

MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS

Direcção-Geral dos Negócios Económicos e Consulares

Decreto-Lei n.º 40 539

Usando da faculdade conferida pela 2.ª parte do n.º 2.º do artigo 109.º da Constituição, o Governo decreta e eu promulgo, para valer como lei, o seguinte:

Artigo único. É aprovada para adesão a Convenção internacional para facilitar a importação de amostras comerciais e material publicitário, assinada em Genebra em 7 de Novembro de 1952, cujo texto em inglês, em francês e na respectiva tradução é o seguinte:

Publique-se e cumpra-se como nele se contém.

Paços do Governo da República, 23 de Fevereiro de 1956. — FRANCISCO HIGINO CRAVEIRO LOPES — António de Oliveira Salazar — Marcello Caetano — Fernando dos Santos Costa — Joaquim Trigo de Negreiros — João de Matos Antunes Varela — António Manuel Pinto Barbosa — Américo Deus Rodrigues Thomaz — Paulo Arsénio Viríssimo Cunha — Eduardo de Arantes e Oliveira — Raul Jorge Rodrigues Ventura — Francisco de Paula Leite Pinto — Ulisses Cruz de Aguiar Cortês — Manuel Gomes de Araújo — Henrique Veiga de Macedo.

(D.G. n.º 40, I Série, de 23 de Fevereiro de 1956)

外交部

經濟領事事務統籌司

法令 第 40539 號

政府行使《憲法》第一百零九條第二款第二部分所賦予之權能，命令制定具有法律效力之條文如下，並由本人頒布：

獨一條 —— 通過一九五二年十一月七日在日內瓦簽署之《關於便利樣品和業務宣傳品進口的國際公約》，以待加入；該公約之英文本、法文本及有關譯本附於本法令。

命令公布及實施本法令之規定。

一九五六年二月二十三日於共和國政府大樓 ——

FRANCISCO HIGINO CRAVEIRO LOPES — António de Oliveira Salazar — Marcello Caetano — Fernando dos Santos Costa — Joaquim Trigo de Negreiros — João de Matos Antunes Varela — António Manuel Pinto Barbosa — Américo Deus Rodrigues Thomaz — Paulo Arsénio Viríssimo Cunha — Eduardo de Arantes e Oliveira — Raul Jorge Rodrigues Ventura — Francisco de Paula Leite Pinto — Ulisses Cruz de Aguiar Cortês — Manuel Gomes de Araújo — Henrique Veiga de Macedo.

(一九五六年二月二十三日第 40 期《葡萄牙政府公報》第一組)

International convention to facilitate the importation of commercial samples and advertising material

The Governments signatories to the present Convention,

Believing that the adoption of uniform regulations regarding the importation of samples of goods of all kinds (whether natural products or manufactured articles) and of advertising matter will promote the expansion of international trade,

Have agreed as follows:

ARTICLE I

Definitions

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 connexion with importation, and shall include all internal taxes and excise duties chargeable on imported goods, but shall not include 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) The term «persons» means both natural and legal persons; and

- (c) 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.

ARTICLE II

Exemption from import duties for samples of negligible value

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 for goods of the kind represented by the samples with a view to their importation. 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 consignment. The values of consignments sent by a consignor to different consignees shall not be aggregated for the purpose of this paragraph even though the consignment are imported at the same time.

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 para-

graph 1 of this article, samples shall be made useless as merchandise by marking, tearing, perforation or other treatment, but not, however, so as to destroy their usefulness as samples.

ARTICLE III

Temporary duty-free admission of other samples

1. For the purpose of this article, the term «samples» means articles which are representative of a particular category of goods already produced or are examples of goods the production of which is contemplated, on condition that they:

- (a) are owned abroad and are imported solely for the purpose of being shown or demonstrated in the territory of importation for the soliciting of orders for goods to be supplied from abroad; and
- (b) are not sold or put to normal use except for purposes of demonstration or used in any way for hire or reward while in the territory of importation; and
- (c) are intended to be re-exported in due course; and
- (d) are capable of identification on re-exportation;

but does not include identical articles brought in by the same individual, or sent to a single consignee, in such quantity that, taken as a whole, they no longer constitute samples under ordinary commercial usage.

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 persons 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 being deposited or security being given for payment if necessary. Any deposits taken (other than those required in virtue of article VI of this Convention) shall not, however, exceed the amount of the import duties by more than 10 per cent.

3. To obtain the facilities provided for in this article, the persons concerned must comply with the relevant laws and regulations prescribed by the authorities of the territory of importation and the Customs formalities in force in that territory. As regards vehicles and industrial and agricultural machinery or equipment of a value Customs purposes exceeding 1,000 United States dollars (or the equivalent in other currencies), importers may be required to declare the place of destination of such machinery, equipment or vehicles; they may also be required by the Customs authorities of the country of importation to establish, at any time, that the machinery, equipment or vehicles are at the declared places. The Customs authorities of the country of importation may seal such machinery, equipment or vehicles or otherwise preclude their operation during the time in which temporary duty-free admission is allowed and limit the places where these goods may be operated for demonstration purposes.

4. The Customs authorities of the territory of importation shall, as a general rule, recognize as sufficient for the future identification of samples the marks which have been affixed by the Customs authorities of a 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 be affixed to the samples by the Customs authorities of the territory into which they are im-

ported only if they are necessary, in the opinion of those authorities, to ensure the identification of the samples on re-exportation. Any mark affixed to samples shall not be such as to destroy their usefulness.

5. The period allowed for re-exportation of samples which qualify for exemption from import duties under this article shall be not less than six months. When the period allowed for re-exportation has expired, the amount of the import duties and any other amount due may be charged on samples which have not been re-exported. These amounts may also be charged, before the expiry of the period, on samples which cease to satisfy the conditions of paragraph 1 of this article.

