DRAFT CONVENTION ON SAMPLES AND ADVERTISING MATERIALS
DRAFT RECOMMENDATIONS ON DOCUMENTARY REQUIREMENTS AND CONSULAR FORMALITIES
(Reference GATT/CP.6/36 and GATT/CP/131)

ADDENDUM

Further comments to the Draft Convention and the Draft Recommendations have been received from:

Austria
Czechoslovakia
Denmark
Germany
India
Philippines
United Kingdom
United States

and are attached hereto.

It is thought that the following, also attached, may be of interest to the Contracting Parties:

Comments and suggestions by the Legal Department of the United Nations on the formal provisions of the Draft Convention on Samples and Advertising Material.

A summary of a communication from the Secretariat of the International Civil Aviation Organisation concerning their International Cargo Invoices.
AUSTRIA

Draft International Convention for the Purpose of Facilitating the Importation of Commercial Samples and Advertising Material

Article II

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 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.

Article III

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).

Article IV

In paragraph 1 (b) of the present wording a weight limit of 200 grammes 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.

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 manufacturers 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 ............ grammes, 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: ............."

French Proposal relating to a System of "Carnets de Passage" for Samples of Value

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.

Draft Recommendations on Documentary Requirements and Consular Formalities

There are no objections to the present text of the recommendations in principle. The question should be studied whether binding obligations could be laid down.
CZECHOSLOVAKIA

Draft International Convention for the Purpose of Facilitating the Importation of Commercial Samples and Advertising Material

1. 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.

2. 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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 carnet is 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.
Draft Recommendations on Documentary Requirements
for the Importation of Goods

The proposed recommendation on documents required for the importation of goods, which tries to simplify customs formalities and to limit the number and types of documents required for the customs clearance of imported goods in our opinion improves the present situation and we agree with it.

In this connection we understand that paragraph 1 of Annex B (number of documents required) leaves unchanged the obligation to submit the international customs declaration of goods which is filled out by the sender and accompanies the shipment. The Czechoslovak Customs Administration could not for the time being abandon this requirement, particularly in railroad, road, and postal transportation where manifests prescribed for air and water transportation are not introduced and used.

We particularly favour the principle expressed in paragraph 4, because a different procedure really causes considerable difficulties in exports and results even in financial losses.

Consular Formalities

In the same way we agree with the recommendation concerning consular formalities and aiming particularly at a general elimination of consular invoices and at the lowering of fees for the verification of various consular documents required by some countries for imports. These consular formalities and fees are very often a real obstacle in the way of mutual exchange of goods and are even misused for discriminatory policies.

We recommend that the rule contained in recommendation No. 5 be further restricted so that no more than three copies of a consular invoice would be required.
DENMARK

Draft International Convention for the Purpose of Facilitating
the Importation of Commercial Samples and Advertising Material

Article II

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 exemplified 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.

Article III

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 Govern-
ment 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 commer-
cial travellers to comply with the laws and regulations prescribed by the
authorities of the country where they exercise their commercial activities.

Article V

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

Article VI

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 Regu-
lations already are in conformity with this principle.
Amendments proposed

Article I: Insert the following title: "Definition and scope".

Article II: Insert the following title: "Exemption from import duties for samples of negligible value".

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 alone shall be taken into account".

Observations

A title should be added at the beginning of each Article for reasons of clarity.

do.

This addendum is necessary to make it clear that the definition "of negligible value" applies only to each individual sample and not to the aggregate shipment.

The fact that one shipment includes several samples of negligible value should not imply any difference as compared with the importation of one single sample.

The proposal in the report of Working Party I, paragraph 2 a) (ii), last sub-paragraph under which the customs authorities, in considering whether samples were or were not of negligible value, would be "at liberty to take into account either the value of each individual sample or the aggregate value of samples forming part of one consignment", would in practice lead to a substantially different and undesirable interpretation of the text of Article II, paragraph 1, which would considerably lessen the value of the Convention.
Anchments proposed

Paragrapb 2: After the word "useless", insert the words "as merchandise".

(Paragrapb 2): After the words "tearing, perforation" insert the words "of durable marks".

Last line: substitute the word "character" for the word "value".

Annex to Article II can be retained in its entirety.

Observations

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.

