1. At its May 1975 meeting, the Sub-Group "Customs Matters" agreed that members should submit to the secretariat in writing by 15 September 1975 lists of what they considered to be excessive in other countries' information requirements, explaining and identifying their specific difficulties. The Sub-Group would then hold discussions at its next meeting on the basis of a secretariat paper which would give a synopsis of the complaints and comments received. (MTN/NTM/4, paragraph 3 and GATT/AIR/1188.) This request was reiterated at the October 1975 meeting of the Sub-Group (MTN/NTM/7 paragraph 7 and GATT/AIR/1227).

2. In addition to the seven countries whose comments were included in MTN/NTM/w/22, i.e.

- Australia
- Canada
- Czechoslovakia
- Finland on behalf of the Nordic Countries
- Japan
- Romania
- United States

communications have been received since the last meeting from the following:

- European Communities
- Iran
- New Zealand
- Yugoslavia

Because of the difference of emphasis of these replies, it is difficult to present an entirely satisfactory synopsis of the complaints and comments received. Nevertheless the secretariat has tried to put together all the information received along the following lines:

A. General comments
B. Complaints against excessive import documentation
C. Customs Cooperation Council's list of particulars required by customs authorities for formalities on the importation of goods
D. Other excessive requirements
E. Consular formalities and fees
A. General comments

3. The European Communities have submitted a list of information requirements of certain countries which are considered as excessive and burdensome for international trade. They stress that the list is not exhaustive and leave intact all their previous remarks on this subject, especially those in the Inventory of Non-Tariff Measures. Additionally they reserve the right to submit further remarks on other aspects which they consider to be linked with the documentation problem (e.g., excessive fines in certain cases, possibilities for appeal, creation of "positive" and "negative" lists).

4. Japan has said that for smooth developments of international trade, it is desirable to simplify import documentation to the extent possible. In its view, it is contrary to the cause of simplification of import documentation to demand the submission of customs invoices separately.

5. New Zealand commenting on the Aligned Invoice Layout Key has notified that the New Zealand Customs Department has taken steps with regard to the recommendation on an aligned invoice layout key that its use be encouraged in commercial transactions and to complement or replace official administrative documents such as special customs invoices, declarations of origin etc. The Layout Key is acceptable for the certificate of value and origin required for imports into New Zealand. Compatible aligned certificates and invoices for exports to a number of countries were introduced in 1972 by New Zealand Customs which has been responsible for the standard aligned export documentation system in that country. With a view to publicising the ECE Invoice Layout Key and the design of model forms to suit the domestic and international requirements of the New Zealand business community and Customs secretariat of the National Trade Facilitation Organisation, SIDAP-NZ has brought the key to the attention of the New Zealand Distribution Council whose policy is to encourage the development and widespread use of standard documentation. As the most practical approach to solving the problem of unnecessary documentation impediments and rationalization generally, New Zealand has recommended that the Sub-Group support by all means at its disposal the ECE Working Party on Facilitation of International Trade Procedures in its study of alignment of import documentation including the listing and classification of documents used in international trade.

B. Complaints against excessive import documentation

(a) General

6. The Nordic countries have notified into the Inventory of Non-Tariff Measures those specific cases, where information requirements are considered to be excessive.

7. As regards specific documents, the commercial invoice should, in their view, be accepted for any customs purposes, and no special customs invoice should be used or demanded. In these cases, where special customs invoices would still be needed after the end of the Multilateral Trade Negotiations, they should be harmonized, and as a first step be based on the ECE Layout Key.
8. The commercial invoice should be accepted by the importing country. The following information should not, however, be demanded: signature, specification of the contents of each package, number of letter of credit, name of vessel, name of shipping or air transport company, partial or total delivery, statistical number of importing country, certificate of correctness. Reference is made to the Nordic proposal in this respect in document MTN/M TM/7 Appendix 2. The Nordic countries reserve the right to notify additional points to the above list at a later stage.

(b) Brazil

9. Canada has complained against Brazil that advance indication of shipping weights is required prior to issuance of an import licence for products such as phone equipment and auto parts. This requires exporters to pack completely goods before applying for an import licence, with resulting costly inventory accumulation and delays in filling orders.

