The Gatt Secretariat has published as a leaflet the Recommendation on Marks of Origin which was adopted at the Thirteenth Session of the Contracting Parties. After an explanatory introduction the leaflet sets out the text of the Recommendation. This is followed by the text of Article IX of the GATT which deals with Marks of Origin.

It is stated in the Introduction that the fact that some countries have laws and regulations under which certain foreign goods can only be imported if they bear marks of origin presents difficulties and problems for the trading world. This is recognized by GATT in that special provisions dealing with marks of origin are provided for in Article IX.

These provisions incorporate many of the suggestions made by the Economic Committee of the League of Nations in 1931, in particular the important principle that marks of origin should not be used as an instrument of discrimination.

Since 1948 when the Agreement entered into force a number of proposals have been made towards strengthening the provisions regarding marks of origin set forth in the GATT. These proposals were brought together in a set of "Guiding Principles" which were adopted by the International Chamber of Commerce at their fifteenth congress at Tokyo in 1955 and submitted to the Contracting Parties.

The Contracting Parties ensured that careful study was given to these Principles and instructed the secretariat to prepare a draft Recommendation. On the basis of this preparatory work the Contracting Parties adopted a Recommendation on Marks of Origin at their Thirteenth Session in November 1958.

The Recommendation is based on the following main principles:

(a) The general aim is towards a considerable liberalization of existing national rules and regulations on marks of origin; the Recommendation is therefore addressed not only to contracting parties but to all trading nations.
(b) Producers should have a reasonable assurance that a product marked in the recommended way would be accepted by all importing countries as being satisfactorily marked, so as to avoid the need for different markings to comply with the marking provisions of different countries.

(c) The recognition by importing countries of a uniform type of marking should in no way be understood to justify any attempt to limit or cancel more liberal marking provisions. The Recommendation should, in fact, be accepted as an elaboration of the liberal principles already laid down in the terms of the General Agreement.

(d) The right of countries to protect the accuracy of marks should be respected.

In addition to the main principles outlined above, the Recommendation gives special attention to a number of questions which, in practice, are often no less important. In particular, there is the suggestion that no country should require that all imported products should bear marks of origin (Point 2).

Another important recommendation is that national provisions concerning marks of origin should not contain any obligation other than the obligation to indicate the origin of the imported product (Point 4). This recommendation not only suggests that a mark of origin should be limited to the indication of the country of origin; it also implies that any additional marking requirement (e.g. in the interest of public health) is only justified, under the provisions of the General Agreement, when it is applied equally to imported and to domestically produced goods.

Of special significance are the consultation procedures recommended in Point 16: exporting countries which encounter difficulties, due to the fact that an importing country is not in a position to comply with any of the recommendations, may request consultations in the sense of the provisions of GATT Article XXII. Such consultations should be carried out in the friendly spirit of this Article which invites countries to accord sympathetic consideration and to afford adequate opportunity for consultations to countries making representations.

The adoption by the Contracting Parties of the Recommendation on Marks of Origin is an important step forward in their task of tackling what are commonly called administrative barriers to trade. It is expected that governments, Chambers of Commerce and all those who are engaged in international trade will profit by this Recommendation.
Background Note

The Contracting Parties have undertaken a series of initiatives which are essentially designed to assist the business community - particularly importers and exporters - by helping to minimize obstacles to trade of an administrative character.

In 1952 the Contracting Parties drew up a code of standard practices for documentary requirements for the importation of goods; they also formulated a recommendation for the reduction and abolition of consular formalities. In the following year they recommended that the requirement of certificates of origin should be limited. They also drew up the Samples Convention. This was followed in 1955 by a comparative study of methods of valuation for customs purposes and by a recommendation on certificates of origin.