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.

This modification would be useful for the sake of clarity.

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.
Amendments proposed

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

At the end of the Introduction, add the following phrase:
"; to the extent that such limits are not laid down in the following paragraphs;"

Paragraph 1:
After the word "foodstuffs" insert the word "; tobacco".

Substitute the words "provided that not more than 3 samples of each kind and quality are included" for the words "provided that not more than one sample of each kind and quality is included".

Insert the following at the close of Paragraph 1:
"As regards goods listed below, the following maximum limits have been laid down:

as regards alcoholic beverages for consumption purposes, or spirits to be used for mixing (finished products);
individual samples containing not more than 50 cm³;"

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.

This addition would be necessary because it is proposed to determine by way of convention the limits that would be accepted in commercial use with respect to various goods.

The word "foodstuffs" does not include tobacco; it would, therefore, be necessary to have a complete enumeration, as suggested in the proposed addition.

In view of the fact that samples of foodstuffs can be damaged or even partially or totally destroyed in the course of the examination effected in the importing country, it would be necessary to lay down that the authorised number of samples for each kind and quality shall be three.

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.
Amendments proposed

as regards tobacco, including cigarette paper: exclusively sample packages containing, each, not more than three cigars or five cigarettes or 10 gr. 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.

Paragraph 2: After the words "leather, rubber", insert the words "plastic materials".

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

Substitute "100 cm" for "10 cm."

Observations

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.

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

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

Observations

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 cm³.

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 2, 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.

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.

Para- graph 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 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".

Para- graph 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".
Amendments proposed

Observations

Para- This paragraph should be worded as follows:

Paragraph 7:

"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 depreciating marks which make them useless as merchandise".

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.

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.

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.

Para- Substitute the words "manufactures of wood" for "wood".

Paragraph 8:

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

Para- The text of paragraph 9 should be worded as follows:

Paragraph 9:

"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 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".

Stockings and briefcases are included in the words "hosiery, leather articles".

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

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

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

Substitute the words "provided there are not more than three samples of each kind" for the words "provided there is only one sample of each kind".

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

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

Article III: Insert the following title: "Temporary Admission of Samples of Saleable Value"

Paragraph 4: 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".

Observations

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.

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

This deletion is necessary if this clause is not to be given too restrictive an interpretation.

See observations to Article I.

This sentence would ensure that marks would not be affixed in such a way as to make samples useless as such.
Amendments proposed

Paragraph 3, last sentence, and paragraphs 7 and 8:

The provisions between square brackets relating to the identity card requirement should be retained.

Observations

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.

Article IV

Insert the following title:
"Duty-Free Importation of advertising Materials"

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

See observations ad Article I.

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
Amendments proposed

the importer in the territory of the importing country and providing further that its advertising nature be unquestionable”.

Observations

is of no saleable value.

Distribution free of charge of advertising material printed in the territory of the importing country should constitute one of the prerequisites 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.
Amendments proposed

Substitute the phrase "printed advertising material" for the words "catalogues, price lists and trade notices".

Paragraph 2, sub-paragraphs a), b) & c)1

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

Article VI

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

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

After the words "of 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".

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

Observations

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.

See observations ad Article I.

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 product by means of samples as well as advertising films.

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

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

Observations

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.

Article VII

Insert the following title: 
"Exemption from Import Prohibitions and Restrictions".

Observations

See observations ad Article I.

Paragraph 21

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

Observations

It would be desirable to determine the maximum amount of the special security to be deposited, otherwise undue security requirements might make it impossible to send samples of goods imports of which are restricted.

Paragraph 31

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 requirements provided they are re-exported".

Observations

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.

Article VIII

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

Observations

See observations ad Article I.

Paragraph 21

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

Observations

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

Article VIII

Insert the following title: 
"Settlement of Disputes".

Observations

See observations ad Article I.
Amendments proposed

**Article IX:** Insert the following title:
"Ratification".

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

**Article XI:** Insert the following title:
"Accession".

**Article XII:** Insert the following title:
"Entry into Force".

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

**Article XIII:** Insert the following title:
"Denunciation".

**Paragraph 1:** Substitute the word "two" for the square brackets.

**Article XIII:** Insert the following title:
"Extension of Scope".

**Article XIV:** Insert the following title:
"Notification of Status of the Convention to the Contracting Parties".

Observations

See observations ad Article I.

