The International Chamber of Commerce has submitted to the CONTRACTING PARTIES the Resolutions adopted at its Tokyo Congress in May 1955 on Certificates of Origin and Marks of Origin, as follows.

I. CERTIFICATES OF ORIGIN

The Chamber proposes an amendment to the recommendations regarding proof of origin which were adopted by the CONTRACTING PARTIES at their Eighth Session (BISD, Second Supplement, page 57):

"The International Chamber of Commerce welcomes the recommendations on certificates of origin recently issued by the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade (GATT), as a useful step towards simplification of Customs procedure.

"It lays particular emphasis on the importance to trade of the first recommendation which limits the requirement of certificates of origin to cases where they are strictly indispensable. The ICO suggests that in the light of the GATT recommendation, each government should scrutinize its present regulations, with a view to reducing to an absolute minimum the number of cases where traders have to produce certificates of origin. Such certificates are in fact unnecessary except in the case of quotas or exchange allocations based on nationality or where preferential treatment is claimed by the importer. Nor should certificates of origin be required when the origin of the goods is already amply proved by other means.

"The only criticism voiced widely in trading circles within the ICC concerns the second recommendation according to which the 'largest number of offices of competent bodies should be authorized to issue certificates of origin ...'.

"This recommendation is believed to be unsatisfactory in its present form for two reasons. First, the multiplication of issuing offices, unless great care were taken in selecting them, might lower the value of the certificates issued and might even lead unscrupulous traders to apply to several different authorities successively in the hope of finally
obtaining a certificate. Secondly, the recommendation refers exclusively to the 'issuing' of certificates of origin. As previously laid down by GATT in its Standard Practices on Documentary Requirements, the door should be left open to the preparation of certificates of origin by the firms themselves either as part of the commercial invoice or as an appendix to it, subject simply to visa by the competent authority.

"It is therefore suggested that the second recommendation should be redrafted to read as follows:

'Governments should ensure that a sufficient number of authorized and genuinely competent offices is available to trade for the issuance and/or visting of certificates of origin.'"

II. MARKS OF ORIGIN

The Chamber proposes a set of "guiding principles for an international arrangement":

"In order to enable the consumer to distinguish between national products and similar foreign products, or to distinguish between foreign products themselves, governments require certain imported goods to carry a mark of origin. This intervention by the government is, moreover, almost always solicited by the home industry. The principle of marking is based upon a justifiable desire for commercial morality; it is therefore sound in so far as it protects the consumer. Commercial interests are not, consequently, opposed to the principle, but they seek guarantees against abuse.

"Need for International Action

"Any system of marking adopted must involve the fewest possible drawbacks for trade and must above all avoid turning the mark into a weapon of disguised protectionism. The desire to protect the consumer against certain possibilities of confusion is already a defence for home industry. It should not be allowed to degenerate into excessively rigorous measures which finish by discouraging importers and may even neutralize concessions made through commercial treaties. Kept within reasonable limits, marking requirements should aim exclusively at the defense of the consumer, without any hint of protectionism. They thus take their place among the measures of general purport to which trading interests can subscribe.

"This danger of protectionism would be forestalled if an international convention, or standard practices in the form of recommendations, were drawn up, establishing a reasonable set of regulations.
"Furthermore, an international arrangement would not only have the effect of avoiding the danger of protectionism; it would remove the difficulties experienced by trade as a result of the diversity and the nature of existing regulations.

"Guiding Principles*

"Taking into account the difficulties reported, the experience acquired with existing procedure and the far-reaching investigations made by the Economic Committee of the League of Nations in 1931 (Document No. C.427; M. 177. 1931. 11. 8), the ICC proposes the following guiding principles for an international arrangement, which it submits to the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade (GATT).

1. Time of Affixing the Mark

"It might be asked whether it would not be sufficient to require that the mark be affixed at the time of sale on the importing market and not at the time of importation. However, if we consider the difficulty, if not the impossibility, of exercising effective control over the goods once they have entered the home trade as well as the fact that many products cannot usually be marked except when they are manufactured, the conclusion must be that the presence of the mark should be required at the time of importation.

"Where possible, however, provision should be made to enable products presented at the frontier without the required mark to be marked under Customs supervision and at the expense of the interested party.

