Tariff Negotiations Committee

REPORT OF WORKING PARTY ON UNESCO

As instructed by the Tariff Negotiations Committee, the Working Party has examined, in consultation with the representative of Unesco, the most practical means of studying and formulating solutions for the problems raised in the Unesco proposals contained in document GATT/CP/12 and its addenda.

Particular attention was directed to the possibility of giving Unesco practical advice on measures that might be taken to bring about a reduction of trade barriers affecting the importation of educational, scientific and cultural materials.

To this end, the Working Party, functioning as a committee of experts and not as representatives of Governments, prepared a Tentative Draft Agreement on the Importation of Educational, Scientific and Cultural Materials, as a working document that Unesco might wish to use in preparing a Draft Agreement to be submitted for consideration by governments.

The Draft Agreement prepared by the Working Party, which is of a tentative nature and involves no commitment for the governments represented at Annecy, is attached to this report together with a draft letter from the Chairman of the CONTRACTING PARTIES in a reply to a letter from the Director of Unesco of 1st March, 1949.

Consequently, the Working Party recommends that the Tariff Negotiations Committee request the Chairman of the Contracting Parties to transmit to the Director-General of Unesco the attached letter and Tentative Draft Agreement on the Importation of Educational, Scientific and Cultural Materials.
I have the honour to refer to the letter you addressed to me on 1st March 1949, together with a Memorandum on Trade Barriers Affecting the Import and Export of Educational, Scientific and Cultural Materials. Your Memorandum, which was circulated as GATT/CP/12, requested the Contracting Parties to the General Agreement on Tariffs and Trade at their Third Session:

"1) to include in their negotiations educational, scientific and cultural items or products and to take into account the desirability of achieving a maximum of international trade in such items or products;

"2) to consider ways of simplifying, coordinating and rendering more effective on an international basis the preferential treatment at present accorded to these materials in many countries;

"3) to accept for study and advise Unesco on the text of the Draft Agreement to Facilitate the International Circulation of Books, Newspapers and Periodicals;

"4) to advise Unesco on additional practical measures it might take to implement its mandate to reduce trade barriers affecting the import and export of educational, scientific and cultural materials."

At this Session the Contracting Parties were associated with 11 other countries who were negotiating for accession to the GATT. The Contracting Parties therefore decided to associate these governments with them in considering the enquiries you had addressed to them. Your Memorandum accordingly was referred to the Tariff Negotiations Committee consisting of representatives of the 34 Governments participating in the Annecy meeting.

The Tariff Negotiations Committee established a Working Party of seven of its members, who functioned not as representatives of Governments, but as a Committee of Experts, acting in their individual capacities. After a careful examination, the Working Party submitted a report, on the basis of which the Tariff Negotiations Committee has requested me to communicate the following to you concerning the four points you raised:
With regard to point one, although it was possible in certain instances to comply with the Unesco request that negotiations on educational, scientific and cultural materials should be facilitated, it did not prove practicable to expand consideration of these materials to any considerable extent in the negotiations at Annecy. The preparations for these negotiations were already in an advanced stage when the conference opened in Annecy, and at that point it was not possible to vary their scope to any large degree. Moreover, there was some doubt as to the suitability of negotiations involving the exchange of tariff concessions as a means of achieving the results desired by Unesco. However, it is anticipated that, insofar as possible, Governments will in future tariff negotiations attempt to assist in furthering the objectives sought by Unesco.

Points two and four, concerning the additional measures that might be undertaken by the Contracting Parties or by Unesco to reduce trade obstacles affecting the import of educational, scientific and cultural materials, were considered jointly. The Working Party concluded that an effective way of accomplishing this objective would be for Unesco to sponsor an international Agreement consolidating and extending the favourable treatment at present accorded to these materials in many countries.

Consequently, the Working Party, as a Committee of Experts advising Unesco, and not as representatives of Governments, proceeded to draft the tentative text of an Agreement on the Importation of Educational, Scientific and Cultural Materials. A copy of this Tentative Draft Agreement is attached.

The Tariff Negotiations Committee, taking note of the work done by the Working Party, has requested me to forward this tentative draft to you as a basis for further consideration by Unesco. It is recognised that, although this document represents a substantial common ground among
the tariff practices of many countries with regard to educational, scientific and cultural materials, Unesco will probably find it necessary to submit this Draft to Governments for policy study and comments, in the light of which the Draft would thereafter be revised. It will be understood that the present draft in no way commits the Governments represented at Annecy. It may be noted at this point, in anticipation of the comments Governments may submit at a later date, that the Working Party sought to prepare a draft that might receive the widest possible adherence.