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.

See observations ad Article I.

See observations ad Article I.

See observations ad Article I.

See observations ad Article I.

See observations ad Article I.

This duration of validity is proposed to ensure some degree of stability.

See observations ad Article I.

See observations ad Article I.

See observations ad Article I.
Draft Recommendations on Documentary Requirements
for the Importation of Goods

Proposed Amendments

Para- After "(ii) commercial invoices, etc." add the following sub- 
graph 1: paragraph:

"(iii) manifests for sea or air transport".

The last sub-paragraph in para- graph 1 should be worded as follows:
"The specific mention of these documents does not mean that documents such as customs entry or declaration forms or import licences can be dispensed with. It is also understood that in certain circumstances the production of other documents such as certificates of origin, insurance papers, sanitary certificates, etc. may be required".

Para- At the end of paragraph 3 add 
graph 3: the following:
"The same would apply to shipping and forwarding agents acting on behalf of the exporter or importer".

Observations

Manifests are among the commercial documents generally required for transport by sea and air. Listing them separately under (iii) establishes a more precise distinction between ordinary commercial documents and exceptions listed in the following sub-paragraph.

This new wording would logically result not only from the amendment proposed above, but in particular from the need for abolishing consular invoices in the last sub-paragraph. In view of the fact that under the draft recommendations on consular formalities the abolition of consular invoices is generally recommended, it would be preferable not to mention consular invoices in the last sub-paragraph.

The statistical and customs forms both for export and import purposes are usually submitted by shipping and/or forwarding agents on behalf of the exporter or importer. This addendum would be necessary to ensure that the declaration submitted by shipping or forwarding agents shall also be recognised by the contracting parties.
**Proposed Amendments**

**Paragraph 4, line 4:** After the word "importer" add the words "or the shipping or forwarding agent".

**Paragraph 5:** The following sentence should constitute the first sentence of the first paragraph: "Governments should endeavour to secure international simplification of weights and measures".

The following should be added at the beginning of what is now the first sentence in paragraph 5:

After "while governmental authorities" insert the following: "so long as this objective has not been achieved".

**Observations**

Same observations as for previous paragraph.

Despite difficulties that raise obstacles in the way of standard international regulations concerning weights and measures, it would be desirable, in the interest of international trade, specifically to stress this objective.
Draft Recommendations on Consular Formalities

Proposed Amendments

Paragraph 2 should be worded as follows:
"However so long as certain governments find it impossible, for reasons genuinely connected with their customs regulations, to dispense with these documents and visas, etc., etc.,"

Sub-paragraph 1: Add the following:
"Consular invoices, certificates of origin, manifests, etc., relating to consignments of goods not exceeding U.S. $10.00 (or the equivalent in foreign currency) in value should be exempt from fees charged for consular visas".

Paragraph 2: After the word "exporter" add the following:
"or by the shipping or forwarding agent".

Paragraph 3: After the word "exporter" add the following:
"or by the shipping or forwarding agent".

At the end of paragraph 3 add the following words:
", without requesting that altogether new documents be submitted;"

At the end of the text of these draft recommendations add the following sentence:
"If a time limit is laid down for submission of documents to the consular authorities, Sundays and holidays should not be taken into account".

Observations

The substitution of the words "so long as" for the word "should" logically results from the objective laid down in the first paragraph as regards the abolition of consular invoices, consular visas for commercial invoices, etc., etc. This modification would also explicitly remind the Contracting Parties that they should endeavour to achieve this objective.

In view of the fact that consular fees for the certification of documents relating to consignments of small importance are often out of proportion to the value of such consignments, it would be necessary to lay down a maximum value if the exemption from consular fees were to be granted.

In practice, it is often the shipping or forwarding agent who is requested by the exporter to take care of formalities relating to exportation. This addendum would be necessary to ensure that the shipping and forwarding agents are also recognised by consular authorities.

Same observation as above.

In case mistakes are made in good faith, corrections of the documents already submitted should be permitted in order to avoid undue formalities.

Such a provision would certainly facilitate international trade.
Draft International Convention for the Purpose of Facilitating the Importation of Commercial Samples and Advertising Material

Article I

No comments.