6. 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, subject to the deduction of the duties and any other amount payable on samples not produced for re-exportation. When special circumstances exist deposits may, however, be returned by other means, provided the return is effected promptly. Each Contracting Party shall publish a list of the Customs offices on which the said authority has been conferred.

ARTICLE IV

Duty-free admission of advertising material

1. Each Contracting Party shall exempt from import duties catalogues, price-lists and trade notices relating to

- (a) goods offered for sale or hire, or
- (b) transport or commercial insurance services offered,

by a person established in the territory of another Contracting Party, when such documents are imported from the territory of any Contracting Party, provided that each consignment imported either:

- (i) consists of not more than one document, or
- (ii) if it consists of more than one document, does not include more than one copy of any one document, or
- (iii) irrespective of the number of documents or copies, does not exceed 1 kilogramme in gross weight.

Simultaneous dispatch of a number of consignments to different addresses in the territory of importation shall not debar such 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:

- (a) Catalogues, price-lists and trade notices which do not clearly indicate the name of the foreign concern producing, selling or renting the goods, or offering the transport or commercial insurance services, to which such catalogues, price-lists or trade notices relate; or
- (b) Catalogues, price-lists and trade notices which are entered to Customs in the territory of importation in packets grouped together for subsequent dispatch to separate addresses in that territory.

ARTICLE V

Temporary duty-free admission of advertising films

Each Contracting Party shall accord the facilities provided by article III of the present Convention, subject to the conditions laid down in that article, to positive cinematograph advertising 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 or for hire by a person 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 of films.

ARTICLE VI

Temporary waiver of import prohibitions and restrictions

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 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 goods not give rise to any payment other than for freight or insurance or for services provided in the territory of importation by a person established in that territory.

2. In the case of goods 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 temporary duty-free admission is allowed (or would be allowed if the goods were dutiable). In the case of non-re-exportation of such goods within the period during which the application of any import prohibitions or restrictions has been waived under paragraph 1 of this article, the authorities of the importing country may apply such measures as would have been applicable if the 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 payment of import duties.

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

- (a) necessary to protect public morals or essential security interests;
- (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.

ARTICLE VII

Simplification of formalities

1. Each Contracting Party shall keep to a minimum the formalities required in connexion with the facilities accorded 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 unaware.

ARTICLE VIII

Settlement of disputes

1. Any dispute between 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 negotiation shall be referred to a person or body agreed between the Contracting Party 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.

ARTICLE IX

Signature and ratification

1. The present Convention shall be open for signature until 30 June 1953 by the Governments contracting parties to the General Agreement on Tariffs and Trade, by the Governments of all States Members of the United Nations and by the Government of any other State to which the Secretary-General of the United Nations shall have communicated a copy of the Convention for this purpose.

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

ARTICLE X

Accession

1. The present 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.

ARTICLE XI

Entry into force

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

ARTICLE XII

Denunciation

1. After the present Convention has been in force for three 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.

ARTICLE XIII

Territorial application

1. Any Government may at the time of the deposit of its instrument of ratification, acceptance 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 denounce the Convention separately in respect of that territory in accordance with the provisions of article XII.

ARTICLE XIV

Reservations

1. Any State may at the time of its signature or of the deposit of its instrument of ratification, acceptance or accession declare that it shall not be bound by specified provisions of this Convention.

2. Any State may at the time of making a notification under article XIII that the present Convention shall extend to any of the territories for the international relations of which it is responsible make a separate declaration in accordance with paragraph 1 of this article in respect of all or any of the territories to which the notification applies.

3. If any State submits a reservation to any of the articles of this Convention at the time of signature, ratification, acceptance or accession, or at the time of making a notification under article XIII, the Secretary-

General of the United Nations shall communicate the text of such reservation to all States which are or may become parties to this Convention. Any State which has signed, ratified, accepted or acceded before the reservation is made (or, if the Convention has not entered into force, which has signed, ratified, accepted or acceded by the date of its entry into force), shall have the right to object to any reservation. If no objection is received by the Secretary-General of the United Nations from any State entitled to object by the ninetieth day from the date of his communication (or from the date of entry into force of the Convention, whichever is the later), the reservation shall be deemed to be accepted.

4. In the event of an objection being received by the Secretary-General of the United Nations from any State entitled to object, he shall notify the State making the reservation of such objection, and request it to inform him whether it is prepared to withdraw the reservation or whether it prefers to abstain from ratification, acceptance or accession or from extending the Convention to the territory or territories to which the reservation applies, as the case may be.

5. A State which has made a reservation in regard to which an objection has been presented in accordance with paragraph 3 of this article shall not become a party to this Convention unless the objection has been withdrawn or has ceased to have effect as provided in paragraph 6; neither shall a State have the right to claim the benefits of this Convention in respect of any territory for the international relations of which it is responsible and in respect of which it has made a reservation if any objection has been made to the reservation in accordance with paragraph 3 of this article, unless the objection has been withdrawn or has ceased to have effect as provided in paragraph 6.

6. An objection by a State which has signed but not ratified or accepted the Convention shall cease to have effect if, within a period of twelve months from the date of making its objection, the objecting State has not ratified or accepted the Convention.

ARTICLE XV

Notification of signatures, ratifications, acceptance and accessions

The Secretary-General of the United Nations shall notify all signatory and acceding States, and all other States which so request, of all signatures, ratifications, acceptances 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 the present Convention.

Done at Geneva this seventh day of November, one thousand nine hundred and fifty-two, in the English and French languages, both texts being equally authentic, 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.