1. In accordance with its terms of reference, decided upon by the CONTRACTING PARTIES at their sixteenth session (SR.16/2), the Group of Experts examined the draft Customs Convention on the Temporary Duty-Free Importation of Packing Materials with a view to submitting recommendations to the CONTRACTING PARTIES.

2. Dr. Otto Benes (Czechoslovakia) was appointed Chairman. The membership of the Group is shown in the appendix together with the list of observers who attended the meeting.

3. It was made clear, as at the January meeting of the Group, that the views expressed by the various individual experts did not necessarily reflect their governments' views and could therefore not indicate whether or not their countries were prepared or were in a position to adhere to the Convention which might result from the studies made by this Group.

4. The Group examined the draft Customs Convention on the Temporary Importation of Packings as it had been transmitted by the Customs Co-operation Council to the CONTRACTING PARTIES to GATT on 13 April 1960 (document L/1178). In this amended draft the observations made by the GATT Group of Experts at its meeting in January 1960 (document L/1139) had been taken into account.

5. In discussing the various articles of the draft Convention contained in document L/1178, the following remarks were made:

Preamble: No comment.

Article 1: Attention has been drawn to the last sentence of paragraph (a). Some experts expressed the fear that the sentence "It also excludes transport equipment, in particular 'containers' as defined in . . . the Customs Convention on Containers" might lead to misunderstandings. It was therefore decided that it should be recorded that the exclusion applies only to such transport containers as are covered by special international conventions. In fact it is most likely that the words "transport containers and pallets" would have been chosen if the Convention on pallets under study in the ECE would have already been accepted.

Article 2: Two experts (of Canada and the United States) drew attention to the fact that their national legislation is not in conformity with this provision and would have to be altered if their Governments should decide to adhere to the Convention.

Article 3: No comment.
Article 4 (old): It was decided to omit paragraph 4(a) of the draft Convention and to provide for a reservation procedure under paragraph 20 permitting countries to continue with their system which excludes purchased (and similar) packings from duty free temporary importation.

The experts felt that eliminating this provision entirely might make adherence impossible for important trading nations. On the other hand, they thought that a general permission to have such a system might encourage more liberal governments to introduce such a system during their adherence to the Convention. The above-mentioned solution was therefore agreed to be a satisfactory compromise.

Insofar as the limitation of the Convention is concerned which was provided for under paragraph 4(b), all experts except one were of the opinion that this provision should be omitted entirely. The reasons which were brought forward in favour of omitting the provision were, in particular that:

(a) packings of little value normally are not susceptible of being "identifiable at re-export" and therefore are in most instances excluded from the benefits of the Convention already under the provisions of Article 2:

(b) the term "substantial individual value" is so imprecise that it would be left to the interpretation of the governments of the members to the Convention which could be such as to exclude a considerable part of the packings' field.

The expert of the United Kingdom, however, drew attention to the fact that due to the difference of the provisions in force in his country the omission of this provision might make it difficult for his Government to join the Convention.

(The numbering of the following Articles results from the deletion of old Article 4)

Article 4: No comment.

Article 5: The United States expert drew attention to the fact that in his country the legislation is not in conformity with this provision.

Article 6: No comment.

Article 7: No comment.

Article 8: The Australian expert said that he would prefer to see paragraphs (b) and (c) suppressed, but he declared himself at the same time prepared to accept the majority view, which was in favour of maintaining them.

Article 9: No comment.
Article 10: Some experts expressed doubt whether the term "public security" also covers such cases as referred to in Article XXI:b(iii) of GATT, namely measures taken by a government in time of war or other emergency in international relations. It was generally recognized that the term "public security" was not meant to be limited to the internal security (to which other agreements refer to under the term "public order"), but was also to extend to external security envisaged in the GATT Article XXI:b(iii).

Article 11: No comment.

Article 12: No comment.

Final Provisions: Two experts suggested that the administration of the Convention on Packing Materials might be done by GATT. While recognizing that GATT has its interest in the future of the Convention, not only in consequence of its co-operation in the drafting, but also in its statutory interest in trade policy questions and any action aimed at freeing international trade barriers, the majority of experts felt that the Convention, due to its customs character, should be administered by the Brussels Customs Co-operation Council.

Article 13: No comment.

Article 14: No comment.