2. Nature of the Mark

"Some believe it to be sufficient for the mark to consist of the word 'Foreign', without mention of the country of manufacture; others hold that the latter indication is necessary and that the mark should be 'Made in ...' or should consist simply of the name of the country of manufacture. The former point out that the shorter the indication the easier it is to affix it, particularly in the case of small articles. The latter observe that the consumer and the home manufacturer are better protected by the indication of the country of manufacture; by itself,

** The present report is not concerned with cases of products carrying either false marks of origin or marks liable to make the consumer believe that the goods originate in the country where they are presented. These are practices of unfair competition which governments have every right to stamp out.
they claim, the word 'foreign' does not give sufficient information to the buyer and is useless to him - and may even be misleading - if he wishes to buy a product of specific nationality.

"The protection of the consumer being the main purpose of the mark, it would seem necessary, therefore, to indicate the country of manufacture. However, the name of the country should suffice and there is no need to require it to be preceded by the words 'Made in ...' or any similar expression. This would respect the need for concision.

"The name of a region or locality is not sufficient and may lead to confusion. On the other hand, initials such as 'USA' or 'USSR', which are sufficiently known to the public, should be admissible. But it would be imprudent to go too far in this direction, for a set of initials familiar to some may not be so to others.

"However that may be, the mention of the country of manufacture is sufficient and any regulations requiring the name of the manufacturer or other additional indications should be opposed.

"Generally speaking, the mark should not be too costly, nor disproportionate to the value of the product, nor of a nature to damage the goods or lower their value.

"Wherever possible, those concerned should have the choice of marking by printing, stamping, branding, inking, weaving or any other method provided that the mark is indelible and that the characters are clear. The use of the language of the importing country should not be compulsory when the mark would be generally understood in that country.


"(a) In principle, when the mark has to be affixed on the goods, it should not be required on the packing, whether the packing is exclusively for transport purposes or accompanies the goods to the consumer. When the goods consist of liquids, gas or other products that cannot be marked, or when they must necessarily be packed (e.g. photographic films), the mark should be affixed to the containers or packing which will reach the buyer at the time of the retail sale.

"(b) Articles which cannot normally be marked, owing to their small size, fragility or composition, or owing to the heavy costs involved, should be exempt from marking, and the necessary indication should be placed on the label or accompanying frame or even on the packing delivered to the consumer.

"(c) Special provision should be made for the exemption from marking of component parts dispatched separately.
"(d) For health purposes, some countries require certain imported foodstuffs to be marked not only with the name of the country of origin but also with indications of the composition, quality or purity of the goods. The health of the consumer must undoubtedly be safeguarded, but regulations should not be imposed which aim in fact at excluding perfectly sound foreign products from the home market.

4. Exemptions

"The mark of origin should not be required:

"(a) in the regulation form, when the product or its immediate packing carries a trade mark or other indication which leave no doubt as to the origin of the goods;

"(b) in the case of:

ba) consignments of a value less than a maximum to be determined or of a weight less than a maximum weight to be determined according to the product;

bb) mere samples, or products obviously imported for the personal use of the buyer. The presentation of the consignment and its small weight or value are sufficient indication of its destination. In fact, moreover, the consignee necessarily knows the foreign origin of the product and cannot be deceived;

"(c) for goods in transit as well as those imported to undergo a manufacturing process with a view to subsequent re-exportation;

"(d) for goods placed in bond, subject to constant Customs supervision. In that case, the mark would be required if the goods leave the bonded warehouse for home consumption, but not if they are dispatched abroad;

"(e) for articles which are obviously 'objets d'art' or collector's pieces.

5. Penalties

"Except in the case of obvious fraud or second offences, the penalties imposed (confiscation, fines, special taxes) should be replaced by a small nominal fine.

"When goods are imported unmarked or defectively marked, the interested parties should be allowed, if possible, to affix the legal mark in the country of import along the lines indicated above in Section I: 'Time of
Affixing the Mark'. If this cannot be done, re-export, without any other penalty, should be required.

"6. Entry into Force and Notification

"When a government introduces a system of marking or makes it compulsory for a new product, such measures may, for a time, create difficulties for the traders and manufacturers concerned; the manufacturers may, in particular, have to make alterations in their equipment or in their manufacturing methods. It is therefore reasonable to give fairly long notice before the new provisions enter into force and to give adequate publicity to the regulations."