

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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CONTRACTING PARTIES

Thirteenth Session

## MARKS OF ORIGIN

### Report by Working Party

In accordance with its terms of reference, the Working Party examined the draft Recommendation on Marks of Origin which was prepared by the GATT secretariat in the light of the suggestion put forward by the International Chamber of Commerce and based on the Report submitted by the relevant Working Party to the CONTRACTING PARTIES at their Eleventh Session (BISD, Fifth Supplement, page 103).

As a result of its examination it submits the text of a Recommendation which was considered to be generally acceptable to the members of the Working Party.

In particular it was remarked that the recommendation that national provisions concerning marks of origin should not contain any other obligation than the obligation to indicate the origin of the imported product (paragraph 4 of the Recommendation) has to be interpreted so as to invite countries to keep such requirements separate from requirements introduced for other purposes, e.g. to protect the health of the population, etc.

In connexion with the requirement of such additional information, attention was drawn to Article III of GATT which requires countries to give to imported and domestic products the same treatment and that this obligation, being in Part II of GATT, is governed by the terms of the Protocol of Provisional Application.

The representative of the United States indicated that the United States legislation in some instances requires additional information and that the United States are not in a position to accept the recommendation included in this paragraph.

The recommendation included in paragraph 5 is intended to ensure that a product marked in accordance with this recommendation will be accepted generally, and that producers do not need to mark their products differently depending on the country of destination.

In the interest of countries not members of GATT which may wish to conform with this Recommendation the essence of Article IX, paragraph 5, of GATT has been made an integral part of paragraph 14 of the Recommendation.

RECOMMENDATION  
ON  
MARKS OF ORIGIN

CONSIDERING that in Article IX of GATT the contracting parties recognize that, in adopting and enforcing laws and regulations relating to Marks of Origin, the difficulties and inconveniences which such measures may cause to the commerce and industry of exporting countries should be reduced to a minimum and that they have agreed on certain basic principles for the carrying out of this idea;

CONSIDERING that it would facilitate the attainment of the objectives of the General Agreement if the CONTRACTING PARTIES were to agree on certain rules which would further reduce the difficulties and inconveniences which marking regulations may cause to the commerce and industry of the exporting country; and

CONSIDERING 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,

THE CONTRACTING PARTIES

RECOMMEND the adoption of the following rules on Marks of Origin:

1. Countries should scrutinize carefully their existing laws and regulations with a view to reducing as far as they possibly can the number of cases in which marks of origin are required, and to limit the requirements of marks of origin to cases where such marks are indispensable for the information of the ultimate purchaser.
2. 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.
3. If marks of origin are required, any method of legible and conspicuous marking should be accepted which will remain on the article until it reaches the ultimate purchaser.
4. The national provisions concerning marks of origin should not contain any other obligation than the obligation to indicate the origin of the imported product.

5. 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".
6. Commonly-used abbreviations, 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.
7. Marking should not be required on containers of articles properly marked if they are not designed to be sold with the product, or are used for transport purposes only.
8. Marking on the container should be accepted in lieu of the marking of the product in the following cases:
  - (a) If this type of marking is customarily considered satisfactory.
  - (b) If the type of packing makes it impossible for the ultimate purchaser to open it without damaging the goods.
  - (c) In the case of goods which, because of their nature, are normally sold in sealed containers.
  - (d) In cases where a marking of the goods shipped in a container is impossible, such as in the case of liquids and gas, or other products that cannot be marked.
9. Imports for non-commercial personal use should be exempted from the marking requirement, including imports which are enumerated in the national customs laws in that context, such as imports of goods in consequence of inheritances, trousseaux, etc. and which are freed from duties in many countries.
10. Original "objets d'art" should be freed from the marking requirement.
11. Goods in transit and goods while in bond or otherwise under customs control, for the purposes of temporary duty-free admission, should be free from the marking requirement.
12. Countries should make provisions that in exceptional cases the application of a mark of origin should be permitted under customs supervision in the importing country.
13. The re-exportation of products which cannot be marked under customs supervision should be permitted without penalty.
14. Penalties should not be imposed in contradiction to paragraph 5 of Article IX, i.e. for failure to comply with marking requirements prior to the importation unless corrective marking is unreasonably delayed or deceptive marks have been affixed or the required marking has been intentionally omitted.

15. When a government introduces a system of marking, or makes it compulsory for a new product, reasonable notice should be given before the new provisions enter into force, and there should be adequate publicity for the new regulations, in conformity with the provisions of Article X of GATT.
16. The exporting countries which encounter difficulties due to the fact that an importing country is not in a position to comply with any one of the above recommendations may request consultation with the importing country in the sense of the provisions of Article XXII of GATT with a view to the possible removal of the difficulties encountered and importing countries should accept any such request.

THE CONTRACTING PARTIES finally

UNDERSTAND that no country shall be obliged to alter:

- (a) any provision protecting the "truth" of marks, including trade marks and trade descriptions, aiming to ensure that the content of such marks is in conformity with the real situation;
- (b) any provision which requires the addition of a mark of origin in cases where the imported products bear a trade mark being or purporting to be a name or trade mark of any manufacturer, dealer or trader of the importing country and

INVITE all countries to report to the GATT secretariat all changes in their legislation, rules and regulations concerning marks of origin in order to be permanently available for consultation. These reports, including the original texts, should be transmitted as early as possible and at any rate each year before 1 September.