10. The European Communities, with reference to Notification No. 184 of the Inventory of Non-Tariff Measures, are concerned about Brazil's documentation requirements. They are concerned also about the heavy fines laid on exporters in the case of disagreement, even when unintentional, between the characteristics of the imported goods and the relevant description on the import documents, which are complex and sometimes difficult to complete.

(c) Canada

11. The European Communities have notified Canada's special exporters' declaration with a view to obtaining information on the subsidies that some countries grant for exports to Canada, the Canadian authorities require a "special exporters' declaration" for all consignments valued at $10,000 or more even when coming from countries not specially covered by the measure. This measure, to exporters from the Communities, represents an additional charge of debatable usefulness.

12. The Communities would also welcome some further details on fines for documentary errors, as the Canadian laws on this subject do not seem very clear.

(d) Italy

13. As regards the excessive import documentary requirements of some developed countries, Romania recalls the notifications made in this respect within the framework of the Inventory of Non-Tariff Barriers, in particular Notification No. 208 - certificates of origin requested by Italy in case of doubt.

(e) Japan

14. With regard to Japan's temporary importation of samples, the Communities have submitted the following:

(a) Japan has ratified the ATA Convention and consequently allows duty-free admission for commercial samples under cover of an ATA carnet. The advantage of the system however is sharply limited because samples are
only admitted free of import licence if their value is less than ¥ 616,000. Values between ¥ 616,000 and ¥ 1 million require a licence, which must be issued by the Japanese customs at the time of importation.

Community exporters are complaining of the great time lost in obtaining these licences. Commercial samples valued at over ¥ 1 million require a MITI licence issued before importation.

(b) These restrictions as to the use of the ATA carnet represent a significant charge on exporters of high-value products (e.g. jewels, precious stones) and run counter to the ATA system, whose aim is to permit duty-free admission of commercial samples upon the mere presentation to customs of the carnet.

15. With regard to Japan's temporary admission of articles for exhibition or demonstration, the Communities have submitted the following. Article 17 of the Japanese customs law allows temporary admission, free of duty, for articles imported for exhibition or demonstration. Significant delays and expense however are caused by the complexity of the rules for this relief. Although it is technically possible for a trader to bring such articles in his luggage and to request application of Article 17 at the time of importation, in practice it is impossible to meet the Japanese requirements without the services of a Japanese customs agent, who will spend several days preparing the necessary documents. Next, the formalities (which often include photographs of the imported articles) will also take several days.

(f) United States

(A) United States Customs Invoice Form 5515

16. Australia: Examination of difficulties experienced by Australian exporters and their agents in other countries in relation to information requirements in customs documents which could be regarded as excessive has revealed that the principal problem of this sort occurs with the United States Customs Form 5515. While the United States customs authorities have published a set of instructions for the preparation of the invoice, there are some requests for information for which the reason is not evident and the requirements for which could be considered "excessive". These occur in Sections IV and V of the form and are as follows (the number of the question referred to in the form appears in brackets):

Section IV - 

(2) Manufacturer's numbers or symbols

(3) Importer's number or symbols

(6) Current unit price; this information would have only two uses -

(i) for application of "foreign value" criterion (infrequently used)
(ii) for prima facie evidence of dumping (see comments on Section V, Item 9) (on the other hand, no instruction is given on the amount to be shown if the goods are neither sold nor offered for sale for home consumption - a fairly frequent event, in Australian experience).

Section V - The use of questions in this Section in general would appear unnecessary. In most cases the question asked demands "yes" for an answer and a simpler form would, in our opinion, be a series of statements saying what is to be shown.

Question 3 appears to be superfluous, having already been asked in Item 1.

Item 9 appears to be unreasonable, in that the invoice is used to provide prima facie evidence of dumping. Australian experience is, that little notice can be taken of the home consumption price shown on the invoice as evidence of the "normal value" for dumping purposes, particularly in applying the GATT Anti-Dumping Code. It does seem unreasonable to require the invoicer to supply dumping information for all transactions, when anti-dumping action is applied to very few commodities.