Article II, 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.

Article II, 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".

Annex to Article II

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.

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".

Article III

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.

Paragraph 1 (c) of this Article 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.

**Article IV**

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.

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

**Article V**

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

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 VI**

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".

**Articles VII-XIV**

No comments.

**Draft Recommendations on Documentary Requirements for the Importation of Goods**

**Paragraph 1, Number of Documents Required**

As it is very often necessary for customs purposes to check the evidence of payment, the words "bank draft or other evidence of payment" may be added after the words "production of other documents such as Certificate of Origin".

(a) Add "(iii) manifests, in the case of sea or air transport" after (ii).

(b) The word "manifests" occurring in the penultimate sentence of this paragraph may be omitted.
Paragraph 2. Combined Standard Invoice

Add the words "not proportionate to the value of the goods" at the end of the paragraph.

Draft Recommendations on Consular Formalities

To the rules which are proposed to be prescribed for being observed by the consular authorities in the country of exportation, the following rules may be added:

(i) In case an assurance regarding the issue of an import licence is required as a condition of consular legalisation of shipping documents in the country of exportation, a reliable communication giving the number of import licence should be deemed as sufficient;

(ii) Where time limits are laid down for the presentation of the documents through the consular offices, due account should be taken of the incidence of public holidays.
PHILIPPINES

Draft International Convention for the Purpose of Facilitating the Importation of Commercial Samples and Advertising Material

Article II, 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.

Annex to Article II

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.

Article III, subparagraph 1(a)

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

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

Paragraph 2

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."

Article III, bracketed sentence in paragraph 3 and bracketed paragraphs 7 and 8

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

Paragraph 6

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.

Article V

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
subparagraph 1(a) and paragraph 2 of Article III.

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.

Article XII

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.

I. The Draft Recommendations on Documentary Requirements for the
Importation of Goods

The Philippine Government offers no objection to the Draft Recommendations
on Documentary Requirements for the Importation of Goods. However, it wishes
to make the observation in connection with paragraph 5 thereof, Weights and
Measures, that should exporters express weights and measures in terms of the
weights and measures of the country of importation, it would facilitate the
processing of the commercial documents by customs authorities and thereby
expedite commercial transactions.

II. The Draft Recommendations on Consular Formalities

Law and regulations of the Philippine Government require the charging of
a fee for the certification of consular invoices. As a corrected consular invoice
would require another certification, a nominal fee is charged therefor. It is
suggested, therefore, that paragraph 3 be amended to read as follows:

"no additional charges or only nominal fees, if any, should be imposed
for mistakes made in good faith by the exporter in drawing up the documents,
and within reasonable limits corrections should be permitted;"
UNITED KINGDOM

Draft International Convention for the Purpose of Facilitating the Importation of Commercial Samples and Advertising Material

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.

Article II

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".

Annex to Article II

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.

Article III, paragraph 1

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.6/35 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.

Paragraph 2

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.6/35 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 3 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).
Paragraph 3 last sentence, and paragraphs 7 and 8

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

Article IV

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.

Article V

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.

Article VI, paragraph 1

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.

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).

Article VII

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

Articles XI and XII

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 and that the Convention should have an initial period of duration of five years before denunciation becomes possible.

Draft Recommendations on Documentary Requirements for the Importation of Goods

The United Kingdom strongly supports the greatest possible simplification of documentary requirements consistent with obtaining the minimum essential information required by governments. They have proposed in a separate note that the Contracting Parties should agree to abolish consular invoices and consular visas. If the consular invoice is no longer required, then the question of combining it with the commercial invoice would not arise and the recommendation for a combined standard invoice form would relate only to the combination of the commercial invoices with the certificate of origin. In the absence of agreement to abolish the consular invoice the United Kingdom would, however, support its assimilation to the commercial invoice.