Point three of your Memorandum requested advice on the Unesco Draft Agreement to Facilitate the International Circulation of Books, Newspapers and Periodicals. However, as you will note, the attached Tentative Draft Agreement on the Importation of Educational, Scientific and Cultural Materials applies to books, periodicals, and to certain other materials as well. Hence it was considered by the Working Party to parallel the Unesco Draft, as far as publications are concerned, and to go beyond it by including other items of an educational, scientific and cultural character. For that reason, although the Unesco text was utilised in part as a basis for the new Tentative Draft Agreement, no comments were offered on the Unesco Draft itself.
TENTATIVE DRAFT AGREEMENT ON THE IMPORTATION OF EDUCATIONAL, SCIENTIFIC AND CULTURAL MATERIALS

The Contracting States

(text of the preamble to be drafted by Unesco)

have, therefore, AGREED to the following provisions:

ARTICLE I

The Contracting States undertake to free from customs duties on importation the articles of an educational, scientific or cultural character, described in the Schedule annexed to this Agreement, which originate in another Contracting State.

ARTICLE II

The Contracting States undertake to free from customs duties on importation any material, equipment and instruments originating in another Contracting State and consigned to public or private scientific or educational institutions approved by the competent authorities of the importing country for the purpose of duty-free entry, (when such material, equipment or instruments or similar material, equipment or instruments cannot be manufactured by producers of the importing State within a reasonable period of time.)*

ARTICLE III

The provisions of Articles I and II of this Agreement shall not prevent any Contracting State from levying on imported goods covered by Articles I and II.

a) internal taxes or other internal charges of any kind not higher than those applied, directly or indirectly, to like domestic products;

* An alternative suggestion was to replace the concluding phrase of Article II with the following: "... when such material, equipment or instruments or similar material, equipment or instruments, are not immediately available in the importing country?"
b) fees and charges, other than customs duties, imposed by governmental authorities on or in connection with importation, limited in amount to the approximate cost of services rendered, and not representing an indirect protection to domestic products nor a taxation of imports for fiscal purposes.

**ARTICLE IV**

The provisions of this Agreement shall not prevent any Contracting State from applying to the goods covered by Articles I and II of this Agreement anti-dumping duties in accordance with the following provisions:

1. The Contracting States recognize that dumping, by which products of one country are introduced into the commerce of another country at less than the normal value of the products, is to be condemned if it causes or threatens material injury to an established industry in the territory of a Contracting State or materially retards the establishment of a domestic industry. For the purposes of this Agreement, a product is to be considered as being introduced into the commerce of an importing country at less than its normal value, if the price of the product exported from one country to another

a) is less than the comparable price, in the ordinary course of trade, for the like product when destined for use in the exporting country, or,

b) in the absence of such domestic price, is less than either

(i) the highest comparable price for the like product for export to any third country in the ordinary course of trade, or

(ii) the cost of production of the product in the country of origin plus a reasonable addition for selling cost and profit.

Due allowance shall be made in each case for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability.
2. In order to offset or prevent dumping, a Contracting State may levy on any dumped product an anti-dumping duty not greater in amount than the margin of dumping in respect of such product. For the purposes of this Agreement, the margin of dumping is the price difference determined in accordance with the provisions of paragraph 1.

3. No product of the territory of any Contracting State imported into the territory of any other contracting state shall be subject to anti-dumping duty by reason of the exemption of such product from duties or taxes borne by the like product when destined for use in the country of origin or exportation, or by reason of the refund of such duties or taxes.

4. No Contracting State shall levy any anti-dumping duty on the importation of any product of the territory of another Contracting State unless it determines that the effect of the dumping is such as to cause or threaten material injury to an established domestic industry, or is such as to retard materially the establishment of a domestic industry.

ARTICLE V

1. The Contracting States undertake in all circumstances to grant the necessary licenses and foreign exchange for the importation of the following articles:

   a) Books and publications consigned to public libraries and collections and to the libraries and collections of public educational, research or cultural institutions;

   b) Official government publications, that is, official, parliamentary and administrative documents published in the country of origin;

   c) Books and publications of the United Nations and its Specialized Agencies;
d) Books and publications received by the United Nations Educational, Scientific, and Cultural Organization and distributed by it or under its supervision, which may not be offered for sale;

e) Publications intended to promote tourist travel, sent and distributed free of charge and not containing more than X\$*, by space, of private commercial advertising matter;

f) Publications in raised characters, for the blind.

