

1 November 1958

CONTRACTING PARTIES

Thirteenth Session

Working Party on Marks of OriginDRAFT RECOMMENDATIONDrafting suggestions proposed at a meeting
of 31 October 1958

For facilitating the task of the representatives, the drafting changes discussed at the meeting of the Working Party on 31 October are herewith reproduced indicating the basic suggestions. General reservations as put forward by some representatives are, however, not included in this draft dealing only with particular paragraphs of the Recommendation.

Observations relating to paragraphs 6 to 8 of the
draft Recommendation reproduced in document L/871

The new paragraph meant to replace the previous paragraphs 6 to 8 should read as follows:

Countries should accept as a satisfactory marking the indication of the name of the country of origin in the English language introduced by the words "made in".

Commonly-used initials, which unmistakably indicate the country of origin, such as UK and USA, should be considered a satisfactory replacement for the full name of the country concerned.

This revised version differs from the previous paragraphs 6 to 8 in order to take account of the following generally approved suggestions:

1. USA. The ideas spread out in paragraphs 6 to 8 by the secretariat so as to permit separate discussion of the problems involved should be amalgamated.
2. Ceylon, UK and USA. The mark of origin which would not be introduced by the words "made in" could not be accepted.
3. USA. The notion that the abbreviation of the name of the country of origin could be accepted should be limited to those which are unmistakable. In this context it is to be mentioned that the idea of listing recognized abbreviations was objected to by most of the members of the Working Party.

Right to accept other formulas

Japan and other representatives doubted the value of the last clauses in paragraph 6 of the draft:

"each importing country having of course the right to accept, in addition, any other formula if they so desire".

Some representatives pointed out that the words "in addition" could be interpreted as permitting the requirement of more than one mark, an interpretation which was certainly not intended. Other representatives stressed that the meaning to be conveyed by the clauses, namely not to create additional obligations, should be brought out more clearly.

In combining the various ideas, the secretariat suggests that these clauses should be omitted completely in the text of the old paragraphs 6 to 8 and replaced by an additional "Considering phrase" in the introduction of the Recommendation based on the wording of paragraph 4 of the Working Party report (BISD, Fifth Supplement, page 404), to read:

Considering finally that nothing in this Recommendation should be understood to prevent a country

- (a) from applying more liberal provisions, or
- (b) from accepting, but not requiring, other types of marking than contained in the Recommendation.

Additional statements

In connexion with the discussion of draft paragraphs 6 to 8, the following statements were made by representatives which will be incorporated in the report accompanying the Recommendation:

The Austrian representative stated that the Austrian system is more liberal on the whole than the provisions included /in paragraphs 6 to 8/ but drew attention to the fact that some of the national provisions in force are not fully in conformity with these paragraphs of the Recommendation.

The representative of Sweden, similarly, also mentioned the existence of a limited number of provisions (five or six) which are not in conformity with the recommendations included in those paragraphs. Although he fully supported the adoption of these recommendations he stated that he had to reserve his position concerning the time which the Government of Sweden would need to make the necessary legal changes in order to bring the Swedish legislation into conformity with the Recommendation.

Observations relating to paragraph 1 of the draft Recommendation

The common agreement of accepting this paragraph makes it possible to maintain the wording as suggested. The alternative suggestion to replace the words "final buyer" by the words "ultimate purchaser" included in L/871 could, however, be deleted. The interest of the United States Government which uses the term "ultimate purchaser" in its legislation could be respected by adding a remark to the report accompanying the Recommendation that the words "final buyer" can be understood for the needs of the United States legislation to be identical with the words "ultimate purchaser".

Observations relating to paragraph 2 of the draft Recommendation

Paragraph 2, in the light of the various suggestions, should read as follows:

The requirement of marks of origin should not be applied in a way which leads to a general application to all imported goods, but should be limited to cases where such a marking is considered necessary.

This version takes account of the following suggestions:

1. The United States. While the United States requires by law that marks of origin be affixed in principle on all imported products, in practice there are many exceptions. Therefore it would be better to recommend a liberal application of the marking requirements than a change of legislation.
2. Austria and other delegations doubted the value of the phrase "in collaboration with the industry and trade concerned". Austria particularly mentioned the need to consult with other producers than industry. The Chairman thought that such a procedural suggestion would better not make part of the Recommendation but should be mentioned in the report which will accompany the Recommendation.