Article 15: It was suggested that the words "at the request of the Contracting Parties" be added to the sentence "to whom an invitation to that effect has been addressed by the Secretary General of the Customs Co-operation Council". This suggestion - which was made to bring out clearly that the Secretary General does not act in his own capacity but as a representative of the members to the Convention - found the approval of the Group.

Article 16: No comment.

Article 17: No comment.

Article 18: One expert expressed doubts about the acceptability of a "negative vote procedure" as laid down in this Article.

The representative of the Brussels Customs Co-operation Council explained that the concept of unanimity is fully preserved and that this procedure (which has already proved its advantages in connexion with the E.C.S. Convention) aimed only to ensure a speedy enforcement of approved amendments. He explained in particular that the recommendation of an amendment provided for in paragraph 1 already requires unanimity since no other voting rule has been laid down. Also the final acceptance by the governments de facto requires unanimity since a single objection prevents the amendment from becoming effective.
Without insisting on an alteration of this provision, the group felt however that the attention of the Brussels Customs Co-operation Council should be drawn to this problem which might create difficulties for certain countries in accepting this Convention.

It was decided that the communications and notifications provided for in paragraphs 2 and 5 should be also transmitted to the CONTRACTING PARTIES to GATT, in the sense of the remarks made in connexion with the discussion of the final provisions.

**Article 19**: No comment.

**Article 20**: A new paragraph 1 to Article 20 reflects the reservation drafted in consequence of the decision to suppress the old paragraph 4(a). Consequently the previous paragraphs 1, 2 and 3 have been renumbered and corrected.

It was understood that the terms used in paragraph 1 "other than those imported on ..., hire purchase or under any similar contract" is not meant to exclude from the application of the Convention packages which remain foreign property but for which a simple charge for use is paid.

In the new paragraph 2 the words "the arbitration procedure provided for" have been added to clarify the text.

**Article 21**: As in Article 18 it was decided that a reference to the CONTRACTING PARTIES to GATT should appear in the first sentence.

**Article 22**: No comment.

6. It is also felt that a number of interpretations accepted by the group of experts in GATT or the Permanent Technical Committee in Brussels, not important enough to be incorporated in the Convention text, will nevertheless play a part in its mutual understanding. It is therefore suggested that such interpretations, unanimously accepted during the preparation of the text, should be assembled in the Council's documentation related to the future Convention.

7. The group of experts felt that the drafting of the Packings Convention had now advanced to the point of permitting finalization of the text. It is therefore suggested that the CONTRACTING PARTIES transmit the following communication to the Brussels Customs Co-operation Council:

"The CONTRACTING PARTIES submit a revised draft of the Customs Convention on Temporary Importation of Packings, based on the previous studies of the Council and of an expert group of GATT, in which the changes are incorporated suggested by the latter group in its last meeting held during the sixteenth session."
The CONTRACTING PARTIES expressed themselves in favour of this draft which they consider not only constitutes a step in the direction of freeing trade from international barriers but also permits a wide accession.

Consequently, the CONTRACTING PARTIES recommend to the Customs Co-operation Council to finalize the text of the Agreement on the basis of this draft, without prejudging, however, whether or not the individual governments might finally decide to adhere to this Convention.

ANNEX

Draft Convention as reproduced in Spec(60)117
APPENDIX

GROUP OF EXPERTS ON TEMPORARY DUTY-FREE AdMISSION

Experts

Mr. A.W. Blank (Brazil)
Mr. C. Conron (Australia)
Mr. A.L. van Exel (Netherlands)
Mr. M.J. Fields (United States)
Mr. W.H. Foulkes (United Kingdom)
Mr. J. Gimon (France)
Mr. D. MacDormid (Canada)
Mr. M. Malbrecq (Belgium)
Mr. F. Manhart (Austria)
Dr. Metzen (Federal Republic of Germany)
Mr. M. Yokoi (Japan)
Dr. Zuber (Switzerland)

Observers from Organizations

Brussels Custom Co-operation Council: Dr. Nestler
International Chamber of Commerce: Mr. C. Aubert

Observers from Countries

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<tr>
<th>Country</th>
<th>Observer</th>
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<tbody>
<tr>
<td>Denmark</td>
<td>Mr. Isaksen</td>
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<tr>
<td>Finland</td>
<td>Mr. C. Kunnar</td>
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<tr>
<td>Israel</td>
<td>Mr. E. Angel</td>
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<tr>
<td>Sweden</td>
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