17. Canada: Question 8 relates to cost for "assists" (e.g. dies, tooling, blueprints, financial assistance, etc...) not included in the invoice price. The exporter must identify by whom and on what basis "assists" have been supplied. A copy of a commercial invoice showing the value of assists must be attached to Form 5515 if invoiced separately. If the exporter is not the manufacturer of the goods, it is often impossible for him to know whether their production involved assists. Even if the exporter is the manufacturer, it is very difficult (i) to determine what constitutes an assist and (ii) to place any meaningful value on the same. United States authorities have not defined what constitutes an assist. Errors, resulting from confused situations often lead to fraud and penalty actions.

18. Question 9 relates to the United States anti-dumping laws as they affect the selling price of each and every item described on the invoice. An exporter must make a declaration that any difference between the declared domestic and export prices "would not result in sales at less than fair value within the meaning of United States anti-dumping laws". In effect, this question amounts to an anti-dumping survey on every product exported to the United States. This raises a question of whether such a practice conforms with the letter and spirit of Article 5 of the Agreement on Implementation of Article VI of the GATT and places exporters in the position of having to decide a complicated question of United States law, i.e. whether or not sales are occurring at "less than fair value".
19. The European Communities consider that the United States special customs invoice form 5515 is complex and obscure but it recognizes that most of the information requirements stem from current US valuation rules and that the scope for simplification depends largely upon the outcome of the negotiations on valuation. The Community therefore reserves the right to submit detailed observations on the valuation elements of this document at a later stage. Nevertheless, the Community reiterates its previous objections to those questions, in particular V.9, which are contrary to the intentions of the Anti-Dumping Code.

20. Japan: Among customs invoices of various countries, the special customs invoice (Form 5515) of the United States, imposes, in Japan's view, the heaviest burden to importers and exporters in terms of its complexities and its wide ranging information required to be stated.

21. More specifically, importers or exporters are required to state the domestic prices of the exporting countries. The information thus acquired could be utilized not only for the proper purpose of customs valuation but also for the purpose of anti-dumping investigations.

22. In this connexion, the following requirements and provisions of the invoice constitute, in Japan's view, serious distortive elements of trade:

(a) Requirement that both domestic and export prices be stated.

(b) Provision that in case the domestic price is higher than the export price, it is regarded and labelled as "an indication of possible sales at less than fair value".

(c) Requirement that the reason of the difference between the domestic and the export price should be shown in either of the following ways:
   (i) in declaring that the differential is "the result of conditions of sale which would not result in sales less than fair value within the meaning of the United States Anti-Dumping Laws", or, (ii) in attaching a note of an explanation of the differences.

(d) Provision that "in his discretion the appraiser may nonetheless require submission of the information called for" under (c)(ii) above.

23. Romania: As regards the excessive import documentary requirements of some developed countries, the Romanian party recalls the notifications made in this respect within the framework of the Inventory of Non-Tariff Barriers, in particular notification No. 229 - Special United States Invoice Form 5515.
(B) Other excessive requirements

24. Canada has also submitted the following complaints with regard to United States information requirements.

(a) Additional requirements for some products. In addition to information requested on the Special Customs Invoice Form 5515, there are several products for which additional information is required. Most of these additional requirements are for tariff classification purposes. While it is recognized that some of this information may be necessary for proper classification of certain products, this should be examined to determine their necessity.

(b) Foreign and export value. Goods imported into the United States are valued for duty purposes under either Section 402 or 402(a) of the Tariff Act of 1930. The first basis of valuation under 402(a) is the higher of the foreign or export value and covers only goods included on the "Final List". Section 402 introduced by the Customs Simplification Act of 1956 eliminated foreign value as a basis for valuation for products not on the "Final List". To enable United States Customs to establish a foreign value, the exporter is required to submit information regarding sales of his product in his domestic market. However, United States Customs insist that information on domestic sales be supplied for goods valued under Section 402.

(c) Importer's number. As a large percentage of sales to the United States are on a duty-paid delivery basis, a United States Customs Broker acting with power of attorney from the exporter is usually shown as importer of record. However, the ultimate consignee must also be identified on the customs documents by means of his importer's number which is obtained through formal application to the United States Customs. This additional requirement may act as trade impediment; many potential customers in the United States may not want to become involved in the customs administrative procedures.