2. The Contracting States applying quantitative restrictions and exchange control measures undertake to grant, as far as possible, foreign exchange and licenses necessary for the importation of other articles of an educational, scientific, or cultural character.

**ARTICLE VI**

The provisions of this Agreement shall not prevent any Contracting State from prohibiting the importation of articles which it considers to be of a nature detrimental to national security, or to public, moral or social order.

**ARTICLE VII**

If the application of this Agreement should give rise to difficulties among the Contracting States, the exporting country may submit the matter to the United Nations Educational, Scientific, and Cultural Organization, which may make friendly recommendations to the countries concerned. The Contracting States undertake to give prompt, careful and sympathetic consideration to such recommendations. *****

* The percentage will be specified in the Draft Agreement.

** It is recommended that UNESCO study a mechanism for settling disputes.
ARTICLE VIII

The Contracting States undertake to continue their common efforts to promote by all means the free circulation of articles of an educational, scientific or cultural character, and, in the first instance, to abolish or reduce as far as possible all such restrictions to free circulation as are not referred to in the present Agreement. Moreover, each of them undertakes to adopt the appropriate administrative measures for the simplification as far as possible of regulations concerning the importation of articles of an educational, scientific or cultural character.

ARTICLE IX

1. The present Agreement, of which the English and French texts are equally authentic, shall bear today's date and remain open for signature by all Member States of the United Nations Educational, Scientific and Cultural Organization, all Members of the United Nations and any non-Member State to which an invitation may have been addressed by the Executive Board of the United Nations Educational, Scientific and Cultural Organization.

2. The Agreement shall be ratified on behalf of the signatory States in accordance with their respective constitutional procedures.

3. The instruments of Ratification shall be deposited with the Secretary-General of the United Nations.

ARTICLE X

The States referred to in paragraph 1 of Article IX may accept the present Agreement from ......... Acceptance shall become effective on the deposit of a formal instrument with the Secretary-General of the United Nations.

ARTICLE XI

The present Agreement shall come into force as from the date on which the Secretary-General of the United Nations receives instruments of ratification or acceptance from ten States.
ARTICLE XII

1. The States Parties to the present Agreement on the date of its coming into force shall take all the necessary measures for its execution within a period of three months.

2. For States which may deposit their instruments of ratification or acceptance after the date of the Agreement's coming into force, this period shall also be three months from the date of the deposit of the instrument of ratification or acceptance.

3. Within six months of the expiration of the period mentioned in paragraphs 1 and 2 of this Article, the Contracting States shall inform the United Nations Educational, Scientific and Cultural Organization of the measures which they have taken for such execution.

4. The United Nations Educational, Scientific and Cultural Organization shall transmit this information to all the signatory States, and to the International Trade Organization ( provisionally to its Interim Commission ).

ARTICLE XIII

Any Contracting State may, at the time of signature or the deposit of its formal instrument of ratification or acceptance, or at any time thereafter, declare by notification addressed to the Secretary-General of the United Nations, that the present Agreement shall extend to all or any of the territories which it represents as regards foreign relations.

ARTICLE XIV

1. After the expiration of two years from the date of the coming into force of the present Agreement, any Contracting State may, on its own behalf or on behalf of any of the territories which it represents as regards foreign relations, denounce this Agreement by an instrument in writing deposited with the Secretary-General of the United Nations.
2. The denunciation shall take effect one year after the receipt of the instrument of notification.

ARTICLE XV

The Secretary-General of the United Nations shall inform the States referred to in paragraph 1 of Article IX, as well as the International Trade Organization (provisionally its Interim Commission), of the deposit of all the instruments of ratification and acceptance provided for in Articles IX and X, as well as of the notifications and denunciations provided for respectively in Articles XIII and XIV.

ARTICLE XVI

1. In accordance with Article 102 of the Charter of the United Nations, the present Agreement shall be registered by the Secretary-General of the United Nations on the date of its coming into force.

2. In faith whereof the undersigned, duly authorized, have signed the present Agreement on behalf of their respective Governments.