FULL TEXT OF THE RECOMMENDATION ON MARKS OF ORIGIN

adopted by the Contracting Parties on 21 November 1958
at the Thirteenth Session

CONSIDERING that in Article IX of GATT the contracting parties recognize that, in adopting and enforcing laws and regulations relating to marks of origin, the difficulties and inconveniences which such measures may cause to the commerce and industry of exporting countries should be reduced to a minimum and that they have agreed on certain basic principles for the carrying out of this idea;

CONSIDERING that it would facilitate the attainment of the objectives of the General Agreement if the Contracting Parties were to agree on certain rules which would further reduce the difficulties and inconveniences which marking regulations may cause to the commerce and industry of the exporting country; and

CONSIDERING that nothing in this Recommendation should be understood to prevent a country

(a) from applying more liberal provisions, or

(b) from accepting, but not requiring, other types of marking than contained in the Recommendation,

MORE
The Contracting Parties

RECOMMEND the adoption of the following rules on Marks of Origin:

1. Countries should scrutinize carefully their existing laws and regulations with a view to reducing as far as they possibly can the number of cases in which marks of origin are required, and to limit the requirement of marks of origin to cases where such marks are indispensable for the information of the ultimate purchaser.

2. The requirement of marks of origin should not be applied in a way which leads to a general application to all imported goods, but should be limited to cases where such a marking is considered necessary.

3. If marks of origin are required, any method of legible and conspicuous marking should be accepted which will remain on the article until it reaches the ultimate purchaser.

4. The national provisions concerning marks of origin should not contain any other obligation than the obligation to indicate the origin of the imported product.

5. Countries should accept as a satisfactory marking the indication of the name of the country of origin in the English language introduced by the words "made in".

6. Commonly-used abbreviations, which unmistakably indicate the country of origin, such as "UK" and "USA", should be considered a satisfactory replacement for the full name of the country concerned.

7. Marking should not be required on containers of articles properly marked if they are not designed to be sold with the product, or are used for transport purposes only.

8. Marking on the container should be accepted in lieu of the marking of the product in the following cases:

(a) if this type of marking is customarily considered satisfactory;

(b) if the type of packing makes it impossible for the ultimate purchaser to open it without damaging the goods;

(c) in the case of goods which, because of their nature, are normally sold in sealed containers;

(d) in cases where a marking of the goods shipped in a container is impossible, such as in the case of liquids and gas, or other products that cannot be marked.
9. Imports for non-commercial personal use should be exempted from the marking requirement, including imports which are enumerated in the national customs laws in that context, such as imports of goods in consequence of inheritances, trousseaux, etc., and which are freed from duties in many countries.

10. Original objets d'art should be free from the marking requirement.

11. Goods in transit and goods while in bond or otherwise under customs control, for the purposes of temporary duty-free admission, should be free from the marking requirement.

12. Countries should make provisions that in exceptional cases the application of a mark of origin should be permitted under customs supervision in the importing country.

13. The re-exportation of products which cannot be marked under customs supervision should be permitted without penalty.

14. Penalties should not be imposed in contradiction to paragraph 5 of Article IX of GATT, i.e., for failure to comply with marking requirements prior to the importation unless corrective marking is unreasonably delayed or deceptive marks have been affixed or the required marking has been intentionally omitted.

15. When a government introduces a system of marking, or makes it compulsory for a new product, reasonable notice should be given before the new provisions enter into force, and there should be adequate publicity for the new regulations, in conformity with the provisions of Article X of GATT.

16. The exporting countries which encounter difficulties due to the fact that an importing country is not in a position to comply with any one of the above recommendations may request consultation with the importing country in the sense of the provisions of Article XXII of GATT with a view to the possible removal of the difficulties encountered and importing countries should accept any such request.

The Contracting Parties finally

UNDERSTAND that no country shall be obliged to alter:

(a) any provision protecting the "truth" of marks, including trade marks and trade descriptions, aiming to ensure that the content of such marks is in conformity with the real situation;
(b) any provision which requires the addition of a mark of origin in cases where the imported products bear a trade mark being or purporting to be a name or trade mark of any manufacturer, dealer or trader of the importing country; and

INVITE all countries to report to the GATT secretariat all changes in their legislation, rules and regulations concerning marks of origin in order to be permanently available for consultation. These reports, including the original texts, should be transmitted as early as possible and at any rate each year before 1 September.