(d) F.o.b./c.i.f. statistical reporting programs. All exporters to the United States are required to estimate and report the value, f.o.b. border point of export, of merchandise regardless of the terms of sales. Therefore, exporters cannot quote only c.i.f. or f.o.b. prices with freight to the national border for inclusion on the invoice. This requirement relates solely to the gathering and reporting of statistical information and is not related to information necessary for value for duty calculations.
25. The **European Communities** have submitted the following:

(a) Notification No. 230 in the Inventory contains the Community's complaints about the extra information, which in some cases is very complicated, currently required for the importation of a certain number of products or categories of products and which are of debatable interest and usefulness for the purposes of customs clearance.

(b) The Communities had quoted, by way of example, two out of the eighteen questions in form 5521, which must be completed for all importations of cotton and linen fabrics.

(c) Another example is form 5523, which must be completed for every importation of shoes and contains seventeen questions whose usefulness for customs clearance is not always apparent (e.g. Oxford and other heights for imported footwear).

(d) For obvious practical reasons, the Communities have had to restrict their criticism to the more important requirements. In general terms, they maintain that information required on import documentation should be strictly limited to those elements (classification and valuation) which are essential for customs clearance of the particular goods in question.

26. The **European Communities** have stated that the complexity of United States customs information requirements naturally gives rise to a significant risk of error in the completion of import documentation. It appears that importers are then penalized by very heavy fines even where there is no suspicion of fraud. The Communities consider that the United States should not only simplify its import information requirements but should also adopt a more reasonable approach to the question of penalties.

27. For Czechoslovakia, the information and data required by the uniform import declaration contained in the above list are considered by Czechoslovakia as sufficient and adequate. Other information requirements are considered as excessive and undesirable.
28. The United States considers the following requirements to be unnecessary for customs administration and as such burdensome to the movement of trade.

(a) **Particulars relating to persons who participate in the operation**

1. **Status of seller** - Grower, supplier, manufacturer, etc. - Importer may have no source of knowledge for this requirement. (Australia)

2. **User of the goods** - Importer may have no source of knowledge for this requirement. (Belgium, Luxembourg and United Kingdom - for temporary importations)

(b) **Particulars relating to the transport of the goods**

3. **Place of Introduction** - if other than port of entry, this requirement would appear to be unnecessary. (Austria, Finland, Ireland, Korea, United Kingdom)

4. **Place of destination** - Importer may have no source of knowledge for this requirement. (Australia, Austria, Brazil, Costa Rica, France, Panama, Peru, Philippines, United Kingdom, Zambia)

5. **Transport for own account or for account of other persons** - This requirement is a nuisance. (Belgium, France, Luxembourg)

6. **Name of captain of carrier** - Importer may have no source of knowledge for this requirement. (Dominican Republic)

(c) **Particulars relating to the goods**

7. **Legal weight** - Importer may be confused by the meaning of this requirement. (Chile, Guatemala, Haiti, Mexico)

8. **Uses of Commodity** - Importer may have no source of knowledge for this requirement. (Philippines)

9. **Financial or commercial system applicable to the goods - exchange control**. This requirement is a nuisance. (Algeria, Bangladesh, Brazil, Burma, Chile, Colombia, Congo, Dahomey, Ecuador, Ethiopia, France, Gabon, Ghana, Greece, India, Indonesia, Iran, Iraq, Israel, Ivory Coast, Kenya, Korea, Nicaragua, Peru, El Salvador, Senegal, Spain, Switzerland, Tanzania, Togo, Uganda, Uruguay, Zaire)

*The numbers in parentheses refer to the requirement as it is listed in CCC document 18.909. Items without these numbers do not appear in the CCC document.*
10. (27)* Type of storage - This requirement is unnecessary for customs clearance and as such is a nuisance and hindrance to trade. (Finland)

11. (28)* Date of entry into warehouse - This requirement is unnecessary for customs clearance and as such is a nuisance and hindrance to trade. (Finland)

12. Information required for the operation of licensing systems applicable to goods such as import permit number - import control. This requirement is a nuisance. (Algeria, Bangladesh, Brazil, Burma, Chile, Colombia, Congo, Ecuador, Ghana, Greece, India, Indonesia, Iran, Kenya, Korea, Mauritius, Nigeria, Peru, Portugal, Senegal, Tanzania, Togo, Trinidad and Tobago, Turkey, Zaire)

(d) Particulars relating to the value of the goods

13. (36)* Rates by which the value is adjusted - Importer may not know the specifics of the financial system needed for this requirement. (Cameroon, France, Israel)