Done at this day of , one thousand nine hundred and deposited in the archives of the United Nations, and certified true copies of which shall be delivered to all the Member States of the United Nations Educational, Scientific and Cultural Organization, to the International Trade Organization, (provisionally to its Interim Commission), to Members of the United Nations and to the non-Member States referred to in paragraph 1 of Article IX.
ANNEX

Schedule of articles recognized as being essentially of an educational, scientific and cultural character, to be admitted free of customs duty.

A. BOOKS AND PUBLICATIONS (1)

(i) Printed books (2) (3) (4)

(ii) Periodical publications (2)

(iii) Manuscripts, including Typescripts

(iv) Books and Documents produced by duplicating processes other than printing (2)

(v) Publications in raised characters for the blind

(vi) Newspapers

(vii) Printed music (3) (4)

(viii) Tourists posters and literature (including pamphlets, guides, leaflets, and similar publications, whether illustrated or not whose purpose is to stimulate visits to foreign exhibitions, conferences or sporting events, or to events of historic, artistic, educational, scientific or cultural character

(ix) Tourist posters and literature of general interest (including pamphlets, guides, leaflets and similar publications, whether illustrated or not, whose purpose is to stimulate travel to countries outside the country of importation (2)

(x) Publications whose purpose is to stimulate study abroad

(xi) Geographical and hydrographical maps and charts

(xii) Architectural and industrial plans and designs intended for study in scientific establishments or schools approved by the competent authorities of the importing countries for the purpose of the duty-free admission of these types of articles
B. WORKS OF ART AND OTHER OBJECTS OF AN EDUCATIONAL, SCIENTIFIC AND CULTURAL CHARACTER

(i) Original paintings and drawings (5) on canvas, paper, board or wood, framed or unframed (6), but not including manufactured, decorated articles,

or (7)

Original paintings and drawings (5) on canvas, paper, board or wood, but not including manufactured, decorated articles.

(ii) Hand-printed impressions, whether framed or unframed, (6)

produced from hand-engraved or hand-etched blocks, plates or other material, and signed and numbered by the artist

or (7)

Hand printed impressions, produced from hand-engraved or hand-etched blocks, plates or other material, and signed and numbered by the artist.

(iii) Original works of statuary or sculpture or in relief, not being works of traditional or conventional craftsmanship, and excluding commercial reproductions.

(iv) Collectors' pieces consigned to public galleries and museums and other public institutions, not intended for re-sale.

(v) Collections and collectors' pieces of anatomical, zoological, botanical, mineralogical, paleontological, archeological, ethnographical or similar scientific interest, not intended for re-sale.

(vi) Other objects of art and collectors' pieces exceeding 100 years of age.
C. VISUAL AND AUDITORY MATERIALS OF AN EDUCATIONAL, SCIENTIFIC AND CULTURAL CHARACTER

(i) Films, filmstrips, microfilms, and slides of an educational, scientific and cultural character for use exclusively in public or private scientific or educational institutions approved by the competent authorities of the importing country, for the purpose of the duty free admission of these types of articles.

(ii) Recordings of an educational, scientific and cultural character for use exclusively in public or private scientific or educational institutions approved by the competent authorities of the importing country, for the purpose of the duty free admission of these types of articles.

(iii) Patterns and models for use exclusively for demonstrating and teaching purposes in public or private scientific or educational institutions, approved by the competent authorities of the importing country for the purpose of the duty free admission of these types of articles.

NOTES

(1) Excepting books and publications in which the advertising matter is in excess of X% by space. (The percentage will be specified in the Draft Agreement.)

(2) With the possibility that Governments may make reservations, at the time of future examination of the Draft Agreement, on questions involving the importation of books, periodicals, documents producing by duplicating processes and tourist posters and literature of general interest, issued in the language(s) of the importing country.
(3) Application by signatory countries of the regulations relating to the question of copyright should be the subject of a special examination by UNESCO prior to future discussion of the Draft Agreement.

(4) It is recommended that UNESCO invite governmental comment on the question of duty-free treatment of luxury editions, as well as the definition of such editions, with the possibility that the Draft Agreement prepared by UNESCO will deal with this matter.

(5) It is recommended that UNESCO invite governmental comment on the question of duty-free treatment of copies of original paintings and drawings, as well as the definition of originals, with the possibility that the Draft Agreement prepared by UNESCO will deal with this matter.

(6) Frames of paintings and drawings, engravings and etchings of a value disproportionate to the value of the whole, may be charged with duty as such.

(7) Two alternative recommendations are made to UNESCO in view of the fact that some countries do not grant duty-free entry to frames, which they regard as separate articles from pictures.