The International Chamber of Commerce Resolution recognised that the standardisation of commercial invoices involved difficulties which could not be settled immediately and which required further study by the I.C.C. The United Kingdom consider that the proposal to combine the certificate of origin with the commercial invoice is also not without difficulties and their examination of the problem suggests that these difficulties may be serious enough to outweigh any advantages there may be in substituting one document for two. If the same amount of information continues to be required on certificates of origin, the mere
amalgamation of the forms would not in any case result in a significant saving of time to traders and there may be occasion when it would be a positive advantage to have the certificate of origin as a separate document. Requirements in respect of the commercial invoice – number of copies, number of original or other signatures – may be different from requirements in respect of the certificate of origin and it may therefore in some cases be a waste, rather than a saving, of material and time to combine the two documents. Moreover, where goods are sold and resold, the seller may well be unwilling to pass on to their customers a certificate of origin which carries with it a copy of the original invoice from the original supplier. In addition, since the details required in certificates of origin vary from country to country, there would be difficulty in devising a uniform lay-out in respect of the entries constituting the certificate of origin.

The United Kingdom has no comments to make on any of the other items in these draft recommendations. United Kingdom practice is fully in accordance with what is proposed.

Draft Recommendations on Consular Formalities

1. As was made clear at the Sixth Session of the Contracting Parties, the United Kingdom consider that the recommendations regarding consular formalities should be strengthened. It has for a long time been the view of the United Kingdom – and it is constantly reinforced by the commercial community – that the formalities imposed by most of the countries which require consular invoices or visas are a serious burden to traders and a hindrance to international trade which is not justified by the possible usefulness to the governments concerned of the certification of information. Acceptance by all contracting parties of the recommendations put forward by the Working Party regarding the rules to be observed in those cases where consular invoices and visas are retained would go only a little way towards the removal of the sources of complaint by traders. Indeed the recommendations amount to little more than an amplification of the provisions of Article VIII of the General Agreement. The United Kingdom, therefore, considers that the Contracting Parties should go to the root of the matter and not merely urge the abolition of these documents but formally agree to abolish them within a defined period.

2. The introduction to the draft recommendations in the Working Party's Report draws attention briefly to the objectionable feature of the system of consular formalities. Instances could be quoted from many countries of regulations requiring fees out of proportion to the cost of the services rendered and, in effect, constituting an extra tax on the importation of goods; of time-wasting procedures and of excessive fines and extra charges for mistakes made in good faith. In some cases the complexity of the regulations appears to be increasing rather than decreasing e.g. by requirements for the registration of exporters at Consulates, for the addition of new certificates and declarations, to be visaed by Consuls
for the verification of details in invoices, and by the imposition of additional rules requiring a quite unreasonably exact correlation between the values shown on shipping documents for legalisation by Consuls and the values on the corresponding import licences.

3. The United Kingdom, therefore, strongly urge that the Contracting Parties should agree to abolish consular invoices and consular visas. This would not only reduce the impediments to trade among the Contracting Parties themselves but would serve as an example to other countries.
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.

Draft International Convention for the purpose of facilitating the Importation of Commercial Samples and Advertising Material

Article II. 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.
Annex to Article II

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 221 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 exemption of Section 321 of the Tariff Act.

Article III

As pointed out in the report of the Working Party, in view of the organization 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 c as now drafted. Recognizing 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."

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.
Article IV

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.

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 pound) 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.

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."

Article V

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 purposes set forth in Article V.

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.

Article VII

In order to clarify the provision, the United States suggests that 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 to matters covered by the present Convention."

**Article XI**

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

**Article XII**

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

**Drafting Changes**

The above comments relate to substantive points and not to points which might call for only a modification in form. The United States will be prepared to suggest drafting changes at the Seventh Session.

**Draft Recommendations on Documentary Requirements for the Importation of Goods**

**Combined Standard Invoice Form**

Since governments generally do not require both a commercial invoice and a consular invoice, it is suggested that the words "in addition to the commercial invoice" be deleted from the first sentence. The combined form would include both consular invoices and certificates of origin, where required. Accordingly, (1) "or" should be deleted from the same sentence, and (2) the second sentence should be revised to read as follows:

"The combined forms should invariably be treated as a substitute for, and not an addition to, any other documents required of the exporter."

The use of the word "Standard" in the title of the recommendation conveys the impression that what is sought is an internationally standardized combined form, whereas what was intended is a single combined form which would be standard for a particular country. In order to avoid a misleading impression, it would appear desirable to drop the word "Standard" from the title.