14. (39)* Value appraised by Customs - If different than customs value (No. 29, CCC document 18.909, this requirement would appear to be unnecessary. (Korea - entered by Customs)

15. Value and Origin Clauses which must be included on the invoice used for customs purposes. These specifically worded clauses are unnecessary for customs clearance and as such are a nuisance and hindrance to trade. (Australia, Barbados, Canada, New Zealand, Nigeria, South Africa, Zambia)

(e) Particulars with a view to the settlement of import duties and taxes

16. (43)* Deferred payment - bank control - This requirement is a nuisance. (Algeria, Belgium, Canada, Chile, Congo, Dahomey, Denmark, Ecuador, France, Gabon, Ghana, Greece, India, Indonesia, Iran, Israel, Italy, Ivory Coast, Luxembourg, Nicaragua, Nigeria, El Salvador, Senegal, Sweden, Togo, Zaire)

17. (44)* Deposits - This requirement is a nuisance. (Algeria, Argentina, Austria, Belgium, Canada, Chile, Colombia, France, Greece, Indonesia, Iran, Ireland, Israel, Japan, Korea, Luxembourg, New Zealand, Philippines, Portugal, El Salvador, Sweden, Switzerland, Turkey, United Kingdom, Uruguay)

*The numbers in parentheses refer to the requirement as it is listed in CCC document 18.909. Items without these numbers do not appear in the CCC document.
18. (45)* Types of duties and taxes - Importer may be confused by the meaning of this requirement. (France, Japan, Sweden)

19. (46)* Clearance procedure - Importer may be confused by the meaning of this requirement. (Spain, Sweden)

(f) Particulars with a view to the granting of preferential treatment

20. (50)* Statement of destination - Importer may have no source of knowledge for this requirement, unless it is specifically related to the granting of preferential treatment. (New Zealand, Canada)

(g) Particulars of an exclusively statistical nature

No excessive requirements to list.

(h) Particulars relating to authentification of the declaration

21. (59)* Application to be present during the examination - This requirement is not necessary for customs clearance and as such is a nuisance to trade. (Sweden)

22. (62)* Form of payment - This requirement is not necessary for customs clearance and as such is a nuisance to trade. (Spain, Venezuela)

23. (63)* Advice of sale of foreign exchange - This requirement is a nuisance. (Iran)

29. Yugoslavia. The International Convention on simplification and harmonization of customs procedures is under consideration by the Yugoslav authorities. In Yugoslavia's opinion, the adoption of this instrument, and also of the proposals which are being elaborated by the Economic Commission for Europe, concerning the unique commercial invoice, represent an appropriate way to settle the problem of the simplification of customs documentation.

D. Other excessive requirements

30. For the United States the following are not information requirements but are related requirements that are unduly burdensome to trade.

*The numbers in parentheses refer to the requirement as it is listed in CCC document 18.909. Items without these numbers do not appear in the CCC document.
(a) **Special documents required for customs purposes**

(1) **Certificates of Origin** required for all foreign goods above some **minimum value** - This requirement is unnecessary for customs clearance and as such is a nuisance and hindrance to trade. (Cuba, Dahomey, Ecuador, Egypt, Greece, Ivory Coast, Korea, Malawi, Mauritius, Nigeria, Philippines, Senegal, Spain, Togo, Tunisia, Turkey)

(2) **Certificates of Insurance** - This requirement is unnecessary for customs clearance and as such is a nuisance and hindrance to trade. (Bolivia, Ecuador, Korea)

(3) **Letter of Correction** - In the case of documentation error to be completed and sent to importing country's customs authorities before shipment containing inaccurate documentation arrives at port of importation. This requirement is unnecessary for customs clearance and as such is a nuisance and hindrance to trade. (Argentina, Bolivia, Colombia, Dominican Republic, Ecuador, Guatemala, Korea, Mexico, Nicaragua, Panama, Peru, Philippines, El Salvador, Turkey)

(4) **Corrected Invoice** - In case of error, to be completed and sent to importing country's customs authorities before shipment containing inaccurate information arrives at port of importation. This requirement is unnecessary for customs clearance and as such is a nuisance and hindrance to trade. (Argentina, Bolivia, Colombia, Dominican Republic, Ecuador, Guatemala, Korea, Mexico, Nicaragua, Panama, Peru, Philippines, El Salvador, Turkey)

(5) **Documents relating to Exchange Control** - These requirements are unnecessary for customs clearance and as such are a nuisance and hindrance to trade.

