de passages) to facilitate the movement of samples could render useful services. As in the case of automobiles, such assistance would render unnecessary a number of inconvenient formalities relating to the deposit of securities. However, in view of the difficulties encountered in the setting up of an international office for the issuance of polyptychs giving every possible guarantee to national offices, the Greek Government proposes to support the French proposal after this has been submitted in a more concrete form to the consideration of the International Chamber of Commerce.

INTERNATIONAL CHAMBER OF COMMERCE

The I.C.C. has studied with great interest and sympathy the recommendation of the French Government delegation at the Sixth Session of the Contracting Parties to GATT in favour of the introduction of a system of triptyques or "carnets de passage" for samples of value. There can be no difference of opinion on the question of principle. The I.C.C. would warmly support any workable system designed to alleviate the financial burdens and administrative formalities imposed upon firms sending representatives abroad with samples of value. The practical difficulties are, however, very great indeed, and neither the I.C.C. itself nor its national committees are in a position to take on the responsibilities involved. It appears too from the I.C.C.'s investigations that most chambers of commerce and other trade or industrial associations of a general character are in the same position.
Carnet de Passage (Contd.)

In the course of its inquiry, the I.C.C. was informed by the International League of Commercial Travellers and Agents that the League and its constituent national associations were prepared in principle to examine the possibility of acting as guarantors under such a scheme, and the I.C.C. is glad to transmit this information to the Contracting Parties. The International League is in the meantime continuing its investigation of the practical details of finance and organisation involved.

In conclusion, the I.C.C. suggests that progress in the direction of a more general agreement might well be made through the conclusion of bilateral agreements between those contracting parties who are able and willing to adopt a system such as that proposed by the French Government.

Two suggestions of a different order have been made in response to the I.C.C.'s inquiry. The first is that the necessary guarantee could be given by an approved bank, thus establishing at the same time the bona fides of the commercial traveller. The second is that the same system of control could be applied to imports of samples of value carried by commercial travellers as is applied in certain countries to the import of foreign currency. In other words, the traveller would receive a copy of the customs declaration and the number of this declaration would be entered in his passport. On leaving the country, the traveller would be obliged to produce the samples mentioned on the declaration or to pay duty.
RESERVATIONS CLAUSE

Comments by United Nations Legal Department

Reservations Clause:

We would take this opportunity of drawing your attention to paragraph 1 of resolution 598(VI) of the General Assembly which reads as follows:

"1. RECOMMENDS that organs of the United Nations, specialized agencies and States should, in the course of preparing multilateral conventions, consider the insertion therein of provisions relating to the admissibility or non-admissibility of reservations and to the effect to be attributed to them;".

This recommendation, as you know, resulted from serious uncertainties which arose from the differences of opinion among governments as to whether certain reserving States were in fact parties to the Genocide Convention, and as to the legal effect of objections to the reservations which they had made to that Convention, which did not contain a specific article on the subject. Our experience in carrying out depositary functions bears out the advantage of avoiding controversy by the use of such an article.

In the light of this recommendation, therefore, we are setting out three draft reservations clauses which may be appropriate for inclusion in the present Convention.

Clause A below offers great flexibility in examining the significance of a reservation and its compatibility with a convention by early exchange of views within the appropriate organ, thus avoiding the uncertainties which result from correspondence between the depositary and the many governments concerned.

Clause B attempts to codify the rule heretofore followed by the League of Nations and United Nations Secretariats. For simplicity both of drafting and of operation, however, this clause does not purport to give legal force to a reservation made at signature or to an objection thereto, allowing such a reservation merely to serve as factual notice until a legal determination can be made by the procedure it establishes at the time of ratification. A full procedure for dealing with reservations at signature can be provided, of course, but it makes for a more cumbersome article.

Clause C is the same as Clause B but in addition it embodies the proposal made by the International Law Commission in its report on the
Reservation Clause (cont'd)

subject of reservations to the Sixth Session of the General Assembly, and is intended to enable signatory States to object to reservations within a reasonable time limit. Otherwise, however, both this and the previous example follow the classic contractual concept of a multilateral convention in requiring that a State may become a party to a convention subject to a reservation only if all the States having a direct interest in the convention expressly or tacitly consent thereto.

Clause A. Any State may make its ratification or accession to the present Convention conditional upon any reservation which is approved by the contracting parties to the General Agreement on Tariffs and Trade by a two-thirds/three-fourths/vote.

Clause B.

1. In the event that any State submits a reservation to any of the articles of this Convention at the time of signature, ratification or accession, the Secretary General shall communicate the text of such reservation to all States which are or may become parties to this Convention. In the case of a reservation made at the time of ratification or accession, any State which has theretofore ratified or acceded (or, if the Convention has not entered into force, which has ratified or acceded by the date of determining its entry into force), shall have the right to object to any such reservation. If no objection is received by the Secretary General from any State entitled to object by the th day from the date of his communication (or by the date of determining the entry into force, whichever is the later), the reservation shall be deemed to be accepted.

2. In the event of an objection being received by the Secretary General from any such State he shall notify the State making the reservation of such objection, and request it to inform him whether it is prepared to ratify or accede without the reservation or whether it prefers to abstain from ratification or accession.

Clause C.

1. In the event that any State submits a reservation to any of the articles of this Convention at the time of signature, ratification or accession, the Secretary General shall communicate the text of such reservation to all States which are or may become parties to this Convention. In the case of a reservation made at the time of ratification or accession, any State which has theretofore signed, ratified or acceded (or, if the Convention has not entered into force, which has signed, ratified or acceded by the date of determining its entry into force), shall have the right to object to any such reservation. If no objection is received by the Secretary General from any State entitled to object by
Reservation Clause (cont'd)

the _______th day from the date of his communication (or from the date of determining the entry into force, whichever is the later), the reservation shall be deemed to be accepted.

2. In the event of an objection being received by the Secretary General from any such State he shall notify the State making the reservation of such objection, and request it to inform him whether it is prepared to ratify or accede without the reservation or whether it prefers to abstain from ratification or accession.

3. An objection by a signatory State, however, shall cease to have the effect of excluding the State making the reservation from becoming a party to the Convention if, within a period of twelve months from the date of making its objection or three years from the date of its signature, the objecting State has not ratified the Convention.