

## QUESTION 2

**Protection against the importation of products the process of  
manufacture  
of which is patented in the importing country**

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Yearbook 1956, New Series No. 3, 59th Year, page 134  
22nd Congress of Washington, May 28 - June 2, 1956

Q2

## QUESTION Q2

**Protection against the importation of products the process of manufacture  
of which is patented in the importing country**

### Resolution

#### **2 - Introduction into a country of the Union of products manufactured abroad**

The Congress:

decides to refer the matter of the protection against the importation of products made under a process patented in the importing country, to a subsequent study of the Executive Committee.

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## QUESTION 2

### **Protection against the importation of products the process of manufacture of which is patented in the importing country**

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Yearbook 1958, New Series No. 5, 61st Year, page 249  
Executive Committee of Oslo, June 10 - 13, 1957

Q2

## QUESTION Q2

### **Protection against the importation of products the process of manufacture of which is patented in the importing country**

#### **Resolution**

#### **I. The Executive Committee of OSLO has formed the following opinion:**

1. The measures of protection under consideration may be introduced into the Union Convention.
2. The object of protection should be the substance or the product manufactured under a process in the strict sense of the word, without it being necessary to distinguish whether the substance or the product constituted the direct result or the indirect result of the process.
3. The modalities of protection should be fixed by a more flexible formula: the owner of a process patent should possess in regard to the imported product, the rights which his national legislation grants him in respect of products manufactured by the patented process.
4. Finally, the burden of proof should be shifted to the defendant, in the cases mentioned at SIRMIONE, but the specifications proposed by the Belgian Group should be taken into account.

#### **II. Consequently, the Executive Committee of OSLO has proposed that article 4 of the Union Convention be completed by the following provision:**

"When a product is imported into a country of the Union where there exists a patent protecting the process of manufacture of the said product, the patentee shall have the same rights in respect of the imported products as are accorded to him by the national legislation based on the process patent in respect of products manufactured in that country. The author of the fact complained of will have the burden of establishing that the imported product has not been obtained by the patented process:

a) if the process was the only one known at the date of the fact complained of, or

b) if the product was new according to the patent law of the importing country at the application or priority date of the process patent."

The Executive Committee of OSLO has equally uttered the wish that this question should be placed on the agenda of the Conference of LISBON.

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## **QUESTION 2**

**Protection against the importation of products the process of  
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of which is patented in the importing country**

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Yearbook 1958, New Series No. 6, 61st Year, page 40  
23rd Congress of Stockholm, May 26 - 31, 1958

Q2

## **QUESTION Q2**

**Protection against the importation of products the process of manufacture  
of which is patented in the importing country**

**A Protection against the importation of products the process of manufacture of  
which is patented in the importing country.**

The Congress expresses the wish that the Union Convention should be amplified by adding the following new provision:

„The introduction, use or sale in and to a country of the Union of a product made by a process patented in such country, and manufactured in a foreign country, shall be considered an infringement of the patent.

The burden of proving that the product has not been obtained by the patented process shall lie, in the cases and under the conditions to be provided by the national law, with the author of the fact complained of.“

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