- (Chile) Supplies Certificate form for shipments in Chilean foreign exchange
- Colombia - Import registration certificate
- Ecuador - Bank exchange authorization
- Ethiopia - Exchange payment licences
- Ghana - Social Security Clearance Certificate
- Indonesia - Fiscal Certificate
- Kenya - Clean Report of Findings
- Peru - Foreign exchange authorization
- El Salvador - Central bank exchange authorization
- Tanzania - Clean Report on Findings
- Zaire - Attestation of Verification Certificate (required for shipments financed with Zaire foreign exchange)
(b) Other related requirements

(1) Excessive number of copies required of documents used for customs purposes - This requirement is unnecessary and as such is a nuisance and hindrance to trade. (Bolivia, 6 copies; Brazil, 5 copies; Dominican Republic, 5 copies; Ecuador, 6 copies; Guatemala, 5 copies; Haiti, 6 copies; Honduras, 5-9 copies; El Salvador, 7 copies)

(2) No Import Licence Tolerances - In no case may the quantity or value exceed that stated on invoice - Shipments should be allowed import tolerances of at least 2-3 per cent. (Colombia, India)

(E) Consular formalities and fees

31. The European Communities, referring to notification No. 180 in the Inventory of Non-Tariff Measures, have stressed the loss of time and money resulting from Argentina's requirements for the legalization of commercial invoices which are too complicated and detrimental for the exporter and the importer, alike, and are thus a barrier to trade.

32. The Nordic countries have stated that as far as consular formalities are concerned, they create considerable costs and difficulties for exporters to those countries which still apply such measures. Therefore, the Nordic countries stress the desirability of their abolition, supporting as a suitable way of solving this problem the interpretative note to Article VIII of the GATT, proposed by the United States, as described in Appendix 3 of document MTN/NTM/W/7.

33. For the United States the following consular requirements including certification by Chamber of Commerce in exporting country are not information requirements but are related requirements that are unduly burdensome to trade:

(1) Consular invoices required for all goods above some minimum value - This unnecessary requirement results in the loss of time and money to both the exporter and importer. As such it is a great hindrance to trade - (Colombia, Dominican Republic, Ecuador, Haiti, Honduras, Mexico, Panama, Peru, Philippines, Turkey, Uruguay)

(2) Consular legalization of invoices used for customs purposes - This unnecessary requirement results in the loss of time and money to both the exporter and the importer. As such it is a great hindrance to trade - (Argentina, Bolivia, Colombia, Dominican Republic, Ecuador, Egypt, Greece, Guatemala, Haiti, Honduras, Iran, Iraq, Korea, Mexico, Nicaragua (even though regulations state that legalization is not necessary), Panama, Peru, Philippines, Tunisia, Turkey, Uruguay)
(3) Consular fees - This unnecessary requirement is costly (in particular cases, extremely costly) to both the exporter and the importer. As such it is a great hindrance to trade - (Argentina, 1.5 per cent of invoice value; Bolivia, $10 per invoice set; Colombia, 1 per cent of c.i.f. value; Dominican Republic, 3 per cent of invoice value; Ecuador, $5-$20, or $2 per $1,000 value; Egypt, $16; Iran, $2-$10; Iraq, $0.28-$1.40; Haiti, 2 per cent of f.o.b. value; Honduras, 8 per cent of f.o.b. value; Korea, $1-$5; Mexico, $3-$40; Nicaragua, 7 per cent f.o.b. value; Panama, $5; Peru, 8 per cent of c.i.f. value; Philippines, $5-$30; Tunisia, $2-$5; Turkey, $4; Uruguay, .001 per cent of f.o.b. value plus 12 per cent f.o.b. invoice charge)

(4) Chamber of Commerce certification of invoices used for customs purposes - This unnecessary requirement results in the loss of time for both the exporter and the importer. As such it is a hindrance to trade - (Bolivia, Brazil, Ecuador, Ethiopia, Greece, Iran, Iraq, Peru, Tunisia, Turkey)