**Standardized Consular Invoice**

The United States has taken note of the suggestions made by foreign traders for the adoption by governments requiring consular invoices of an invoice form common to all such governments. The United States has from time to time studied the proposal and has participated in international discussions in an effort to get agreement to a standard form of customs invoice which
would be acceptable to the customs authorities of the various countries requiring such documentation. While these efforts have so far not met with success, the United States believes that the desirability of such standardization is so manifest and universal that consideration should be given to the possibility of reflecting the desirability of this objective in the proposed standards on documentary requirements.

Draft Recommendations on Consular Formalities

With respect to item 3 concerning corrections, it was the understanding of the United States member of the Working Party that the members were unanimously agreed that this item would not preclude the consular authorities of a signatory government from imposing a reasonable charge for visaing a replacement invoice required to be furnished because of a substantial defect in the original invoice discovered in the country of destination. It is suggested that, in accord with this interpretation, the language of item 3 be revised as follows:

"3. No charge in addition to a regular consular fee for any required replacement document should be imposed for mistakes made in good faith by the exporter in drawing up the document, and within reasonable limits corrections should be permitted;"

Time Period for Legalization of Consular Invoices

The United States suggests an additional recommendation that: "No penalties or additional charges should be applied when invoices are presented for consular legalization up to at least ten days after the departure of the carrier or the date of arrival of the carrier at destination, whichever is earlier."

Exporters are frequently unnecessarily pressed by the requirements of many governments that consular invoices must be presented for legalization at least 24 hours, and sometimes even 48 hours, before the sailing or departure of the carrier. Especially when the shipment consists of goods from various places within the exporting country and assembled at the port, it is often not possible to know in advance precisely what may be deliverable to the carrier in time. Standard practice that would allow invoices to be presented for consular legalization within a reasonable specified period after departure of the carrier would not only be a recognition of the practical needs of exporters, it would also reduce the need for the later filing of corrections, with attendant trouble for both shipper and consul.

Exemption from Consular Formalities for Packages of Small Value

As a further recommendation the United States suggests that shipments below a reasonable minimum value should be exempted from consular formalities.
Many countries now set a minimum value below which shipments do not require consular documents. This practice reflects their recognition that the movement of shipments of small value should not be hampered by the full documentary requirements and that whatever revenues may be derived from the legalization of documents is scarcely worth the administrative effort involved. The purpose of the suggestion for the insertion of an additional recommendation on this point is to encourage countries which do not now waive consular requirements for shipments below certain values to adopt the practice already followed by the majority of countries.
UNITED NATIONS LEGAL DEPARTMENT

Comments on Final Clauses in Draft International Convention for the Purpose of Facilitating the Importation of Commercial Samples and Advertising Material

Article VIII

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 any one of the parties to the dispute be referred to the International Court of Justice for decision, unless they agree to another mode of settlement."

Article IX, paragraph 1

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.

Article XIV

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."
Reservations clause: We would take this opportunity of drawing your attention to paragraph 1 of resolution 593(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 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 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 (of three years from the date of its signature), the objecting State has not ratified the Convention.
Secretariat of the International Civil Aviation Organization

Draft Recommendations on Documentary Requirements for the Importation of Goods

THE INTERNATIONAL CARGO INVOICE OF THE I.C.A.O.

The Secretariat of the International Civil Aviation Organization has indicated in a letter dated 15 August 1952 that the question of standardizing and simplifying transport documents was of "considerable interest to I.C.A.O. - for the advantage of speed in shipping by air is largely nullified unless documents are standardized and simplified".

In its communication, the I.C.A.O. Secretariat has drawn attention to the Recommended Practice adopted some years ago and contained in Annex 9 to the Convention on International Civil Aviation. It was recommended that "in any case where a Contracting State requires evidence of origin or value of cargo in a particular form, it should accept a single document" and that "copies of this document should be accepted by the public authorities concerned in lieu of separate forms, such as consular invoices, certificates of origin, certificates of value, export declarations, and the like".

The I.C.A.O. also recommends in the case of air transport a standard form which was called "International Cargo Invoice" and which was contained in Appendix 8 of the Convention.

The Secretariat of the I.C.A.O. suggests that the Contracting Parties may wish to take into account the International Cargo Invoice in the development of any standardized general purpose invoice which GATT might be developing.